

## REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MADAM PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 973: "Mississippi Comprehensive Workforce Training and Education Consolidation Act of 2004"; enact.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

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

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 House Bill No. 973, 2004 Regular Session to establish one (1)  
48 comprehensive workforce development system in the State of  
49 Mississippi that is focused on achieving results, using resources  
50 efficiently and ensuring that workers and employers can easily  
51 access needed services. This system shall reflect a consolidation  
52 of the Mississippi Workforce Development Advisory Council and the  
53 Mississippi State Workforce Investment Act Board. The purpose of  
54 House Bill No. 973, 2004 Regular Session, is to provide workforce  
55 activities, through a statewide system that maximizes cooperation  
56 among state agencies, that increase the employment, retention and  
57 earnings of participants, and increase occupational skill  
58 attainment by participants and as a result, improve the quality of

59 the workforce, reduce welfare dependency and enhance the  
60 productivity and competitiveness of the State of Mississippi.

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

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

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

68 (b) "District councils" means the Local Workforce  
69 Development Councils;

70 (c) "Local workforce investment board" means the board  
71 that oversees the workforce development activities of local  
72 workforce areas under the federal Workforce Investment Act.

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

75 37-153-7. (1) There is created the Mississippi State  
76 Workforce Investment Board. The Mississippi State Workforce  
77 Investment Board shall be composed of thirty-seven (37) voting  
78 members, of which a majority shall be representatives of business  
79 and industry in accordance with the Federal Workforce Investment  
80 Act.

81 (a) The Governor shall appoint the following members of  
82 the board to serve a term of four (4) years:

83 (i) The Executive Director of the Mississippi  
84 Association of Supervisors, or his/her designee;

85 (ii) The Executive Director of the Mississippi  
86 Municipal League;

87 (iii) One (1) elected mayor;

88 (iv) One (1) elected county supervisor;

89 (v) One (1) representative of a labor

90 organization, who has been nominated by the organization;

91 (vi) One (1) representative of a youth activities  
92 organization, who has been nominated by the organization;

93 (vii) One (1) representative of the Mississippi  
94 Association of Planning and Development Districts;

95 (viii) One (1) representative from each of the  
96 four (4) workforce areas in the state, who has been nominated by  
97 the community colleges in each respective area, with the consent  
98 of the elected county supervisors within the respective workforce  
99 area; and

100 (ix) Nineteen (19) representatives of business  
101 owners nominated by business and industry organizations, which may  
102 include representatives of the various planning and development  
103 districts in Mississippi.

104 (b) The following state officials shall be members of  
105 the board:

106 (i) The Executive Director of the Mississippi  
107 Department of Employment Security;

108 (ii) The Executive Director of the Department of  
109 Rehabilitation Services;

110 (iii) The State Superintendent of Public  
111 Education;

112 (iv) The Executive Director of the Mississippi  
113 Development Authority;

114 (v) The Executive Director of the Mississippi  
115 Department of Human Services;

116 (vi) The Executive Director of the State Board for  
117 Community and Junior Colleges.

118 (c) The Governor, or his designee, shall serve as a  
119 member.

120 (d) Four (4) legislators, who shall serve in a  
121 nonvoting capacity, two (2) of whom shall be appointed by the  
122 Lieutenant Governor from the membership of the Mississippi Senate,

123 and two (2) of whom shall be appointed by the Speaker of the House  
124 from the membership of the Mississippi House of Representatives.

125 (e) The membership of the board shall reflect the  
126 diversity of the State of Mississippi.

127 (f) The Governor shall designate the Chairman of the  
128 Mississippi State Workforce Investment Board from among the voting  
129 members of the board, and a quorum of the board shall consist of a  
130 majority of the voting members of the board.

131 (g) The voting members of the board who are not state  
132 employees shall be entitled to reimbursement of their reasonable  
133 expenses incurred in carrying out their duties under this chapter,  
134 from any funds available for that purpose.

135 (h) The Mississippi Development Authority shall be  
136 responsible for providing necessary administrative, clerical and  
137 budget support for the Mississippi State Workforce Investment  
138 Board.

139 (2) The Mississippi Development Authority shall establish  
140 limits on administrative costs for each portion of Mississippi's  
141 Workforce Development System consistent with the Federal Workforce  
142 Investment Act or any future federal workforce legislation.

143 (3) The Mississippi State Workforce Investment Board shall  
144 have the following duties:

145 (a) Develop and submit to the Governor a strategic plan  
146 for an integrated state workforce development system that aligns  
147 resources and structures the system to more effectively and  
148 efficiently meet the demands of Mississippi's employers and job  
149 seekers. This plan will comply with the Federal Workforce  
150 Investment Act of 1998, as amended.

151 (b) Assist the Governor in the development and  
152 continuous improvement of the statewide workforce investment  
153 system that shall include:

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

156                   (ii) Review local workforce development plans that  
157 reflect the use of funds from the Federal Workforce Investment  
158 Act, Wagner-Peyser Act and the Mississippi Comprehensive Workforce  
159 Training and Education Consolidation Act.

160                   (c) Recommend the designation of local workforce  
161 investment areas as required in Section 116 of the Federal  
162 Workforce Investment Act of 1998. There shall be four (4)  
163 workforce investment areas that are generally aligned with the  
164 planning and development district structure in Mississippi.  
165 Planning and development districts will serve as the fiscal agents  
166 to manage Workforce Investment Act funds, oversee and support the  
167 local workforce investment boards aligned with the area and the  
168 local programs and activities as delivered by the one-stop  
169 employment and training system. The planning and development  
170 districts will perform this function through the provisions of the  
171 county cooperative service districts created under Sections  
172 19-3-101 through 19-3-115; however, planning and development  
173 districts currently performing this function under the Interlocal  
174 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may  
175 continue to do so.

176                   (d) Assist the Governor in the development of an  
177 allocation formula for the distribution of funds for adult  
178 employment and training activities and youth activities to local  
179 workforce investment areas.

180                   (e) Recommend comprehensive, results-oriented measures  
181 that shall be applied to all Mississippi's workforce development  
182 system programs.

183                   (f) Assist the Governor in the establishment and  
184 management of a one-stop employment and training system conforming  
185 to the requirements of the Federal Workforce Investment Act of

186 1998, as amended, recommending policy for implementing the  
187 Governor's approved plan for employment and training activities  
188 and services within the state. In developing this one-stop career  
189 operating system, the Mississippi State Workforce Investment  
190 Board, in conjunction with local workforce investment boards,  
191 shall:

192 (i) Design broad guidelines for the delivery of  
193 workforce development programs;

194 (ii) Identify all existing delivery agencies and  
195 other resources;

196 (iii) Define appropriate roles of the various  
197 agencies to include an analysis of service providers' strengths  
198 and weaknesses;

199 (iv) Determine the best way to utilize the various  
200 agencies to deliver services to recipients; and

201 (v) Develop a financial plan to support the  
202 delivery system that shall, at a minimum, include an  
203 accountability system.

204 (g) Assist the Governor in reducing duplication of  
205 services by urging the Local Workforce Investment Boards to  
206 designate the local community/junior college as the operator of  
207 the WIN Job Center. Incentive grants of Two Hundred Thousand  
208 Dollars (\$200,000.00) from Federal Workforce Investment Act funds  
209 may be awarded to the local workforce boards where the  
210 community/junior college district is designated as the WIN Job  
211 Center. These grants must be provided to the community and junior  
212 colleges for the extraordinary costs of coordinating with the  
213 Workforce Investment Act, advanced technology centers and advanced  
214 skills centers. In no case shall these funds be used to supplant  
215 state resources being used for operation of workforce development  
216 programs.

217           (h) To provide authority, in accordance with any  
218 executive order of the Governor, for developing the necessary  
219 collaboration among state agencies at the highest level for  
220 accomplishing the purposes of this chapter;

221           (i) To monitor the effectiveness of the workforce  
222 development centers and WIN job centers;

223           (j) To advise the Governor, public schools,  
224 community/junior colleges and institutions of higher learning on  
225 effective school-to-work transition policies and programs that  
226 link students moving from high school to higher education and  
227 students moving between community colleges and four-year  
228 institutions in pursuit of academic and technical skills training;

229           (k) To work with industry to identify barriers that  
230 inhibit the delivery of quality work force education and the  
231 responsiveness of educational institutions to the needs of  
232 industry; \* \* \*

233           (l) To provide periodic assessments on effectiveness  
234 and results of the overall Mississippi comprehensive workforce  
235 development system and district councils; and

236           (m) To assist the Governor in carrying out any other  
237 responsibility required by the federal Workforce Investment Act of  
238 1998, as amended.

239           (4) The Mississippi State Workforce Investment Board shall  
240 coordinate all training programs and funds in the State of  
241 Mississippi.

242           Each state agency director responsible for workforce training  
243 activities shall advise the Mississippi State Workforce Investment  
244 Board of appropriate federal and state requirements. Each such  
245 state agency director shall remain responsible for the actions of  
246 his agency; however, each state agency and director shall work  
247 cooperatively, and shall be individually and collectively  
248 responsible to the Governor for the successful implementation of

249 the statewide workforce investment system. The Governor, as the  
250 Chief Executive Officer of the state, shall have complete  
251 authority to enforce cooperation among all entities within the  
252 state that utilize federal or state funding for the conduct of  
253 workforce development activities.

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

256 37-153-9. (1) In accordance with the Federal Workforce  
257 Investment Act of 1998, there shall be established, for each of  
258 the four (4) state workforce areas prescribed in Section 37-153-3  
259 (2)(c), a Local Workforce Investment Board to set policy for the  
260 portion of the state workforce investment system within the local  
261 area and carry out the provisions of the Workforce Investment Act.

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 The Workforce Development Council shall have the following  
280 advisory duties:



- 281           (a) To develop an integrated and coordinated district  
282 work force investment strategic plan that:
- 283           (i) Identifies workforce investment needs through  
284 job and employee assessments of local business and industry;
- 285           (ii) Sets short-term and long-term goals for  
286 industry-specific training and upgrading and for general  
287 development of the workforce; and
- 288           (iii) Provides for coordination of all training  
289 programs, including ABE/GED, Skills Enhancement and Industrial  
290 Services, and shall work collaboratively with the State Literacy  
291 Resource Center;
- 292           (b) To coordinate and integrate delivery of training as  
293 provided by the work force development plan;
- 294           (c) To assist business and industry management in the  
295 transition to a high-powered, quality organization;
- 296           (d) To encourage continuous improvement through  
297 evaluation and assessment; and
- 298           (e) To oversee development of an extensive marketing  
299 plan to the employer community.

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

302           37-153-11. (1) There are created workforce development  
303 centers to provide assessment, training and placement services to  
304 individuals needing retraining, training and upgrading for small  
305 business and local industry. Each workforce development center  
306 shall be affiliated with a separate public community or junior  
307 college district.

308           (2) Each workforce development center shall be staffed and  
309 organized locally by the affiliated community college. The  
310 workforce development center shall serve as staff to the  
311 affiliated district council.

312 (3) Each workforce development center, working in concert  
313 with its affiliated district council, shall offer and arrange  
314 services to accomplish the purposes of this chapter, including,  
315 but not limited to, the following:

316 (a) For individuals needing training and retraining:

317 (i) Recruiting, assessing, counseling and  
318 referring to training or jobs;

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

321 (iii) Basic literacy skills training and high  
322 school equivalency education;

323 (iv) Vocational and technical training, full-time  
324 or part-time; and

325 (v) Short-term skills training for educationally  
326 and economically disadvantaged adults in cooperation with  
327 federally established employment and training programs;

328 (b) For specific small businesses, industries or firms  
329 within the district:

330 (i) Job analysis, testing and curriculum  
331 development;

332 (ii) Development of specific long-range training  
333 plans;

334 (iii) Industry or firm-related preemployment  
335 training;

336 (iv) Workplace basic skills and literacy training;

337 (v) Customized skills training;

338 (vi) Assistance in developing the capacity for  
339 Total Quality Management training; \* \* \*

340 (vii) Technology transfer information and referral  
341 services to business of local applications of new research in  
342 cooperation with the University Research Center, the state's  
343 universities and other laboratories; and

344                   (viii) Development of business plans;

345           (c) For public schools within the district technical  
346 assistance to secondary schools in curriculum coordination,  
347 development of tech prep programs, instructional development and  
348 resource coordination; and

349           (d) For economic development, a local forum and  
350 resource center for all local industrial development groups to  
351 meet and promote regional economic development.

352           (4) Each workforce development center shall compile and make  
353 accessible to the Mississippi Workforce Investment Board necessary  
354 information for use in evaluating outcomes of its efforts and in  
355 improving the quality of programs at each community college, and  
356 shall include information on literacy initiatives. Each workforce  
357 development center shall, through an interagency management  
358 information system, maintain records on new small businesses,  
359 placement, length of time on the job after placement and wage  
360 rates of those placed in a form containing such information as  
361 established by the state council.

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

364           37-153-13. The State Board for Community and Junior Colleges  
365 is designated as the primary support agency to the workforce  
366 development centers \* \* \*. The State Board for Community and  
367 Junior Colleges may exercise the following powers:

368           (a) To provide the workforce development centers the  
369 assistance necessary to accomplish the purposes of this chapter;

370           (b) To provide the workforce development centers  
371 consistent standards and benchmarks to guide development of the  
372 local work force development system and to provide a means by  
373 which the outcomes of local services can be measured;

374 (c) To develop the staff capacity to provide, broker or  
375 contract for the provision of technical assistance to the  
376 workforce development centers, including, but not limited to:  
377 (i) Training local staff in methods of recruiting,  
378 assessment and career counseling;  
379 (ii) Establishing rigorous and comprehensive local  
380 pre-employment training programs;  
381 (iii) Developing local institutional capacity to  
382 deliver Total Quality Management training;  
383 (iv) Developing local institutional capacity to  
384 transfer new technologists into the marketplace;  
385 (v) Expanding the Skills Enhancement Program and  
386 improving the quality of adult literacy programs; and  
387 (vi) Developing data for strategic planning;  
388 (d) To collaborate with the Mississippi Development  
389 Authority and other economic development organizations to increase  
390 the community college systems' economic development potential;  
391 (e) To administer presented and approved certification  
392 programs by the community colleges for tax credits and partnership  
393 funding for corporate training;  
394 (f) To create and maintain an evaluation team that  
395 examines which kinds of curricula and programs and what forms of  
396 quality control of training are most productive so that the  
397 knowledge developed at one (1) institution of education can be  
398 transferred to others;  
399 (g) To develop internal capacity to provide services  
400 and to contract for services from universities and other providers  
401 directly to local institutions;  
402 (h) To develop and administer an incentive  
403 certification program; \* \* \*  
404 (i) To develop and hire staff and purchase equipment  
405 necessary to accomplish the goals set forth in this section; and

406           (j) To collaborate, partner and contract for services  
407 with community-based organizations and disadvantaged businesses in  
408 the delivery of workforce training and career information  
409 especially to youth, as defined by the Federal Workforce  
410 Investment Act, and to those adults who are in low income jobs or  
411 whose individual skill levels are so low as to be unable initially  
412 to be aided by a workforce development center. Community-based  
413 organizations and disadvantaged businesses must meet  
414 performance-based certification requirements set by the State  
415 Board for Community and Junior Colleges.

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

418           71-5-5. The Legislature \* \* \* finds and declares that the  
419 existence and continued operation of a federal tax upon employers,  
420 against which some portion of the contributions required under  
421 this chapter may be credited, will protect Mississippi employers  
422 from undue disadvantages in their competition with employers in  
423 other states. If at any time, upon a formal complaint to the  
424 Governor, he shall find that Title IX of the Social Security Act  
425 has been amended or repealed by Congress or has been held  
426 unconstitutional by the Supreme Court of the United States, and  
427 that, as a result thereof, the provisions of this chapter  
428 requiring Mississippi employers to pay contributions will subject  
429 them to a serious competitive disadvantage in relation to  
430 employers in other states, he shall publish such findings and  
431 proclaim that the operation of the provisions of this chapter  
432 requiring the payment of contributions and benefits shall be  
433 suspended for a period of not more than six (6) months. The  
434 Department of Employment Security shall thereupon requisition from  
435 the Unemployment Trust Fund all monies therein standing to its  
436 credit, and shall direct the State Treasurer to deposit such  
437 monies, together with any other monies in the Unemployment

438 Compensation Fund, as a special fund in any banks or public  
439 depositories in this state in which general funds of the state may  
440 be deposited.

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

443 If within the aforesaid six-months' period the Governor shall  
444 find that other federal legislation has been enacted which avoids  
445 the competitive disadvantage herein described, he shall forthwith  
446 publicly so proclaim, and upon the date of such proclamation, the  
447 provisions of this chapter requiring the payment of contributions  
448 and benefits shall again become fully operative as of the date of  
449 such suspension with the same effect as if such suspension had not  
450 occurred. If within such six-months' period no such other federal  
451 legislation is enacted or the Legislature of this state has not  
452 otherwise prescribed, the Department of Employment Security shall,  
453 under regulations prescribed by it, refund, without interest, to  
454 each employer by whom contributions have been paid his pro rata  
455 share of the total contributions paid under this chapter. Any  
456 interest or earnings of the fund shall be available to the  
457 Department of Employment Security to pay for the costs of making  
458 such refunds. When the Department of Employment Security shall  
459 have executed the duties herein prescribed and performed such  
460 other acts as are incidental to the termination of its duties  
461 under this chapter, the Governor shall by public proclamation  
462 declare that the provisions of this chapter, in their entirety,  
463 shall cease to be operative.

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

466 71-5-11. As used in this chapter, unless the context clearly  
467 requires otherwise:

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

471           B. "Benefits" means the money payments payable to an  
472 individual, as provided in this chapter, with respect to his  
473 unemployment.

474           C. "Benefit year" with respect to any individual means the  
475 period beginning with the first day of the first week with respect  
476 to which he first files a valid claim for benefits, and ending  
477 with the day preceding the same day of the same month in the next  
478 calendar year; and, thereafter, the period beginning with the  
479 first day of the first week with respect to which he next files  
480 his valid claim for benefits, and ending with the day preceding  
481 the same day of the same month in the next calendar year. Any  
482 claim for benefits made in accordance with Section 71-5-515 shall  
483 be deemed to be a "valid claim" for purposes of this subsection if  
484 the individual has been paid the wages for insured work required  
485 under Section 71-5-511(e).

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

488           E. "Calendar quarter" means the period of three (3)  
489 consecutive calendar months ending on March 31, June 30, September  
490 30, or December 31.

491           F. "Department" or "commission" means the Mississippi  
492 Department of Employment Security, Office of the Governor.

493           G. "Executive director" means the Executive Director of the  
494 Mississippi Department of Employment Security, Office of the  
495 Governor, appointed under Section 71-5-107.

496           H. "Employing unit" means this state or another state or any  
497 instrumentalities or any political subdivisions thereof or any of  
498 their instrumentalities or any instrumentality of more than one  
499 (1) of the foregoing or any instrumentality of any of the

500 foregoing and one or more other states or political subdivisions,  
501 any Indian tribe as defined in Section 3306(u) of the Federal  
502 Unemployment Tax Act (FUTA), which includes any subdivision,  
503 subsidiary or business enterprise wholly owned by such Indian  
504 tribe, any individual or type of organization, including any  
505 partnership, association, trust, estate, joint-stock company,  
506 insurance company, or corporation, whether domestic or foreign, or  
507 the receiver, trustee in bankruptcy, trustee or successor thereof,  
508 or the legal representative of a deceased person, which has or had  
509 in its employ one or more individuals performing services for it  
510 within this state. All individuals performing services within  
511 this state for any employing unit which maintains two (2) or more  
512 separate establishments within this state shall be deemed to be  
513 employed by a single employing unit for all the purposes of this  
514 chapter. Each individual employed to perform or to assist in  
515 performing the work of any agent or employee of an employing unit  
516 shall be deemed to be employed by such employing unit for all  
517 purposes of this chapter, whether such individual was hired or  
518 paid directly by such employing unit or by such agent or employee,  
519 provided the employing unit had actual or constructive knowledge  
520 of the work. All individuals performing services in the employ of  
521 an elected fee-paid county official, other than those related by  
522 blood or marriage within the third degree computed by the rule of  
523 the civil law to such fee-paid county official, shall be deemed to  
524 be employed by such county as the employing unit for all the  
525 purposes of this chapter. For purposes of defining an "employing  
526 unit" which shall pay contributions on remuneration paid to  
527 individuals, if two (2) or more related corporations concurrently  
528 employ the same individual and compensate such individual through  
529 a common paymaster which is one (1) of such corporations, then  
530 each such corporation shall be considered to have paid as  
531 remuneration to such individual only the amounts actually



532 disbursed by it to such individual and shall not be considered to  
533 have paid as remuneration to such individual such amounts actually  
534 disbursed to such individual by another of such corporations.

535 I. "Employer" means:

536 (1) Any employing unit which,

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

541 (b) For some portion of a day in each of twenty  
542 (20) different calendar weeks, whether or not such weeks were  
543 consecutive, in either the current or the preceding calendar year  
544 had in employment at least one (1) individual (irrespective of  
545 whether the same individual was in employment in each such day),  
546 except as provided in paragraph (9) of this subsection;

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

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

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

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

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

561 (6) Any individual or employing unit which acquired its  
562 organization, trade, business, or substantially all the assets  
563 thereof, from another employing unit, if the employment record of

564 the acquiring individual or employing unit subsequent to such  
565 acquisition, together with the employment record of the acquired  
566 organization, trade, or business prior to such acquisition, both  
567 within the same calendar year, would be sufficient to constitute  
568 an employing unit an employer subject to this chapter under  
569 paragraph (1) or (3) of this subsection;

570 (7) Any employing unit which, having become an employer  
571 under paragraph (1), (3), (5) or (6) of this subsection or under  
572 any other provisions of this chapter, has not, under Section  
573 71-5-361, ceased to be an employer subject to this chapter;

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

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

582 (b) In determining whether or not an employing  
583 unit for which service other than agricultural labor is also  
584 performed is an employer under paragraph (1) or (4)(b) of this  
585 subsection, the wages earned or the employment of an employee  
586 performing services in agricultural labor, shall not be taken into  
587 account. If an employing unit is determined an employer of  
588 agricultural labor, such employing unit shall be determined an  
589 employer for purposes of paragraph (1) of this subsection;

590 (10) All entities utilizing the services of any  
591 employee leasing firm shall be considered the employer of the  
592 individuals leased from the employee leasing firm. Temporary help  
593 firms shall be considered the employer of the individuals they  
594 provide to perform services for other individuals or  
595 organizations.

596           J. "Employment" means and includes:

597                   (1) Any service performed, which was employment as  
598 defined in this section and, subject to the other provisions of  
599 this subsection, including service in interstate commerce,  
600 performed for wages or under any contract of hire, written or  
601 oral, express or implied.

602                   (2) Services performed for remuneration for a  
603 principal:

604                           (a) As an agent-driver or commission-driver  
605 engaged in distributing meat products, vegetable products, fruit  
606 products, bakery products, beverages (other than milk), or laundry  
607 or dry cleaning services;

608                           (b) As a traveling or city salesman, other than as  
609 an agent-driver or commission-driver, engaged upon a full-time  
610 basis in the solicitation on behalf of, and the transmission to, a  
611 principal (except for sideline sales activities on behalf of some  
612 other person) of orders from wholesalers, retailers, contractors,  
613 or operator of hotels, restaurants, or other similar  
614 establishments for merchandise for resale or supplies for use in  
615 their business operations.

616           However, for purposes of this subsection, the term  
617 "employment" shall include services described in subsections  
618 I(2)(a) and (b) of this section, only if:

619                           (i) The contract of service contemplates that  
620 substantially all of the services are to be performed personally  
621 by such individual;

622                           (ii) The individual does not have a  
623 substantial investment in facilities used in connection with the  
624 performance of the services (other than in facilities for  
625 transportation); and

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

629 (3) Service performed in the employ of this state or  
630 any of its instrumentalities or any political subdivision thereof  
631 or any of its instrumentalities or any instrumentality of more  
632 than one (1) of the foregoing or any instrumentality of any of the  
633 foregoing and one or more other states or political subdivisions  
634 or any Indian tribe as defined in Section 3306(u) of the Federal  
635 Unemployment Tax Act (FUTA), which includes any subdivision,  
636 subsidiary or business enterprise wholly owned by such Indian  
637 tribe; however, such service is excluded from "employment" as  
638 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)  
639 of that act and is not excluded from "employment" under subsection  
640 I(5) of this section.

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

645 (b) The organization had four (4) or more  
646 individuals in employment for some portion of a day in each of  
647 twenty (20) different weeks, whether or not such weeks were  
648 consecutive, within the current or preceding calendar year,  
649 regardless of whether they were employed at the same moment of  
650 time.

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

654 (a) In the employ of:

655 (i) A church or convention or association of  
656 churches; or

657 (ii) An organization which is operated  
658 primarily for religious purposes and which is operated,  
659 supervised, controlled, or principally supported by a church or  
660 convention or association of churches; or

661 (b) By a duly ordained, commissioned, or licensed  
662 minister of a church in the exercise of his ministry, or by a  
663 member of a religious order in the exercise of duties required by  
664 such order; or

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

668 (i) As an elected official;

669 (ii) As a member of a legislative body, or a  
670 member of the judiciary, of a state or political subdivision or a  
671 member of an Indian tribal council;

672 (iii) As a member of the State National Guard  
673 or Air National Guard;

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

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

680 1. A major nontenured policy-making or  
681 advisory position, or

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

685 (d) In a facility conducted for the purpose of  
686 carrying out a program of rehabilitation for individuals whose  
687 earning capacity is impaired by age or physical or mental  
688 deficiency or injury, or providing remunerative work for

689 individuals who because of their impaired physical or mental  
690 capacity cannot be readily absorbed in the competitive labor  
691 market, by an individual receiving such rehabilitation or  
692 remunerative work; or

693 (e) By an inmate of a custodial or penal  
694 institution; or

695 (f) As part of an unemployment work-relief or  
696 work-training program assisted or financed in whole or in part by  
697 any federal agency or agency of a state or political subdivision  
698 thereof or of an Indian tribe, by an individual receiving such  
699 work relief or work training, unless coverage of such service is  
700 required by federal law or regulation.

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

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

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

708 (ii) For some portion of a day in each of  
709 twenty (20) different calendar weeks, whether or not such weeks  
710 were consecutive, in either the current or the preceding calendar  
711 year, employed in agricultural labor ten (10) or more individuals,  
712 regardless of whether they were employed at the same moment of  
713 time.

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

718 (i) If such crew leader holds a valid  
719 certificate of registration under the Farm Labor Contractor  
720 Registration Act of 1963; or substantially all the members of such

721 crew operate or maintain tractors, mechanized harvesting or crop  
722 dusting equipment, or any other mechanized equipment, which is  
723 provided by such crew leader; and

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

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

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

733 (ii) Such other person shall be treated as  
734 having paid cash remuneration to such individual in an amount  
735 equal to the amount of cash remuneration paid to such individual  
736 by the crew leader (either on his own behalf or on behalf of such  
737 other person) for the service in agricultural labor performed for  
738 such other person.

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

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

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

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

749 (7) The term "employment" shall include domestic  
750 service in a private home, local college club or local chapter of  
751 a college fraternity or sorority performed for an employing unit  
752 which paid cash remuneration of One Thousand Dollars (\$1,000.00)

753 or more in any calendar quarter in the current or the preceding  
754 calendar year to individuals employed in such domestic service.  
755 For the purpose of this subsection, the term "employment" does not  
756 apply to service performed as a "sitter" at a hospital in the  
757 employ of an individual.

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

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

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

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

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

770 (9) Services not covered under paragraph (8) of this  
771 subsection and performed entirely without this state, with respect  
772 to no part of which contributions are required and paid under an  
773 unemployment compensation law of any other state or of the federal  
774 government, shall be deemed to be employment subject to this  
775 chapter if the individual performing such services is a resident  
776 of this state and the department approves the election of the  
777 employing unit for whom such services are performed that the  
778 entire service of such individual shall be deemed to be employment  
779 subject to this chapter.

780 (10) Service shall be deemed to be localized within a  
781 state if:

782 (a) The service is performed entirely within such  
783 state; or



784                   (b) The service is performed both within and  
785 without such state, but the service performed without such state  
786 is incidental to the individual's service within the state; for  
787 example, is temporary or transitory in nature or consists of  
788 isolated transactions.

789                   (11) The services of an individual who is a citizen of  
790 the United States, performed outside the United States (except in  
791 Canada), in the employ of an American employer (other than service  
792 which is deemed "employment" under the provisions of paragraph  
793 (8), (9) or (10) of this subsection or the parallel provisions of  
794 another state's law), if:

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

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

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

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

803                   (iii) The employer is a partnership or a  
804 trust and the number of the partners or trustees who are residents  
805 of this state is greater than the number who are residents of any  
806 one (1) other state; or

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

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

814                   (i) An individual who is a resident of the  
815 United States; or

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

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

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

822 (12) All services performed by an officer or member of  
823 the crew of an American vessel on or in connection with such  
824 vessel, if the operating office from which the operations of such  
825 vessel operating on navigable waters within, or within and  
826 without, the United States are ordinarily and regularly  
827 supervised, managed, directed and controlled is within this state;  
828 notwithstanding the provisions of subsection I(8).

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

836 (14) Services performed by an individual for wages  
837 shall be deemed to be employment subject to this chapter unless  
838 and until it is shown to the satisfaction of the department that  
839 such individual has been and will continue to be free from control  
840 and direction over the performance of such services both under his  
841 contract of service and in fact; and the relationship of employer  
842 and employee shall be determined in accordance with the principles  
843 of the common law governing the relation of master and servant.

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

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

848 (i) On a farm or in a forest in the employ of  
849 any employing unit in connection with cultivating the soil, in  
850 connection with cutting, planting, deadening, marking or otherwise  
851 improving timber, or in connection with raising or harvesting any  
852 agricultural or horticultural commodity, including the raising,  
853 shearing, feeding, caring for, training, and management of  
854 livestock, bees, poultry, fur-bearing animals and wildlife;

855 (ii) In the employ of the owner or tenant or  
856 other operator of a farm, in connection with the operation,  
857 management, conservation, improvement or maintenance of such farm  
858 and its tools and equipment, or in salvaging timber or clearing  
859 land of brush and other debris left by a hurricane, if the major  
860 part of such service is performed on a farm;

861 (iii) In connection with the production or  
862 harvesting of naval stores products or any commodity defined in  
863 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),  
864 or in connection with the raising or harvesting of mushrooms, or  
865 in connection with the ginning of cotton, or in connection with  
866 the operation or maintenance of ditches, canals, reservoirs, or  
867 waterways not owned or operated for profit, used exclusively for  
868 supplying and storing water for farming purposes;

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

876 (B) In the employ of a group of  
877 operators of farms (or a cooperative organization of which such  
878 operators are members) in the performance of service described in  
879 subparagraph (A), but only if such operators produced more than

880 one-half (1/2) of the commodity with respect to which such service  
881 is performed;

882 (C) The provisions of subparagraphs (A)  
883 and (B) shall not be deemed to be applicable with respect to  
884 service performed in connection with commercial canning or  
885 commercial freezing or in connection with any agricultural or  
886 horticultural commodity after its delivery to a terminal market  
887 for distribution for consumption;

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

890 (vi) As used in paragraph (15)(a) of this  
891 subsection, the term "farm" includes stock, dairy, poultry, fruit,  
892 fur-bearing animals, and truck farms, plantations, ranches,  
893 nurseries, ranges, greenhouses, or other similar structures used  
894 primarily for the raising of agricultural or horticultural  
895 commodities, and orchards.

896 (b) Domestic service in a private home, local  
897 college club, or local chapter of a college fraternity or  
898 sorority, except as provided in subsection I(7) of this section,  
899 or service performed as a "sitter" at a hospital in the employ of  
900 an individual.

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

903 (d) Service performed by an individual in the  
904 employ of his son, daughter, or spouse, and service performed by a  
905 child under the age of twenty-one (21) in the employ of his father  
906 or mother.

907 (e) Service performed in the employ of the United  
908 States government or of an instrumentality wholly owned by the  
909 United States; except that if the Congress of the United States  
910 shall permit states to require any instrumentalities of the United  
911 States to make payments into an unemployment fund under a state

912 unemployment compensation act, then to the extent permitted by  
913 Congress and from and after the date as of which such permission  
914 becomes effective, all of the provisions of this chapter shall be  
915 applicable to such instrumentalities and to services performed by  
916 employees for such instrumentalities in the same manner, to the  
917 same extent, and on the same terms as to all other employers and  
918 employing units. If this state should not be certified under the  
919 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any  
920 year, then the payment required by such instrumentality with  
921 respect to such year shall be deemed to have been erroneously  
922 collected and shall be refunded by the department from the fund in  
923 accordance with the provisions of Section 71-5-383.

924 (f) Service performed in the employ of an  
925 "employer" as defined by the Railroad Unemployment Insurance Act,  
926 45 USCS Section 351(a), or as an "employee representative" as  
927 defined by the Railroad Unemployment Insurance Act, 45 USCS  
928 Section 351(f), and service with respect to which unemployment  
929 compensation is payable under an unemployment compensation system  
930 for maritime employees, or under any other unemployment  
931 compensation system established by an act of Congress; however,  
932 the department is \* \* \* authorized and directed to enter into  
933 agreements with the proper agencies under such act or acts of  
934 Congress, which agreements shall become effective ten (10) days  
935 after publication thereof in the manner provided in Section  
936 71-5-117 for general rules, to provide reciprocal treatment to  
937 individuals who have, after acquiring potential rights to benefits  
938 under this chapter, acquired rights to unemployment compensation  
939 under such act or acts of Congress or who have, after acquiring  
940 potential rights to unemployment compensation under such act or  
941 acts of Congress, acquired rights to benefits under this chapter.

942 (g) Service performed in any calendar quarter in  
943 the employ of any organization exempt from income tax under the

944 Internal Revenue Code, 26 USCS Section 501(a) (other than an  
945 organization described in 26 USCS Section 401(a)), or exempt from  
946 income tax under 26 USCS Section 521 if the remuneration for such  
947 service is less than Fifty Dollars (\$50.00).

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

950 (i) By a student who is enrolled and is  
951 regularly attending classes at such school, college or university,  
952 or

953 (ii) By the spouse of such a student if such  
954 spouse is advised, at the time such spouse commences to perform  
955 such service, that

956 (A) The employment of such spouse to  
957 perform such service is provided under a program to provide  
958 financial assistance to such student by such school, college, or  
959 university, and

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

962 (i) Service performed by an individual under the  
963 age of twenty-two (22) who is enrolled at a nonprofit or public  
964 educational institution which normally maintains a regular faculty  
965 and curriculum and normally has a regularly organized body of  
966 students in attendance at the place where its educational  
967 activities are carried on, as a student in a full-time program  
968 taken for credit at such institution, which combines academic  
969 instruction with work experience, if such service is an integral  
970 part of such program and such institution has so certified to the  
971 employer, except that this subparagraph shall not apply to service  
972 performed in a program established for or on behalf of an employer  
973 or group of employers.

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

977                   (k) Service performed as a student nurse in the  
978 employ of a hospital or a nurses' training school by an individual  
979 who is enrolled and is regularly attending classes in a nurses'  
980 training school chartered or approved pursuant to state law; and  
981 services performed as an intern in the employ of a hospital by an  
982 individual who has completed a four-year course in a medical  
983 school chartered or approved pursuant to state law.

984                   (l) Service performed by an individual as an  
985 insurance agent or as an insurance solicitor, if all such service  
986 performed by such individual is performed for remuneration solely  
987 by way of commission.

988                   (m) Service performed by an individual under the  
989 age of eighteen (18) in the delivery or distribution of newspapers  
990 or shopping news, not including delivery or distribution to any  
991 point for subsequent delivery or distribution.

992                   (n) If the services performed during one-half  
993 (1/2) or more of any pay period by an employee for the employing  
994 unit employing him constitute employment, all the services of such  
995 employee for such period shall be deemed to be employment; but if  
996 the services performed during more than one-half (1/2) of any such  
997 pay period by an employee for the employing unit employing him do  
998 not constitute employment, then none of the services of such  
999 employee for such period shall be deemed to be employment. As  
1000 used in this subsection the term "pay period" means a period (of  
1001 not more than thirty-one (31) consecutive days) for which a  
1002 payment of remuneration is ordinarily made to the employee by the  
1003 employing unit employing him.

1004       \* \* \*

1005                   (o) Service performed by a barber or beautician  
1006 whose work station is leased to him or her by the owner of the  
1007 shop in which he or she works and who is compensated directly by  
1008 the patrons he or she serves and who is free from direction and  
1009 control by the lessor.

1010           K. "Employment office" means a free public employment office  
1011 or branch thereof, operated by this state or maintained as a part  
1012 of the state controlled system of public employment offices.

1013           L. "Public employment service" means the operation of a  
1014 program that offers free placement and referral services to  
1015 applicants and employers, including job development.

1016           M. "Fund" means the Unemployment Compensation Fund  
1017 established by this chapter, to which all contributions required  
1018 and from which all benefits provided under this chapter shall be  
1019 paid.

1020           N. "Hospital" means an institution which has been licensed,  
1021 certified, or approved by the State Department of Health as a  
1022 hospital.

1023           O. "Institution of higher learning," for the purposes of  
1024 this section, means an educational institution which:

1025                   (1) Admits as regular students only individuals having  
1026 a certificate of graduation from a high school, or the recognized  
1027 equivalent of such a certificate;

1028                   (2) Is legally authorized in this state to provide a  
1029 program of education beyond high school;

1030                   (3) Provides an educational program for which it awards  
1031 a bachelor's or higher degree, or provides a program which is  
1032 acceptable for full credit toward such a degree, a program of  
1033 postgraduate or postdoctoral studies, or a program of training to  
1034 prepare students for gainful employment in a recognized  
1035 occupation;

1036                   (4) Is a public or other nonprofit institution;



1037 (5) Notwithstanding any of the foregoing provisions of  
1038 this subsection, all colleges and universities in this state are  
1039 institutions of higher learning for purposes of this section.

1040 P. (1) "State" includes, in addition to the states of the  
1041 United States of America, the District of Columbia, Commonwealth  
1042 of Puerto Rico and the Virgin Islands.

1043 (2) The term "United States" when used in a  
1044 geographical sense includes the states, the District of Columbia,  
1045 Commonwealth of Puerto Rico and the Virgin Islands.

1046 (3) The provisions of subsections (1) and (2) of  
1047 paragraph N, as including the Virgin Islands, shall become  
1048 effective on the day after the day on which the United States  
1049 Secretary of Labor approves for the first time under Section  
1050 3304(a) of the Internal Revenue Code of 1954 an unemployment  
1051 compensation law submitted to the secretary by the Virgin Islands  
1052 for such approval.

1053 Q. "Unemployment."

1054 (1) An individual shall be deemed "unemployed" in any  
1055 week during which he performs no services and with respect to  
1056 which no wages are payable to him, or in any week of less than  
1057 full-time work if the wages payable to him with respect to such  
1058 week are less than his weekly benefit amount as computed and  
1059 adjusted in Section 71-5-505. The department shall prescribe  
1060 regulations applicable to unemployed individuals, making such  
1061 distinctions in the procedure as to total unemployment, part-total  
1062 unemployment, partial unemployment of individuals attached to  
1063 their regular jobs, and other forms of short-time work, as the  
1064 department deems necessary.

1065 (2) An individual's week of total unemployment shall be  
1066 deemed to commence only after his registration at an employment  
1067 office, except as the department may by regulation otherwise  
1068 prescribe.

1069           R. (1) "Wages" means all remuneration for personal  
1070 services, including commissions and bonuses and the cash value of  
1071 all remuneration in any medium other than cash, except that  
1072 "wages," for purposes of determining employer's coverage and  
1073 payment of contributions for agricultural and domestic service  
1074 means cash remuneration only. The reasonable cash value of  
1075 remuneration in any medium other than cash shall be estimated and  
1076 determined in accordance with rules prescribed by the department;  
1077 however, that the term "wages" shall not include:

1078                           (a) The amount of any payment made to, or on  
1079 behalf of, an employee under a plan or system established by an  
1080 employer which makes provision for his employees generally or for  
1081 a class or classes of his employees (including any amount paid by  
1082 an employer for insurance or annuities, or into a fund, to provide  
1083 for any such payment), on account of:

1084   (i) Retirement, or  
1085   (ii) Sickness or accident disability, or  
1086   (iii) Medical or hospitalization expenses in  
1087 connection with sickness or actual disability, or

1088   (iv) Death, provided the employee:

1089   (A) Has not the option to receive,  
1090 instead of provision for such death benefit, any part of such  
1091 payment or, if such death benefit is insured, any part of the  
1092 premiums (or contributions to premiums) paid by his employer, and

1093   (B) Has not the right, under the  
1094 provisions of the plan or system or policy of insurance providing  
1095 for such death benefit, to assign such benefit or to receive a  
1096 cash consideration in lieu of such benefit, either upon his  
1097 withdrawal from the plan or system providing for such benefit or  
1098 upon termination of such plan or system or policy of insurance or  
1099 of his employment with such employer;

1100 (b) Dismissal payments which the employer is not  
1101 legally required to make;

1102 (c) Payment by an employer (without deduction from  
1103 the remuneration of an employee) of the tax imposed by the  
1104 Internal Revenue Code, 26 USCS Section 3101;

1105 (d) From and after January 1, 1992, the amount of  
1106 any payment made to or on behalf of an employee for a "cafeteria"  
1107 plan, which meets the following requirements:

1108 (i) Qualifies under Section 125 of the  
1109 Internal Revenue Code;

1110 (ii) Covers only employees;

1111 (iii) Covers only noncash benefits;

1112 (iv) Does not include deferred compensation  
1113 plans.

1114 (2) [Not enacted].

1115 S. "Week" means calendar week or such period of seven (7)  
1116 consecutive days as the department may by regulation prescribe.  
1117 The department may by regulation prescribe that a week shall be  
1118 deemed to be in, within, or during any benefit year which includes  
1119 any part of such week.

1120 T. "Insured work" means "employment" for "employers."

1121 U. The term "includes" and "including," when used in a  
1122 definition contained in this chapter, shall not be deemed to  
1123 exclude other things otherwise within the meaning of the term  
1124 defined.

1125 V. "Employee leasing arrangement" means any agreement  
1126 between an employee leasing firm and a client, whereby specified  
1127 client responsibilities such as payment of wages, reporting of  
1128 wages for unemployment insurance purposes, payment of unemployment  
1129 insurance contributions and other such administrative duties are  
1130 to be performed by an employee leasing firm, on an ongoing basis.

1131        W. "Employee leasing firm" means any entity which provides  
1132 specified duties for a client company such as payment of wages,  
1133 reporting of wages for unemployment insurance purposes, payment of  
1134 unemployment insurance contributions and other administrative  
1135 duties, in connection with the client's employees, that are  
1136 directed and controlled by the client and that are providing  
1137 ongoing services for the client.

1138        X. "Temporary help firm" means an entity which hires its own  
1139 employees and provides those employees to other individuals or  
1140 organizations to perform some service, to support or supplement  
1141 the existing work force in special situations such as employee  
1142 absences, temporary skill shortages, seasonal workloads and  
1143 special assignments and projects, with the expectation that the  
1144 worker's position will be terminated upon the completion of the  
1145 specified task or function.

1146        **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is  
1147 amended as follows:

1148        71-5-19. (1) Whoever makes a false statement or  
1149 representation knowing it to be false, or knowingly fails to  
1150 disclose a material fact, to obtain or increase any benefit or  
1151 other payment under this chapter or under an employment security  
1152 law of any other state, of the federal government or of a foreign  
1153 government, either for himself or for any other person, shall be  
1154 punished by a fine of not less than One Hundred Dollars (\$100.00)  
1155 nor more than Five Hundred Dollars (\$500.00), or by imprisonment  
1156 for not longer than thirty (30) days, or by both such fine and  
1157 imprisonment; and each such false statement or representation or  
1158 failure to disclose a material fact shall constitute a separate  
1159 offense.

1160        (2) Any employing unit, any officer or agent of an employing  
1161 unit or any other person who makes a false statement or  
1162 representation knowing it to be false, or who knowingly fails to

1163 disclose a material fact, to prevent or reduce the payment of  
1164 benefits to any individual entitled thereto, or to avoid becoming  
1165 or remaining subject hereto, or to avoid or reduce any  
1166 contribution or other payment required from any employing unit  
1167 under this chapter, or who willfully fails or refuses to make any  
1168 such contribution or other payment, or to furnish any reports  
1169 required hereunder or to produce or permit the inspection or  
1170 copying of records as required hereunder, shall be punished by a  
1171 fine of not less than One Hundred Dollars (\$100.00) nor more than  
1172 One Thousand Dollars (\$1,000.00), or by imprisonment for not  
1173 longer than sixty (60) days, or by both such fine and  
1174 imprisonment; and each such false statement, or representation, or  
1175 failure to disclose a material fact, and each day of such failure  
1176 or refusal shall constitute a separate offense. In lieu of such  
1177 fine and imprisonment, the employing unit or representative, or  
1178 both employing unit and representative, if such representative is  
1179 an employing unit in this state and is found to be a party to such  
1180 violation, shall not be eligible for a contributions rate of less  
1181 than five and four-tenths percent (5.4%) for the tax year in which  
1182 such violation is discovered by the department and for the next  
1183 two (2) succeeding tax years.

1184 (3) Any person who shall willfully violate any provision of  
1185 this chapter or any other rule or regulation thereunder, the  
1186 violation of which is made unlawful or the observance of which is  
1187 required under the terms of this chapter and for which a penalty  
1188 is neither prescribed herein nor provided by any other applicable  
1189 statute, shall be punished by a fine of not less than One Hundred  
1190 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),  
1191 or by imprisonment for not longer than sixty (60) days, or by both  
1192 such fine and imprisonment; and each day such violation continues  
1193 shall be deemed to be a separate offense. In lieu of such fine  
1194 and imprisonment, the employing unit or representative, or both

1195 employing unit and representative, if such representative is an  
1196 employing unit in this state and is found to be a party to such  
1197 violation, shall not be eligible for a contributions rate of less  
1198 than five and four-tenths percent (5.4%) for the tax year in which  
1199 the violation is discovered by the department and for the next two  
1200 (2) succeeding tax years.

1201 (4) Any person who, by reason of the nondisclosure or  
1202 misrepresentation by him or by another of a material fact,  
1203 irrespective of whether such nondisclosure or misrepresentation  
1204 was known or fraudulent, or who, for any other reason has received  
1205 any such benefits under this chapter, while any conditions for the  
1206 receipt of benefits imposed by this chapter were not fulfilled in  
1207 his case, or while he was disqualified from receiving benefits,  
1208 shall, in the discretion of the department, either be liable to  
1209 have such sum deducted from any future benefits payable to him  
1210 under this chapter or shall be liable to repay to the department  
1211 for the unemployment compensation fund a sum equal to the amount  
1212 so received by him; and such sum shall be collectible in the  
1213 manner provided in Sections 71-5-363 through 71-5-383 for the  
1214 collection of past-due contributions. \* \* \* However, \* \* \* no such  
1215 deduction shall be made, nor shall any action be taken for the  
1216 collection of any such overpayments, after five (5) years have  
1217 elapsed from the date of the receipt of the benefits at issue; and  
1218 any such judgment against such person for collection of such  
1219 overpayments shall not be a lien upon the property of the person  
1220 for a longer period than five (5) years from the date of the  
1221 filing of the lien, and any such notice of lien shall not be  
1222 refiled by the department.

1223 (5) The department, by agreement with another state or the  
1224 United States, as provided under Section 303(g) of the Social  
1225 Security Act, may recover any overpayment of benefits paid to any  
1226 individual under the laws of this state or of another state or

1227 under an unemployment benefit program of the United States. Any  
1228 overpayments subject to this subsection may be deducted from any  
1229 future benefits payable to the individual under the laws of this  
1230 state or of another state or under an unemployment program of the  
1231 United States.

1232 **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is  
1233 amended as follows:

1234 71-5-101. There is established the Mississippi Department of  
1235 Employment Security, Office of the Governor. The Department of  
1236 Employment Security shall be the Mississippi Employment Security  
1237 Commission and shall retain all powers and duties as granted to  
1238 the Mississippi Employment Security Commission. Wherever the term  
1239 "Employment Security Commission" appears in any law, the same  
1240 shall mean the Mississippi Department of Employment Security,  
1241 Office of the Governor. The Executive Director of the Department  
1242 of Employment Security may assign to the appropriate offices such  
1243 powers and duties deemed appropriate to carry out the lawful  
1244 functions of the department.

1245 **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is  
1246 amended as follows:

1247 71-5-107. The department shall administer this chapter  
1248 through a full-time salaried executive director, to be appointed  
1249 by the Governor, with the advice and consent of the Senate.  
1250 He \* \* \* shall be responsible for the administration of this  
1251 chapter under authority delegated to him by the Governor.

1252 **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is  
1253 amended as follows:

1254 71-5-109. There is \* \* \* created a board of review  
1255 consisting of three (3) members to be appointed by the executive  
1256 director. The executive director shall designate one (1) member  
1257 of the board of review as chairman. Each member shall be paid a  
1258 salary or per diem at a rate to be determined by the executive

1259 director, and such expenses as may be allowed by the executive  
1260 director. All salaries, per diem and expenses of the Board of  
1261 Review shall be paid from the Employment Security Administration  
1262 Fund.

1263 **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is  
1264 amended as follows:

1265 71-5-111. There is \* \* \* created in the State Treasury a  
1266 special fund to be known as the Employment Security Administration  
1267 Fund. All monies which are deposited or paid into this fund  
1268 are \* \* \* appropriated and made available to the department. All  
1269 monies in this fund shall be expended solely for the purpose of  
1270 defraying the cost of administration of this chapter, and for no  
1271 other purpose whatsoever. The fund shall consist of all monies  
1272 appropriated by this state and all monies received from the United  
1273 States of America, or any agency thereof, or from any other source  
1274 for such purpose. Notwithstanding any provision of this section,  
1275 all monies requisitioned and deposited in this fund pursuant to  
1276 Section 71-5-457 shall remain part of the Employment Security  
1277 Administration Fund and shall be used only in accordance with the  
1278 conditions specified in that section. All monies in this fund  
1279 shall be deposited, administered and disbursed in the same manner  
1280 and under the same conditions and requirements as is provided by  
1281 law for other special funds in the State Treasury. The State  
1282 Treasurer shall be liable on his official bond for the faithful  
1283 performance of his duties in connection with the Employment  
1284 Security Administration Fund under this chapter.

1285 **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is  
1286 amended as follows:

1287 71-5-112. All funds received by the Mississippi Employment  
1288 Security Commission shall clear through the State Treasury as  
1289 provided and required by Sections 71-5-111 and 71-5-453. All  
1290 expenditures from the administration fund of the department



1291 authorized by Section 71-5-111 shall be expended only pursuant to  
1292 appropriation approved by the Legislature and as provided by law.

1293         **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is  
1294 amended as follows:

1295         71-5-113. All monies received from the Social Security Board  
1296 or its successors for the administration of this chapter shall be  
1297 expended solely for the purposes and in the amounts found  
1298 necessary by the Social Security Board or its successors for the  
1299 proper and efficient administration of this chapter.

1300         It shall be the duty of the department to take appropriate  
1301 action with respect to the replacement, within a reasonable time,  
1302 of any monies received from the Social Security Board, or its  
1303 successors, for the administration of this chapter, and monies  
1304 used to match grants pursuant to the provisions of the  
1305 Wagner-Peyser Act, which the board, or its successors, find,  
1306 because of any action or contingency, have been lost or have been  
1307 expended for purposes other than, or in amounts in excess of those  
1308 found necessary by the Social Security Board, or its successors,  
1309 for the proper administration of this chapter. Funds which have  
1310 been expended by the department or its agents in accordance with  
1311 the budget approved by the Social Security Board, or its  
1312 successors, or in accordance with the general standards and  
1313 limitations promulgated by the Social Security Board, or its  
1314 successors, prior to such expenditure (where proposed expenditures  
1315 have not been specifically disapproved by the Social Security  
1316 Board, or its successors), shall not be deemed to require  
1317 replacement. To effectuate the purposes of this paragraph, it  
1318 shall be the duty of the department to take such action to  
1319 safeguard the expenditure of the funds referred to herein as it  
1320 deems necessary. In the event of a loss of such funds or an  
1321 improper expenditure thereof as herein defined, it shall be the  
1322 duty of the department to notify the Governor of any such loss or

1323 improper expenditure and submit to him a request for an  
1324 appropriation in the amount thereof. The Governor shall transmit  
1325 to the next regular session of the Legislature following such  
1326 notification, the department's request for an appropriation in an  
1327 amount necessary to replace funds which have been lost or  
1328 improperly expended as defined above. Such request of the  
1329 department for an appropriation shall not be subject to the  
1330 provisions of Sections 27-103-101 through 27-103-139. The  
1331 Legislature recognizes its obligation to replace such funds as may  
1332 be necessary and shall make necessary appropriations in accordance  
1333 with such requests.

1334       **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is  
1335 amended as follows:

1336       71-5-114. There is \* \* \* created in the State Treasury a  
1337 special fund, to be known as the "Special Employment Security  
1338 Administration Fund," into which shall be deposited or transferred  
1339 all interest, penalties and damages collected on and after July 1,  
1340 1982, pursuant to Sections 71-5-363 through 71-5-379. Interest,  
1341 penalties and damages collected on delinquent payments deposited  
1342 during any calendar quarter in the clearing account in the  
1343 Unemployment Compensation Fund shall, as soon as practicable after  
1344 the close of such calendar quarter, be transferred to the Special  
1345 Employment Security Administration Fund. All monies in this fund  
1346 shall be deposited, administered and disbursed in the same manner  
1347 and under the same conditions and requirements as is provided by  
1348 law for other special funds in the State Treasury. The State  
1349 Treasurer shall be liable on his official bond for the faithful  
1350 performance of his duties in connection with the Special  
1351 Employment Security Administration Fund under this chapter. Those  
1352 monies shall not be expended or made available for expenditure in  
1353 any manner which would permit their substitution for (or permit a  
1354 corresponding reduction in) federal funds which would, in the

1355 absence of those monies, be available to finance expenditures for  
1356 the administration of the state unemployment compensation and  
1357 employment service laws. Nothing in this section shall prevent  
1358 those monies in this fund from being used as a revolving fund to  
1359 cover expenditures necessary and proper under the law for which  
1360 federal funds have been duly requested but not yet received,  
1361 subject to the charging of such expenditures against such funds  
1362 when necessary. The monies in this fund may be used by the  
1363 department for the payment of costs of administration of the  
1364 employment security laws of this state which are found not to be  
1365 or not to have been properly and validly chargeable against funds  
1366 obtained from federal sources. All monies in this Special  
1367 Employment Security Administration Fund shall be continuously  
1368 available to the department for expenditure in accordance with the  
1369 provisions of this chapter, and shall not lapse at any time. The  
1370 monies in this fund are \* \* \* specifically made available to  
1371 replace, as contemplated by Section 71-5-113, expenditures from  
1372 the Employment Security Administration Fund established by Section  
1373 71-5-111, which have been found, because of any action or  
1374 contingency, to have been lost or improperly expended.

1375       The department, whenever it is of the opinion that the money  
1376 in the Special Employment Security Administration Fund is more  
1377 than ample to pay for all foreseeable needs for which such special  
1378 fund is set up, may, by written order, order the transfer  
1379 therefrom to the Unemployment Compensation Fund of such amount of  
1380 money in the \* \* \* Special Employment Security Administration Fund  
1381 as it deems proper, and the same shall thereupon be immediately  
1382 transferred to the Unemployment Compensation Fund.

1383       **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is  
1384 amended as follows:

1385       71-5-115. It shall be the duty of the executive director to  
1386 administer this chapter; and the executive director shall have the

1387 power and authority to adopt, amend or rescind such rules and  
1388 regulations, to employ such persons, make such expenditures,  
1389 require such reports, make such investigations, and take such  
1390 other action as he deems necessary or suitable to that end. Such  
1391 rules and regulations shall be effective upon publication in the  
1392 manner, not inconsistent with the provisions of this chapter,  
1393 which the executive director shall prescribe. The executive  
1394 director shall determine the department's own organization and  
1395 methods of procedure in accordance with the provisions of this  
1396 chapter, and shall have an official seal which shall be judicially  
1397 noticed. Not later than the first day of February in each year,  
1398 the executive director shall submit to the Governor a report  
1399 covering the administration and operation of this chapter during  
1400 the preceding fiscal year and shall make such recommendations for  
1401 amendments to this chapter as the executive director deems proper.  
1402 Whenever the executive director believes that a change in  
1403 contribution or benefit rates will become necessary to protect the  
1404 solvency of the fund, he shall promptly so inform the Governor and  
1405 the Legislature, and make recommendations with respect thereto.

1406 **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is  
1407 amended as follows:

1408 71-5-117. General rules may be adopted, amended or rescinded  
1409 by the executive director only after public hearing or opportunity  
1410 to be heard thereon, of which proper notice has been given.  
1411 General rules shall become effective ten (10) days after filing  
1412 with the Secretary of State and publication in one or more  
1413 newspapers of general circulation in this state. Regulations may  
1414 be adopted, amended or rescinded by the executive director and  
1415 shall become effective in the manner and at the time prescribed by  
1416 the executive director.

1417 **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is  
1418 amended as follows:

1419           71-5-119. The department shall cause to be printed for  
1420 distribution to the public the text of this chapter, its  
1421 regulations and general rules, its reports to the Governor, and  
1422 any other material it deems relevant and suitable, and shall  
1423 furnish the same to any person upon application therefor.

1424           **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is  
1425 amended as follows:

1426           71-5-121. Subject to other provisions of this chapter, the  
1427 executive director is authorized to appoint, fix the compensation,  
1428 and prescribe the duties and powers of such officers, accountants,  
1429 attorneys, experts and other persons as may be necessary in the  
1430 performance of department duties; however, all personnel who were  
1431 former members of the Armed Forces of the United States of America  
1432 shall be given credit regardless of rate, rank or commission. All  
1433 positions shall be filled by persons selected and appointed on a  
1434 nonpartisan merit basis, in accordance with Section 25-9-101 et  
1435 seq., that provides for a state service personnel system. The  
1436 executive director shall not employ any person who is an officer  
1437 or committee member of any political party organization. The  
1438 executive director may delegate to any such person so appointed  
1439 such power and authority as he deems reasonable and proper for the  
1440 effective administration of this chapter, and may in his  
1441 discretion bond any person handling monies or signing checks  
1442 hereunder. The veteran status of an individual shall be  
1443 considered and preference given in accordance with the provisions  
1444 of the State Personnel Board.

1445           The department and its employees are exempt from Sections  
1446 25-15-101 and 25-15-103.

1447           The department may use federal granted funds to provide such  
1448 group health, life, accident and hospitalization insurance for its  
1449 employees as may be agreed upon by the department and the federal  
1450 granting authorities.

1451           The department shall adopt a "layoff formula" to be used  
1452 wherever it is determined that, because of reduced workload,  
1453 budget reductions or in order to effect a more economical  
1454 operation, a reduction in force shall occur in any group.

1455           In establishing this formula, the department shall give  
1456 effect to the principle of seniority and shall provide that  
1457 seniority points may be added for disabled veterans and veterans,  
1458 with due regard to the efficiency of the service. Any such layoff  
1459 formula shall be implemented according to the policies, rules and  
1460 regulations of the State Personnel Board.

1461           **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is  
1462 amended as follows:

1463           71-5-123. The executive director shall retain all powers and  
1464 duties as granted to the state advisory council appointed by the  
1465 former Employment Security Commission. The executive director may  
1466 appoint local advisory councils, composed in each case of an equal  
1467 number of employer representatives and employee representatives  
1468 who may fairly be regarded as representative because of their  
1469 vocation, employment or affiliations, and of such members  
1470 representing the general public as the executive director may  
1471 designate. Such councils shall aid the department in formulating  
1472 policies and discussing problems related to the administration of  
1473 this chapter and in assuring impartiality and freedom from  
1474 political influence in the solution of such problems. Members of  
1475 the advisory councils shall receive a per diem in accordance with  
1476 Section 25-3-69 for attendance upon meetings of the council, and  
1477 shall be reimbursed for actual and necessary traveling expenses.  
1478 The per diem and expenses herein authorized shall be paid from the  
1479 Employment Security Administration Fund.

1480           **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is  
1481 amended as follows:

1482           71-5-125. The department shall take all appropriate steps to  
1483 reduce and prevent unemployment; to encourage and assist in the  
1484 adoption of practical methods of vocational training, retraining  
1485 and vocational guidance; to investigate, recommend, advise and  
1486 assist in the establishment and operation, by municipalities,  
1487 counties, school districts and the state, of reserves for public  
1488 works to be used in times of business depression and unemployment;  
1489 to promote the reemployment of unemployed workers throughout the  
1490 state in every other way that may be feasible; and to these ends  
1491 to carry on and publish the results of investigation and research  
1492 studies.

1493           **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is  
1494 amended as follows:

1495           71-5-127. Each employing unit shall keep true and accurate  
1496 work records, containing such information as the department may  
1497 prescribe. Such records shall be open to inspection and be  
1498 subject to being copied by the department or its authorized  
1499 representatives at any reasonable time and as often as may be  
1500 necessary. The department, board of review and any referee may  
1501 require from any employing unit any sworn or unsworn reports with  
1502 respect to persons employed by it which they or any of them deem  
1503 necessary for the effective administration of this chapter.  
1504 Information thus obtained or obtained from any individual pursuant  
1505 to the administration of this chapter shall, except to the extent  
1506 necessary for the proper administration of this chapter, be held  
1507 confidential and shall not be published or be opened to public  
1508 inspection (other than to public employees in the performance of  
1509 their public duties) in any manner revealing the individual's or  
1510 employing unit's identity, but any claimant (or his legal  
1511 representative) at a hearing before an appeal tribunal or the  
1512 board of review shall be supplied with information from such  
1513 records to the extent necessary for the proper presentation of his

1514 claim. Any employee or member of the board of review or any  
1515 employee of the department who violates any provisions of this  
1516 section shall be fined not less than Twenty Dollars (\$20.00) nor  
1517 more than Two Hundred Dollars (\$200.00), or imprisoned for not  
1518 longer than ninety (90) days, or both. The department may make  
1519 the state's records relating to the administration of this chapter  
1520 available to the Railroad Retirement Board, and may furnish the  
1521 Railroad Retirement Board, at the expense of such board, such  
1522 copies thereof as the Railroad Retirement Board deems necessary  
1523 for its purposes. The department may afford reasonable  
1524 cooperation with every agency of the United States charged with  
1525 the administration of any unemployment insurance law.

1526 **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is  
1527 amended as follows:

1528 71-5-129. Records hereinafter designated, which are found by  
1529 the department to be useless, may be disposed of in accordance  
1530 with approved records control schedules.

1531 (a) Records which have been preserved by it for not  
1532 less than three (3) years:

- 1533 (1) Initial claims for benefits,  
1534 (2) Continued claims for benefits,  
1535 (3) Correspondence and master index cards in  
1536 connection with such claims for benefits, and  
1537 (4) Individual wage slips filed by employers  
1538 subject to the provisions of the Unemployment Compensation Law.

1539 (b) Records which have been preserved by it for not  
1540 less than six (6) months after becoming inactive:

- 1541 (1) Work applications,  
1542 (2) Cross-index cards for work applications,  
1543 (3) Test records,  
1544 (4) Employer records,  
1545 (5) Work orders,



- 1546 (6) Clearance records,  
1547 (7) Counseling records,  
1548 (8) Farm placement records, and  
1549 (9) Correspondence relating to all such records.

1550 Nothing herein contained shall be construed as authorizing  
1551 the destruction or disposal of basic fiscal records reflecting the  
1552 financial operations of the department and no records may be  
1553 destroyed without the approval of the Director of the Department  
1554 of Archives and History.

1555 **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is  
1556 amended as follows:

1557 71-5-131. All letters, reports, communications, or any other  
1558 matters, either oral or written, from the employer or employee to  
1559 each other or to the department or any of its agents,  
1560 representatives or employees, which shall have been written, sent,  
1561 delivered or made in connection with the requirements and  
1562 administration of this chapter shall be absolutely privileged and  
1563 shall not be made the subject matter or basis of any suit for  
1564 slander or libel in any court of the State of Mississippi unless  
1565 the same be false in fact and maliciously written, sent, delivered  
1566 or made for the purpose of causing a denial of benefits under this  
1567 chapter.

1568 **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is  
1569 amended as follows:

1570 71-5-133. In any case where an employing unit or any  
1571 officer, member or agent thereof, or any other person having  
1572 possession of the records thereof, shall fail or refuse upon  
1573 demand by the department or its duly appointed agents to produce  
1574 or permit the examination or copying of any book, paper, account,  
1575 record or other data pertaining to payrolls or employment or  
1576 ownership of interests or stock in any employing unit, or bearing  
1577 upon the correctness of any report, or for the purpose of making a

1578 report as required by this chapter where none has been made, then  
1579 and in that event the department or its duly authorized agents  
1580 may, by the issuance of a subpoena, require the attendance of such  
1581 employing unit or any officer, member or agent thereof, or any  
1582 other person having possession of the records thereof, and take  
1583 testimony with respect to any such matter and may require any such  
1584 person to produce any books or records specified in such subpoena.  
1585 The department or its authorized agents at any such hearing shall  
1586 have power to administer oaths to any such person or persons.  
1587 When any person called as a witness by a subpoena signed by the  
1588 department or its agents and served upon him by the sheriff of a  
1589 county of which such person is a resident, or wherein is located  
1590 the principal office of such employing unit or wherein such  
1591 records are located or kept, shall fail to obey such subpoena to  
1592 appear before the department or its authorized agent, or shall  
1593 refuse to testify or to answer any questions or to produce any  
1594 book, record, paper or other data when required to do so, such  
1595 failure or refusal shall be reported to the Attorney General, who  
1596 shall thereupon institute proceedings by the filing of a petition  
1597 in the name of the State of Mississippi, on the relation of the  
1598 department, in the circuit court or other court of competent  
1599 jurisdiction of the county where such witness resides, or wherein  
1600 such records are located or kept, to compel the obedience of such  
1601 witness. Such petition shall set forth the facts and  
1602 circumstances of the demand for and refusal or failure to permit  
1603 the examination or copying of such records, or the failure or  
1604 refusal of such witness to testify in answer to such subpoena or  
1605 to produce the records so required by such subpoena. Such court,  
1606 upon the filing and docketing of such petition, shall thereupon  
1607 promptly issue an order to the defendants named in the petition to  
1608 produce forthwith in such court, or at a place in such county  
1609 designated in such order for the examination or copying by the

1610 department or its duly appointed agents, the records, books or  
1611 documents so described, and to testify concerning matters  
1612 described in such petition. Unless such defendants to such  
1613 petition shall appear in the court upon a day specified in such  
1614 order, which \* \* \* day shall be not more than ten (10) days after  
1615 the date of issuance of such order, and offer, under oath, good  
1616 and sufficient reasons why such examination or copying should not  
1617 be permitted, or why such subpoena should not be obeyed, such  
1618 court shall thereupon deliver to the department or its agents, for  
1619 examination or copying, the records, books and documents so  
1620 described in the petition and so produced in such court, and shall  
1621 order the defendants to appear in answer to the subpoena of the  
1622 department or its agents, and to testify concerning matters  
1623 inquired about by the department. Any employing unit or any  
1624 officer, member or agent thereof, or any other person having  
1625 possession of the records thereof, who shall willfully disobey  
1626 such order of the court after the same shall have been served upon  
1627 him shall be guilty of indirect contempt of such court from which  
1628 such order shall have issued, and may be adjudged in contempt of  
1629 the court and punished therefor as provided by law.

1630 **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is  
1631 amended as follows:

1632 71-5-135. If any employing unit fails to make any report  
1633 required by this chapter, the department or its authorized agents  
1634 shall give written notice by mail to such employing unit to make  
1635 and file such report within fifteen (15) days from the date of  
1636 such notice. If such employing unit, by its proper members,  
1637 officers or agents, shall fail or refuse to make and file such  
1638 reports within such time, then and in that event such report shall  
1639 be made by the department or its authorized agents from the best  
1640 information available, and the amount of contributions due shall

1641 be computed thereon; and such report shall be prima facie correct  
1642 for the purposes of this chapter.

1643 **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is  
1644 amended as follows:

1645 71-5-137. In the discharge of the duties imposed by this  
1646 chapter, the department, any referee, the members of the Board of  
1647 Review, and any duly authorized representative of any of them  
1648 shall have power to administer oaths and affirmations, to take  
1649 depositions, certify to official acts, and issue subpoenas to  
1650 compel the attendance of witnesses and the production of books,  
1651 papers, correspondence, memoranda and other records deemed  
1652 necessary as evidence in connection with a disputed claim or the  
1653 administration of this chapter.

1654 **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is  
1655 amended as follows:

1656 71-5-139. In case of contumacy or refusal to obey a subpoena  
1657 issued to any person, any court in this state within the  
1658 jurisdiction of which the inquiry is carried on, or within the  
1659 jurisdiction of which the person guilty of contumacy or refusal to  
1660 obey is found or resides or transacts business, upon application  
1661 by the department, the Board of Review, any referee, or any duly  
1662 authorized representative of any of them, shall have jurisdiction  
1663 to issue to such person an order requiring such person to appear  
1664 before the department, the Board of Review, any referee, or any  
1665 duly authorized representative of any of them, there to produce  
1666 evidence if so ordered or there to give testimony touching the  
1667 matter under investigation or in question. Any failure to obey  
1668 such order of the court may be punished by the court as a contempt  
1669 thereof. Any person who shall, without just cause, fail or refuse  
1670 to attend and testify or to answer any lawful inquiry or to  
1671 produce books, papers, correspondence, memoranda and other records  
1672 if it is in his power so to do, in obedience to a subpoena of the

1673 department, the Board of Review, any referee, or any duly  
1674 authorized representative of any of them, shall be punished by a  
1675 fine of not more than Two Hundred Dollars (\$200.00), or by  
1676 imprisonment for not longer than sixty (60) days, or by both such  
1677 fine and imprisonment; and each day such violation continues shall  
1678 be deemed to be a separate offense.

1679         **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is  
1680 amended as follows:

1681         71-5-141. No person shall be excused from attending and  
1682 testifying or from producing books, papers, correspondence,  
1683 memoranda and other records before the department, the Board of  
1684 Review, any referee, or any duly authorized representative of any  
1685 of them, or in obedience to the subpoena of any of them in any  
1686 cause or proceeding before the department, the Board of Review or  
1687 an appeal tribunal, on the ground that the testimony or evidence,  
1688 documentary or otherwise, required of him may tend to incriminate  
1689 him or subject him to a penalty or forfeiture; but no individual  
1690 shall be prosecuted or subjected to any penalty or forfeiture for  
1691 or on account of any transaction, matter or thing concerning which  
1692 he is compelled, after having claimed his privilege against  
1693 self-incrimination, to testify or produce evidence, documentary or  
1694 otherwise, except that such individual so testifying shall not be  
1695 exempt from prosecution and punishment for perjury committed in so  
1696 testifying.

1697         **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is  
1698 amended as follows:

1699         71-5-143. In the administration of this chapter, the  
1700 department shall cooperate, to the fullest extent consistent with  
1701 the provisions of this chapter, with the Social Security Board  
1702 created by the Social Security Act, approved August 14, 1935, as  
1703 amended; shall make such reports in such form and containing such  
1704 information as the Social Security Board may from time to time

1705 require, and shall comply with such provisions as the Social  
1706 Security Board may from time to time find necessary to assure the  
1707 correctness and verification of such reports; and shall comply  
1708 with the reasonable, valid and lawful regulations prescribed by  
1709 the Social Security Board pursuant to and under the authority of  
1710 the Social Security Act, governing the expenditures of such sums  
1711 as may be allotted and paid to this state under Title III of the  
1712 Social Security Act, as amended, for the purpose of assisting in  
1713 the administration of this chapter.

1714       Upon request therefor, the department shall furnish to any  
1715 agency of the United States charged with the administration of  
1716 public works, or assistance through public employment, the name,  
1717 address, ordinary occupation and employment status of each  
1718 recipient of benefits, and such recipient's rights to further  
1719 benefits under this chapter.

1720       **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is  
1721 amended as follows:

1722       71-5-201. The Mississippi State Employment Service is \* \* \*  
1723 established in the Mississippi Department of Employment Security,  
1724 Office of the Governor. The department, in the conduct of such  
1725 service, shall establish and maintain free public employment  
1726 offices in such number and in such places as may be necessary for  
1727 the proper administration of this article and for the purpose of  
1728 performing such functions as are within the purview of the act of  
1729 Congress entitled "An act to provide for the establishment of a  
1730 national employment system and for cooperation with the states in  
1731 the promotion of such system, and for other purposes" (29 USCS  
1732 Section 49 et seq.). Any existing free public employment offices  
1733 maintained by the state but not heretofore under the jurisdiction  
1734 of the department shall be transferred to the jurisdiction of the  
1735 department, and upon such transfer all duties and powers conferred  
1736 upon any other department, agency or officers of this state

1737 relating to the establishment, maintenance and operation of free  
1738 public employment offices shall be vested in the department.  
1739 The \* \* \* Mississippi State Employment Service shall be  
1740 administered by the department, which is charged with the duty to  
1741 cooperate with any official or agency of the United States having  
1742 powers or duties under the provisions of the act of Congress, as  
1743 amended, and to do and perform all things necessary to secure to  
1744 this state the benefits of that act of Congress, as amended, in  
1745 the promotion and maintenance of a system of public employment  
1746 offices. The provisions of that act of Congress, as amended,  
1747 are \* \* \* accepted by this state, in conformity with 29 USCS  
1748 Section 49c, and this state will observe and comply with the  
1749 requirements thereof. The department is \* \* \* designated and  
1750 constituted the agency of this state for the purposes of that act.  
1751 The department may cooperate with or enter into agreements with  
1752 the Railroad Retirement Board or veteran's organization with  
1753 respect to the establishment, maintenance and use of free  
1754 employment service facilities.

1755         **SECTION 34.** Section 71-5-357, Mississippi Code of 1972, is  
1756 amended as follows:

1757         71-5-357. Benefits paid to employees of nonprofit  
1758 organizations shall be financed in accordance with the provisions  
1759 of this section. For the purpose of this section, a nonprofit  
1760 organization is an organization (or group of organizations)  
1761 described in Section 501(c)(3) of the Internal Revenue Code of  
1762 1954 which is exempt from income tax under Section 501(a) of such  
1763 code (26 USCS Section 501).

1764         (a) Any nonprofit organization which, under Section  
1765 71-5-11, subsection I(3), is or becomes subject to this chapter  
1766 shall pay contributions under the provisions of Sections 71-5-351  
1767 through 71-5-355 unless it elects, in accordance with this  
1768 paragraph, to pay to the department for the unemployment fund an

1769 amount equal to the amount of regular benefits and one-half (1/2)  
1770 of the extended benefits paid, that is attributable to service in  
1771 the employ of such nonprofit organization, to individuals for  
1772 weeks of unemployment which begin during the effective period of  
1773 such election.

1774 (i) Any nonprofit organization which becomes  
1775 subject to this chapter may elect to become liable for payments in  
1776 lieu of contributions for a period of not less than twelve (12)  
1777 months, beginning with the date on which such subjectivity begins,  
1778 by filing a written notice of its election with the department not  
1779 later than thirty (30) days immediately following the date of the  
1780 determination of such subjectivity.

1781 (ii) Any nonprofit organization which makes an  
1782 election in accordance with subparagraph (i) of this paragraph  
1783 will continue to be liable for payments in lieu of contributions  
1784 unless it files with the department a written termination notice  
1785 not later than thirty (30) days prior to the beginning of the tax  
1786 year for which such termination shall first be effective.

1787 (iii) Any nonprofit organization which has been  
1788 paying contributions under this chapter may change to a  
1789 reimbursable basis by filing with the department, not later than  
1790 thirty (30) days prior to the beginning of any tax year, a written  
1791 notice of election to become liable for payments in lieu of  
1792 contributions. Such election shall not be terminable by the  
1793 organization for that and the next tax year.

1794 (iv) The department may for good cause extend the  
1795 period within which a notice of election or a notice of  
1796 termination must be filed, and may permit an election to be  
1797 retroactive.

1798 (v) The department, in accordance with such  
1799 regulations as it may prescribe, shall notify each nonprofit  
1800 organization of any determination which it may make of its status



1801 as an employer, of the effective date of any election which it  
1802 makes and of any termination of such election. Such  
1803 determinations shall be subject to reconsideration, appeal and  
1804 review in accordance with the provisions of Sections 71-5-351  
1805 through 71-5-355.

1806 (b) Payments in lieu of contributions shall be made in  
1807 accordance with the provisions of subparagraph (i) of this  
1808 paragraph.

1809 (i) At the end of each calendar quarter, or at the  
1810 end of any other period as determined by the department, the  
1811 department shall bill each nonprofit organization (or group of  
1812 such organizations) which has elected to make payments in lieu of  
1813 contributions, for an amount equal to the full amount of regular  
1814 benefits plus one-half (1/2) of the amount of extended benefits  
1815 paid during such quarter or other prescribed period that is  
1816 attributable to service in the employ of such organization.

1817 (ii) Payment of any bill rendered under  
1818 subparagraph (i) of this paragraph shall be made not later than  
1819 forty-five (45) days after such bill was mailed to the last known  
1820 address of the nonprofit organization or was otherwise delivered  
1821 to it, unless there has been an application for review and  
1822 redetermination in accordance with subparagraph (v) of this  
1823 paragraph.

1824 1. All of the enforcement procedures for the  
1825 collection of delinquent contributions contained in Sections  
1826 71-5-363 through 71-5-383 shall be applicable in all respects for  
1827 the collection of delinquent payments due by nonprofit  
1828 organizations who have elected to become liable for payments in  
1829 lieu of contributions.

1830 2. If any nonprofit organization is  
1831 delinquent in making payments in lieu of contributions, the  
1832 department may terminate such organization's election to make

1833 payments in lieu of contributions as of the beginning of the next  
1834 tax year, and such termination shall be effective for the balance  
1835 of such tax year.

1836 (iii) Payments made by any nonprofit organization  
1837 under the provisions of this paragraph shall not be deducted or  
1838 deductible, in whole or in part, from the remuneration of  
1839 individuals in the employ of the organization.

1840 (iv) Payments due by employers who elect to  
1841 reimburse the fund in lieu of contributions as provided in this  
1842 paragraph may not be noncharged under any condition. The  
1843 reimbursement must be on a dollar-for-dollar basis (One Dollar  
1844 (\$1.00) reimbursement for each dollar paid in benefits) in every  
1845 case, so that the trust fund shall be reimbursed in full, such  
1846 reimbursement to include, but not be limited to, benefits or  
1847 payments erroneously or incorrectly paid, or paid as a result of a  
1848 determination of eligibility which is subsequently reversed, or  
1849 paid as a result of claimant fraud. However, political  
1850 subdivisions who are reimbursing employers may elect to pay to the  
1851 fund an amount equal to five-tenths percent (.5%) of the taxable  
1852 wages paid during the calendar year with respect to employment,  
1853 and those employers who so elect shall be relieved of liability  
1854 for reimbursement of benefits paid under the same conditions that  
1855 benefits are not charged to the experience rating record of a  
1856 contributing employer as provided in Section 71-5-355(2)(b)(ii)  
1857 other than Clause 5 thereof. Benefits paid in such circumstances  
1858 for which reimbursing employers are relieved of liability for  
1859 reimbursement shall not be considered attributable to service in  
1860 the employment of such reimbursing employer.

1861 (v) The amount due specified in any bill from the  
1862 department shall be conclusive on the organization unless, not  
1863 later than fifteen (15) days after the bill was mailed to its last  
1864 known address or otherwise delivered to it, the organization files

1865 an application for redetermination by the department, setting  
1866 forth the grounds for such application or appeal. The department  
1867 shall promptly review and reconsider the amount due specified in  
1868 the bill and shall thereafter issue a redetermination in any case  
1869 in which such application for redetermination has been filed. Any  
1870 such redetermination shall be conclusive on the organization  
1871 unless, not later than fifteen (15) days after the redetermination  
1872 was mailed to its last known address or otherwise delivered to it,  
1873 the organization files an appeal to the Circuit Court of the First  
1874 Judicial District of Hinds County, Mississippi, in accordance with  
1875 the provisions of law with respect to review of civil causes by  
1876 certiorari.

1877                   (vi) Past due payments of amounts in lieu of  
1878 contributions shall be subject to the same interest and penalties  
1879 that, pursuant to Section 71-5-363, apply to past due  
1880 contributions.

1881                   (c) Each employer that is liable for payments in lieu  
1882 of contributions shall pay to the department for the fund the  
1883 amount of regular benefits plus the amount of one-half (1/2) of  
1884 extended benefits paid are attributable to service in the employ  
1885 of such employer. If benefits paid to an individual are based on  
1886 wages paid by more than one (1) employer and one or more of such  
1887 employers are liable for payments in lieu of contributions, the  
1888 amount payable to the fund by each employer that is liable for  
1889 such payments shall be determined in accordance with the  
1890 provisions of subparagraph (i) or subparagraph (ii) of this  
1891 paragraph.

1892                   (i) If benefits paid to an individual are based on  
1893 wages paid by one or more employers that are liable for payment in  
1894 lieu of contributions and on wages paid by one or more employers  
1895 who are liable for contributions, the amount of benefits payable  
1896 by each employer that is liable for payments in lieu of

1897 contributions shall be an amount which bears the same ratio to the  
1898 total benefits paid to the individual as the total base-period  
1899 wages paid to the individual by such employer bear to the total  
1900 base-period wages paid to the individual by all of his base-period  
1901 employers.

1902 (ii) If benefits paid to an individual are based  
1903 on wages paid by two (2) or more employers that are liable for  
1904 payments in lieu of contributions, the amount of benefits payable  
1905 by each such employer shall be an amount which bears the same  
1906 ratio to the total benefits paid to the individual as the total  
1907 base-period wages paid to the individual by such employer bear to  
1908 the total base-period wages paid to the individual by all of his  
1909 base-period employers.

1910 (d) In the discretion of the department, any nonprofit  
1911 organization that elects to become liable for payments in lieu of  
1912 contributions shall be required, within thirty (30) days after the  
1913 effective date of its election, to execute and file with the  
1914 department a surety bond approved by the department, or it may  
1915 elect instead to deposit with the department money or securities.  
1916 The amount of such bond or deposit shall be determined in  
1917 accordance with the provisions of this paragraph.

1918 (i) The amount of the bond or deposit required by  
1919 paragraph (d) shall be equal to two and seven-tenths percent  
1920 (2.7%) of the organization's taxable wages paid for employment as  
1921 defined in Section 71-5-11, subsection J(4), for the four (4)  
1922 calendar quarters immediately preceding the effective date of the  
1923 election, the renewal date in the case of a bond, or the biennial  
1924 anniversary of the effective date of election in the case of a  
1925 deposit of money or securities, whichever date shall be most  
1926 recent and applicable. If the nonprofit organization did not pay  
1927 wages in each of such four (4) calendar quarters, the amount of  
1928 the bond or deposit shall be as determined by the department.

1929                   (ii) Any bond deposited under paragraph (d) shall  
1930 be in force for a period of not less than two (2) tax years and  
1931 shall be renewed with the approval of the department at such times  
1932 as the department may prescribe, but not less frequently than at  
1933 intervals of two (2) years as long as the organization continues  
1934 to be liable for payments in lieu of contributions. The  
1935 department shall require adjustments to be made in a previously  
1936 filed bond as it deems appropriate. If the bond is to be  
1937 increased, the adjusted bond shall be filed by the organization  
1938 within thirty (30) days of the date notice of the required  
1939 adjustment was mailed or otherwise delivered to it. Failure by  
1940 any organization covered by such bond to pay the full amount of  
1941 payments in lieu of contributions when due, together with any  
1942 applicable interest and penalties provided in paragraph (b)(v) of  
1943 this section, shall render the surety liable on the bond to the  
1944 extent of the bond, as though the surety was such organization.

1945                   (iii) Any deposit of money or securities in  
1946 accordance with paragraph (d) shall be retained by the department  
1947 in an escrow account until liability under the election is  
1948 terminated, at which time it shall be returned to the  
1949 organization, less any deductions as hereinafter provided. The  
1950 department may deduct from the money deposited under paragraph (d)  
1951 by a nonprofit organization, or sell the securities it has so  
1952 deposited, to the extent necessary to satisfy any due and unpaid  
1953 payments in lieu of contributions and any applicable interest and  
1954 penalties provided for in paragraph (b)(v) of this section. The  
1955 department shall require the organization, within thirty (30) days  
1956 following any deduction from a money deposit or sale of deposited  
1957 securities under the provisions hereof, to deposit sufficient  
1958 additional money or securities to make whole the organization's  
1959 deposit at the prior level. Any cash remaining from the sale of  
1960 such securities shall be a part of the organization's escrow

1961 account. The department may, at any time, review the adequacy of  
1962 the deposit made by any organization. If, as a result of such  
1963 review, it determines that an adjustment is necessary, it shall  
1964 require the organization to make additional deposit within thirty  
1965 (30) days of written notice of its determination or shall return  
1966 to it such portion of the deposit as it no longer considers  
1967 necessary, whichever action is appropriate. Disposition of income  
1968 from securities held in escrow shall be governed by the applicable  
1969 provisions of the state law.

1970 (iv) If any nonprofit organization fails to file a  
1971 bond or make a deposit, or to file a bond in an increased amount,  
1972 or to increase or make whole the amount of a previously made  
1973 deposit as provided under this subparagraph, the department may  
1974 terminate such organization's election to make payments in lieu of  
1975 contributions, and such termination shall continue for not less  
1976 than the four (4) consecutive calendar-quarter periods beginning  
1977 with the quarter in which such termination becomes effective;  
1978 however, the department may extend for good cause the applicable  
1979 filing, deposit or adjustment period by not more than thirty (30)  
1980 days.

1981 (v) Group account shall be established according  
1982 to regulations prescribed by the department.

1983 (e) Any employer which elects to make payments in lieu  
1984 of contributions into the Unemployment Compensation Fund as  
1985 provided in this paragraph shall not be liable to make such  
1986 payments with respect to the benefits paid to any individual whose  
1987 base-period wages include wages for previously uncovered services  
1988 as defined in Section 71-5-511(e) to the extent that the  
1989 Unemployment Compensation Fund is reimbursed for such benefits  
1990 pursuant to Section 121 of Public Law 94-566.

1991 **SECTION 35.** Section 71-5-359, Mississippi Code of 1972, is  
1992 amended as follows:

1993           71-5-359. (1) (a) Before January 1, 1978, each state board  
1994 or other instrumentality of this state or one or more other states  
1995 covered under Section 71-5-11, subsection I(3), shall pay  
1996 contributions under the provisions of Sections 71-5-351 through  
1997 71-5-355 for all of the hospitals or institutions of higher  
1998 learning under its jurisdiction unless it elects, in the same  
1999 manner and under the same conditions as provided for nonprofit  
2000 organizations in subsections (a), (b) and (c) of Section 71-5-357,  
2001 to pay to the department for the unemployment fund an amount equal  
2002 to the regular benefits and one-half (1/2) of the extended  
2003 benefits paid that are attributable to service in the employ of  
2004 such hospitals or institutions. When an election is made, the  
2005 amounts required to be paid in lieu of contributions shall be  
2006 billed and payment made as provided in Section 71-5-357 with  
2007 respect to similar payments by nonprofit organizations. A state  
2008 board having jurisdiction over two (2) or more state-owned  
2009 hospitals or state-owned institutions of higher learning shall be  
2010 treated as a single employer for the employment in all of those  
2011 hospitals or institutions of higher learning for purposes of  
2012 computing contribution rates and payment of contributions, or for  
2013 purposes of reimbursing the fund, unless it elects, in accordance  
2014 with this section, to have one or more of those hospitals or  
2015 institutions of higher learning treated as a separate employer.

2016           (b) A state board may elect to have one or more  
2017 state-owned hospitals or one or more state-owned institutions of  
2018 higher learning under its jurisdiction treated as a separate  
2019 employer for the purposes of this section, provided it files with  
2020 the department, not later than thirty (30) days prior to the  
2021 beginning of any tax year, a written notice of such election. Any  
2022 such election shall be effective throughout such tax year, and  
2023 shall continue in effect unless the state board files with the  
2024 department a written notice of termination of such election not

2025 less than thirty (30) days prior to the beginning of the tax year  
2026 for which such termination is to be effective.

2027 (2) (a) From January 1, 1978, through December 31, 1978,  
2028 the Commission of Budget and Accounting shall, in the manner  
2029 provided in subsection (2)(c) of this section, pay, upon warrant  
2030 issued by the State Auditor of Public Accounts, to the department  
2031 for the unemployment compensation fund an amount equal to the  
2032 regular benefits and one-half (1/2) of the extended benefits paid  
2033 that are attributable to service in the employ of a state agency.  
2034 The amount required to be reimbursed by a certain agency shall be  
2035 billed to the Commission of Budget and Accounting and shall be  
2036 paid from the Employment Compensation Revolving Fund pursuant to  
2037 subsection (2)(c) of this section not later than thirty (30) days  
2038 after such bill was mailed, unless there has been an application  
2039 for review and redetermination in accordance with Section  
2040 71-5-357(b)(v).

2041 (b) The Department of Finance and Administration shall,  
2042 in the manner provided in subsection (2)(c) of this section, pay,  
2043 upon warrant issued by the State Auditor, or the successor to  
2044 these duties, to the department for the Unemployment Compensation  
2045 Fund an amount equal to the regular benefits and the extended  
2046 benefits paid that are attributable to service in the employ of a  
2047 state agency. The amount required to be reimbursed by a certain  
2048 agency shall be billed to the Department of Finance and  
2049 Administration and shall be paid from the Employment Compensation  
2050 Revolving Fund pursuant to subsection (2)(c) of this section not  
2051 later than thirty (30) days after such bill was mailed, unless  
2052 there has been an application for review and redetermination in  
2053 accordance with Section 71-5-357(b)(v).

2054 (c) Each agency of state government shall deposit  
2055 monthly for a period of twenty-four (24) months an amount equal to  
2056 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand



2057 Dollars (\$6,000.00) paid to each employee thereof during the next  
2058 preceding year into the Employment Compensation Revolving Fund  
2059 that is created in the State Treasury. The Department of Finance  
2060 and Administration shall determine the percentage to be applied to  
2061 the amount of covered wages paid in order to maintain a balance in  
2062 the revolving fund of not less than two percent (2%) of the  
2063 covered wages paid during the next preceding year. The State  
2064 Treasurer shall invest all funds in the Employment Compensation  
2065 Revolving Fund and all interest earned shall be credited to the  
2066 Employment Compensation Revolving Fund.

2067         The reimbursement of benefits paid by the Mississippi  
2068 Employment Security Commission shall be paid by the Department of  
2069 Finance and Administration from the Employment Compensation  
2070 Revolving Fund upon warrants issued by the State Auditor of Public  
2071 Accounts, or the successor to these duties; and the \* \* \* auditor  
2072 shall issue his warrants upon requisitions signed by the  
2073 Department of Finance and Administration. \* \* \* However, \* \* \* the  
2074 Department of Finance and Administration may, if it so elects,  
2075 contract for the performance of the duties prescribed by  
2076 subsections (2)(b) and (c), and other duties necessarily related  
2077 thereto.

2078         (d) From January 1, 1978, through December 31, 1978,  
2079 any political subdivision of this state shall pay to the  
2080 department for the unemployment fund an amount equal to the  
2081 regular benefits and one-half (1/2) of the extended benefits paid  
2082 that are attributable to service in the employ of such political  
2083 subdivision unless it elects to make contributions to the  
2084 unemployment fund as provided in subsection (2)(j) of this  
2085 section. The amount required to be reimbursed shall be billed and  
2086 shall be paid as provided in Section 71-5-357, with respect to  
2087 similar payments for nonprofit organizations.

2088 (e) On and after January 1, 1979, any political  
2089 subdivision of this state shall pay to the department for the  
2090 unemployment fund an amount equal to the regular benefits and the  
2091 extended benefits paid that are attributable to service in the  
2092 employ of such political subdivision unless it elects to make  
2093 contributions to the unemployment fund as provided in subsection  
2094 (2)(j) of this section. The amount required to be reimbursed  
2095 shall be billed and shall be paid as provided in Section 71-5-357,  
2096 with respect to similar payments for nonprofit organizations.

2097 (f) Each political subdivision unless it elects to make  
2098 contributions to the unemployment fund as provided in subsection  
2099 (2)(j) of this section, shall establish a revolving fund and  
2100 deposit therein monthly for a period of twenty-four (24) months an  
2101 amount equal to one-twelfth of one percent (1/12 of 1%) of the  
2102 first Six Thousand Dollars (\$6,000.00) paid to each employee  
2103 thereof during the next preceding year plus an amount each month  
2104 equal to one-third (1/3) of any reimbursement paid to the  
2105 department for the next preceding quarter. After January 1, 1980,  
2106 the balance in the revolving fund shall be maintained at an amount  
2107 not less than two percent (2%) of the covered wages paid during  
2108 the next preceding year. \* \* \* However, \* \* \* the department shall  
2109 by regulation establish a procedure to allow reimbursing political  
2110 subdivisions to elect to maintain the balance in the revolving  
2111 fund as required under this paragraph or to annually execute a  
2112 surety bond to be approved by the department in an amount not less  
2113 than two percent (2%) of the covered wages paid during the next  
2114 preceding year.

2115 (g) In the event any political subdivision becomes  
2116 delinquent in payments due under this chapter, upon due notice,  
2117 and upon certification of the delinquency by the department to the  
2118 Department of Finance and Administration, the State Tax  
2119 Commission, the Department of Environmental Quality and the

2120 Department of Insurance, or any of them, such agencies shall  
2121 direct the issuance of warrants which in the aggregate shall be  
2122 the amount of such delinquency payable to the department and drawn  
2123 upon any funds in the State Treasury which may be available to  
2124 such political subdivision in satisfaction of any such  
2125 delinquency. This remedy shall be in addition to any other  
2126 collection remedies in this chapter or otherwise provided by law.

2127 (h) Payments made by any political subdivision under  
2128 the provisions of this section shall not be deducted or  
2129 deductible, in whole or in part, from the remuneration of  
2130 individuals in the employ of the organization.

2131 (i) Any governmental entity shall not be liable to make  
2132 payments to the unemployment fund with respect to the benefits  
2133 paid to any individual whose base-period wages include wages for  
2134 previously uncovered services as defined in Section 71-5-511,  
2135 subsection (e), to the extent that the unemployment compensation  
2136 fund is reimbursed for such benefits pursuant to Section 121 of  
2137 Public Law 94-566.

2138 (j) Any political subdivision of this state may elect  
2139 to make contributions to the unemployment fund instead of making  
2140 reimbursement for benefits paid as provided in subsections (2)(d),  
2141 (e) and (f) of this section. A political subdivision which makes  
2142 this election shall so notify the department, not later than July  
2143 1, 1978; and shall be subject to the provisions of Section  
2144 71-5-351, with regard to the payment of contributions. A  
2145 political subdivision which makes this election shall pay  
2146 contributions equal to two percent (2%) of wages paid by it during  
2147 each calendar quarter it is subject to this chapter. The  
2148 department shall by regulation establish a procedure to allow  
2149 political subdivisions the option periodically to elect either the  
2150 reimbursement or the contribution method of financing unemployment  
2151 compensation coverage.

2152           **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is  
2153 amended as follows:

2154           71-5-451. There is \* \* \* established as a special fund,  
2155 separate and apart from all public monies or funds of this state,  
2156 an Unemployment Compensation Fund, which shall be administered by  
2157 the department exclusively for:

2158           (a) All contributions collected under this chapter;

2159           (b) Interest earned upon any monies in the fund;

2160           (c) Any property or securities acquired through the use  
2161 of monies belonging to the fund;

2162           (d) All earnings of such property or securities;

2163           (e) All monies credited to this state's account in the  
2164 Unemployment Trust Fund pursuant to the Social Security Act, 42  
2165 USCS, Section 1104; and

2166           (f) By way of reimbursement in accordance with Section  
2167 204 of the Federal-State Extended Unemployment Compensation Act of  
2168 1970 (84 Stat. 711). All monies in the fund shall be mingled and  
2169 undivided.

2170           **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is  
2171 amended as follows:

2172           71-5-457. (1) Except as otherwise provided in subsection  
2173 (5), money credited to the account of this state in the  
2174 Unemployment Trust Fund by the Secretary of the Treasury of the  
2175 United States of America pursuant to the Social Security Act, 42  
2176 USCS Section 1103, may be requisitioned and used for the payment  
2177 of expenses incurred for the administration of this law pursuant  
2178 to a specific appropriation by the Legislature, provided that the  
2179 expenses are incurred and the money is requisitioned after the  
2180 enactment of an appropriation law which:

2181           (a) Specifies the purposes for which such money is  
2182 appropriated and the amounts appropriated therefor;

2183 (b) Limits the period within which such money may be  
2184 obligated to a period ending not more than two (2) years after the  
2185 date of the enactment of the appropriation law; and

2186 (c) Limits the amount which may be obligated during a  
2187 twelve-month period beginning on July 1 and ending on the next  
2188 June 30 to an amount which does not exceed the amount by which:

2189 (i) The aggregate of the amounts credited to the  
2190 account of this state pursuant to the Social Security Act, 42 USCS  
2191 Section 1103, during the same twelve-month period and the  
2192 thirty-four (34) preceding twelve-month periods exceeds.

2193 (ii) The aggregate of the amounts obligated  
2194 pursuant to this section and charged against the amounts credited  
2195 to the account of this state during such thirty-five (35)  
2196 twelve-month periods.

2197 For the purposes of this section, amounts obligated during  
2198 any such twelve-month period shall be charged against equivalent  
2199 amounts which were first credited and which are not already so  
2200 charged; except that no amount obligated for administration during  
2201 any such twelve-month period may be charged against any amount  
2202 credited during such a twelve-month period earlier than the  
2203 thirty-fourth preceding such period.

2204 (2) Money credited to the account of this state pursuant to  
2205 the Social Security Act, 42 USCS Section 1103, may not be  
2206 withdrawn or used except for the payment of benefits and for the  
2207 payment of expenses for the administration of this law and of  
2208 public employment offices pursuant to this section.

2209 (3) Money appropriated as provided herein for the payment of  
2210 expenses of administration shall be requisitioned as needed for  
2211 the payment of obligations incurred under such appropriation and,  
2212 upon requisition, shall be deposited in the Employment Security  
2213 Administration Fund, from which such payments shall be made.  
2214 Money so deposited shall, until expended, remain a part of the

2215 Unemployment Compensation Fund and, if it will not be expended,  
2216 shall be returned promptly to the account of this state in the  
2217 Unemployment Trust Fund.

2218 (4) The thirty-five-year limitation provided in this section  
2219 is no longer in force, effective October 1, 1991.

2220 (5) Notwithstanding subsection (1), monies credited with  
2221 respect to federal fiscal years 1999, 2000 and 2001 shall be used  
2222 by the department solely for the administration of the  
2223 unemployment compensation program.

2224 **SECTION 38.** Section 71-5-511, Mississippi Code of 1972, is  
2225 amended as follows:

2226 71-5-511. An unemployed individual shall be eligible to  
2227 receive benefits with respect to any week only if the department  
2228 finds that:

2229 (a) (i) He has registered for work at and thereafter  
2230 has continued to report to an employment office in accordance with  
2231 such regulations as the department may prescribe; except that the  
2232 department may, by regulation, waive or alter either or both of  
2233 the requirements of this subparagraph as to such types of cases or  
2234 situations with respect to which it finds that compliance with  
2235 such requirements would be oppressive or would be inconsistent  
2236 with the purposes of this chapter; and

2237 (ii) He participates in reemployment services,  
2238 such as job search assistance services, if, in accordance with a  
2239 profiling system established by the department, it has been  
2240 determined that he is likely to exhaust regular benefits and needs  
2241 reemployment services, unless the department determines that:

2242 1. The individual has completed such  
2243 services; or

2244 2. There is justifiable cause for the  
2245 claimant's failure to participate in such services.

2246 (b) He has made a claim for benefits in accordance with  
2247 the provisions of Section 71-5-515 and in accordance with such  
2248 regulations as the department may prescribe thereunder.

2249 (c) He is able to work and is available for work.

2250 (d) He has been unemployed for a waiting period of one  
2251 (1) week. No week shall be counted as a week of unemployment for  
2252 the purposes of this subsection:

2253 (i) Unless it occurs within the benefit year which  
2254 includes the week with respect to which he claims payment of  
2255 benefits;

2256 (ii) If benefits have been paid with respect  
2257 thereto;

2258 (iii) Unless the individual was eligible for  
2259 benefits with respect thereto, as provided in Sections 71-5-511  
2260 and 71-5-513, except for the requirements of this subsection.

2261 (e) For weeks beginning on or before July 1, 1982, he  
2262 has, during his base period, been paid wages for insured work  
2263 equal to not less than thirty-six (36) times his weekly benefit  
2264 amount; he has been paid wages for insured work during at least  
2265 two (2) quarters of his base period; and he has, during that  
2266 quarter of his base period in which his total wages were highest,  
2267 been paid wages for insured work equal to not less than sixteen  
2268 (16) times the minimum weekly benefit amount. For benefit years  
2269 beginning after July 1, 1982, he has, during his base period, been  
2270 paid wages for insured work equal to not less than forty (40)  
2271 times his weekly benefit amount; he has been paid wages for  
2272 insured work during at least two (2) quarters of his base period,  
2273 and he has, during that quarter of his base period in which his  
2274 total wages were highest, been paid wages for insured work equal  
2275 to not less than twenty-six (26) times the minimum weekly benefit  
2276 amount. For purposes of this subsection, wages shall be counted  
2277 as "wages for insured work" for benefit purposes with respect to

2278 any benefit year only if such benefit year begins subsequent to  
2279 the date on which the employing unit by which such wages were paid  
2280 has satisfied the conditions of Section 71-5-11, subsection I, or  
2281 Section 71-5-361, subsection (3), with respect to becoming an  
2282 employer.

2283 (f) No individual may receive benefits in a benefit  
2284 year unless, subsequent to the beginning of the next preceding  
2285 benefit year during which he received benefits, he performed  
2286 service in "employment" as defined in Section 71-5-11, subsection  
2287 J, and earned remuneration for such service in an amount equal to  
2288 not less than eight (8) times his weekly benefit amount applicable  
2289 to his \* \* \* next preceding benefit year.

2290 (g) Benefits based on service in employment defined in  
2291 Section 71-5-11, subsection J(3) and J(4), and Section 71-5-361,  
2292 subsection (4) shall be payable in the same amount, on the same  
2293 terms, and subject to the same conditions as compensation payable  
2294 on the basis of other service subject to this chapter, except that  
2295 benefits based on service in an instructional, research or  
2296 principal administrative capacity in an institution of higher  
2297 learning (as defined in Section 71-5-11, subsection Q) with  
2298 respect to service performed prior to January 1, 1978, shall not  
2299 be paid to an individual for any week of unemployment which begins  
2300 during the period between two (2) successive academic years, or  
2301 during a similar period between two (2) regular terms, whether or  
2302 not successive, or during a period of paid sabbatical leave  
2303 provided for in the individual's contract, if the individual has a  
2304 contract or contracts to perform services in any such capacity for  
2305 any institution or institutions of higher learning for both such  
2306 academic years or both such terms.

2307 (h) Benefits based on service in employment defined in  
2308 Section 71-5-11, subsection J(3) and J(4), shall be payable in the  
2309 same amount, on the same terms and subject to the same conditions



2310 as compensation payable on the basis of other service subject to  
2311 this chapter; except that:

2312                   (i) With respect to service performed in an  
2313 instructional, research or principal administrative capacity for  
2314 an educational institution, benefits shall not be paid based on  
2315 such services for any week of unemployment commencing during the  
2316 period between two (2) successive academic years, or during a  
2317 similar period between two (2) regular but not successive terms,  
2318 or during a period of paid sabbatical leave provided for in the  
2319 individual's contract, to any individual, if such individual  
2320 performs such services in the first of such academic years or  
2321 terms and if there is a contract or a reasonable assurance that  
2322 such individual will perform services in any such capacity for any  
2323 educational institution in the second of such academic years or  
2324 terms, and provided that Section 71-5-511, subsection (g), shall  
2325 apply with respect to such services prior to January 1, 1978. In  
2326 no event shall benefits be paid unless the individual employee was  
2327 terminated by the employer.

2328                   (ii) With respect to services performed in any  
2329 other capacity for an educational institution, benefits shall not  
2330 be paid on the basis of such services to any individual for any  
2331 week which commences during a period between two (2) successive  
2332 academic years or terms, if such individual performs such services  
2333 in the first of such academic years or terms and there is a  
2334 reasonable assurance that such individual will perform such  
2335 services in the second of such academic years or terms, except  
2336 that if compensation is denied to any individual under this  
2337 subparagraph and such individual was not offered an opportunity to  
2338 perform such services for the educational institution for the  
2339 second of such academic years or terms, such individual shall be  
2340 entitled to a retroactive payment of compensation for each week  
2341 for which the individual filed a timely claim for compensation and

2342 for which compensation was denied solely by reason of this clause.  
2343 In no event shall benefits be paid unless the individual employee  
2344 was terminated by the employer.

2345 (iii) With respect to services described in  
2346 subsection (h)(i) and (ii), benefits shall not be payable on the  
2347 basis of services in any such capacities to any individual for any  
2348 week which commences during an established and customary vacation  
2349 period or holiday recess if such individual performs such services  
2350 in the first of such academic years or terms, or in the period  
2351 immediately before such vacation period or holiday recess, and  
2352 there is a reasonable assurance that such individual will perform  
2353 such services in the period immediately following such vacation  
2354 period or holiday recess.

2355 (iv) With respect to any services described in  
2356 subsection (h)(i) and (ii), benefits shall not be payable on the  
2357 basis of services in any such capacities as specified in  
2358 subsection (h)(i), (ii) and (iii) to any individual who performed  
2359 such services in an educational institution while in the employ of  
2360 an educational service agency. For purposes of this subsection,  
2361 the term "educational service agency" means a governmental agency  
2362 or governmental entity which is established and operated  
2363 exclusively for the purpose of providing such services to one or  
2364 more educational institutions.

2365 (v) With respect to services to which Sections  
2366 71-5-357 and 71-5-359 apply, if such services are provided to or  
2367 on behalf of an educational institution, benefits shall not be  
2368 payable under the same circumstances and subject to the same terms  
2369 and conditions as described in subsection (h)(i), (ii), (iii) and  
2370 (iv).

2371 (i) Subsequent to December 31, 1977, benefits shall not  
2372 be paid to any individual on the basis of any services  
2373 substantially all of which consist of participating in sports or

2374 athletic events or training or preparing to so participate, for  
2375 any week which commences during the period between two (2)  
2376 successive sports seasons (or similar periods) if such individual  
2377 performs such services in the first of such seasons (or similar  
2378 periods) and there is a reasonable assurance that such individual  
2379 will perform such services in the later of such seasons (or  
2380 similar periods).

2381 (j) (i) Subsequent to December 31, 1977, benefits  
2382 shall not be payable on the basis of services performed by an  
2383 alien, unless such alien is an individual who was lawfully  
2384 admitted for permanent residence at the time such services were  
2385 performed, was lawfully present for purposes of performing such  
2386 services, or was permanently residing in the United States under  
2387 color of law at the time such services were performed (including  
2388 an alien who was lawfully present in the United States as a result  
2389 of the application of the provisions of Section 203(a)(7) or  
2390 Section 212(d)(5) of the Immigration and Nationality Act).

2391 (ii) Any data or information required of  
2392 individuals applying for benefits to determine whether benefits  
2393 are not payable to them because of their alien status shall be  
2394 uniformly required from all applicants for benefits.

2395 (iii) In the case of an individual whose  
2396 application for benefits would otherwise be approved, no  
2397 determination that benefits to such individual are not payable  
2398 because of his alien status shall be made, except upon a  
2399 preponderance of the evidence.

2400 (k) An individual shall be deemed prima facie  
2401 unavailable for work, and therefore ineligible to receive  
2402 benefits, during any period which, with respect to his employment  
2403 status, is found by the department to be a holiday or vacation  
2404 period.

2405           **SECTION 39.** Section 71-5-513, Mississippi Code of 1972, is  
2406 amended as follows:

2407           71-5-513. A. An individual shall be disqualified for  
2408 benefits:

2409                   (1) (a) For the week, or fraction thereof, which  
2410 immediately follows the day on which he left work voluntarily  
2411 without good cause, if so found by the department, and for each  
2412 week thereafter until he has earned remuneration for personal  
2413 services performed for an employer, as in this chapter defined,  
2414 equal to not less than eight (8) times his weekly benefit amount,  
2415 as determined in each case; however, marital, filial and domestic  
2416 circumstances and obligations shall not be deemed good cause  
2417 within the meaning of this subsection. Pregnancy shall not be  
2418 deemed to be a marital, filial or domestic circumstance for the  
2419 purpose of this subsection.

2420                   (b) For the week, or fraction thereof, which  
2421 immediately follows the day on which he was discharged for  
2422 misconduct connected with his work, if so found by the department,  
2423 and for each week thereafter until he has earned remuneration for  
2424 personal services performed for an employer, as in this chapter  
2425 defined, equal to not less than eight (8) times his weekly benefit  
2426 amount, as determined in each case.

2427                   (c) The burden of proof of good cause for leaving  
2428 work shall be on the claimant, and the burden of proof of  
2429 misconduct shall be on the employer.

2430                   (2) For the week, or fraction thereof, with respect to  
2431 which he willfully makes a false statement, a false representation  
2432 of fact, or willfully fails to disclose a material fact for the  
2433 purpose of obtaining or increasing benefits under the provisions  
2434 of this law, if so found by the department, and such individual's  
2435 maximum benefit allowance shall be reduced by the amount of  
2436 benefits so paid to him during any such week of disqualification;

2437 and additional disqualification shall be imposed for a period not  
2438 exceeding fifty-two (52) weeks, the length of such period of  
2439 disqualification and the time when such period begins to be  
2440 determined by the department, in its discretion, according to the  
2441 circumstances in each case.

2442 (3) If the department finds that he has failed, without  
2443 good cause, either to apply for available suitable work when so  
2444 directed by the employment office or the department, to accept  
2445 suitable work when offered him, or to return to his customary  
2446 self-employment (if any) when so directed by the department, such  
2447 disqualification shall continue for the week in which such failure  
2448 occurred and for not more than the twelve (12) weeks which  
2449 immediately follow such week, as determined by the department  
2450 according to the circumstances in each case.

2451 (a) In determining whether or not any work is  
2452 suitable for an individual, the department shall consider among  
2453 other factors the degree of risk involved to his health, safety  
2454 and morals, his physical fitness and prior training, his  
2455 experience and prior earnings, his length of unemployment and  
2456 prospects for securing local work in his customary occupation, and  
2457 the distance of the available work from his residence; \* \* \*  
2458 however, \* \* \* offered employment paying the minimum wage or  
2459 higher, if such minimum or higher wage is that prevailing for his  
2460 customary occupation or similar work in the locality, shall be  
2461 deemed to be suitable employment after benefits have been paid to  
2462 the individual for a period of eight (8) weeks.

2463 (b) Notwithstanding any other provisions of this  
2464 chapter, no work shall be deemed suitable and benefits shall not  
2465 be denied under this chapter to any otherwise eligible individual  
2466 for refusing to accept new work under any of the following  
2467 conditions:

2468 (i) If the position offered is vacant due  
2469 directly to a strike, lockout or other labor dispute;

2470 (ii) If the wages, hours or other conditions  
2471 of the work offered are substantially less favorable to the  
2472 individual than those prevailing for similar work in the locality;

2473 (iii) If as a condition of being employed the  
2474 individual would be required to join a company union or to resign  
2475 from or refrain from joining any bona fide labor organization.

2476 (4) For any week with respect to which the department  
2477 finds that his total unemployment is due to a stoppage of work  
2478 which exists because of a labor dispute at a factory,  
2479 establishment or other premises at which he is or was last  
2480 employed; however, this subsection shall not apply if it is shown  
2481 to the satisfaction of the department:

2482 (a) He is unemployed due to a stoppage of work  
2483 occasioned by an unjustified lockout, if such lockout was not  
2484 occasioned or brought about by such individual acting alone or  
2485 with other workers in concert; or

2486 (b) He is not participating in or directly  
2487 interested in the labor dispute which caused the stoppage of work;  
2488 and

2489 (c) He does not belong to a grade or class of  
2490 workers of which, immediately before the commencement of stoppage,  
2491 there were members employed at the premises at which the stoppage  
2492 occurs, any of whom are participating in or directly interested in  
2493 the dispute.

2494 \* \* \* If in any case separate branches of work which are  
2495 commonly conducted as separate businesses in separate premises are  
2496 conducted in separate departments of the same premises, each such  
2497 department shall, for the purposes of this subsection, be deemed  
2498 to be a separate factory, establishment or other premises.

2499           (5) For any week with respect to which he has received  
2500 or is seeking unemployment compensation under an unemployment  
2501 compensation law of another state or of the United States.  
2502 However, if the appropriate agency of such other state or of the  
2503 United States finally determines that he is not entitled to such  
2504 unemployment compensation benefits, this disqualification shall  
2505 not apply. Nothing in this subsection contained shall be  
2506 construed to include within its terms any law of the United States  
2507 providing unemployment compensation or allowances for honorably  
2508 discharged members of the Armed Forces.

2509           (6) For any week with respect to which he is receiving  
2510 or has received remuneration in the form of payments under any  
2511 governmental or private retirement or pension plan, system or  
2512 policy which a base-period employer is maintaining or contributing  
2513 to or has maintained or contributed to on behalf of the  
2514 individual; however, if the amount payable with respect to any  
2515 week is less than the benefits which would otherwise be due under  
2516 Section 71-5-501, he shall be entitled to receive for such week,  
2517 if otherwise eligible, benefits reduced by the amount of such  
2518 remuneration. However, on or after the first Sunday immediately  
2519 following July 1, 2001, no social security payments, to which the  
2520 employee has made contributions, shall be deducted from  
2521 unemployment benefits paid for any period of unemployment  
2522 beginning on or after the first Sunday following July 1, 2001.  
2523 This one hundred percent (100%) exclusion shall not apply to any  
2524 other governmental or private retirement or pension plan, system  
2525 or policy. If benefits payable under this section, after being  
2526 reduced by the amount of such remuneration, are not a multiple of  
2527 One Dollar (\$1.00), they shall be adjusted to the next lower  
2528 multiple of One Dollar (\$1.00).

2529           (7) For any week with respect to which he is receiving  
2530 or has received remuneration in the form of a back pay award, or

2531 other compensation allocable to any week, whether by settlement or  
2532 otherwise. Any benefits previously paid for weeks of unemployment  
2533 with respect to which back pay awards, or other such compensation,  
2534 are made shall constitute an overpayment and such amounts shall be  
2535 deducted from the award by the employer prior to payment to the  
2536 employee, and shall be transmitted promptly to the department by  
2537 the employer for application against the overpayment and credit to  
2538 the claimant's maximum benefit amount and prompt deposit into the  
2539 fund; \* \* \* however, the removal of any charges made against the  
2540 employer as a result of such previously paid benefits shall be  
2541 applied to the calendar year and the calendar quarter in which the  
2542 overpayment is transmitted to the department, and no attempt shall  
2543 be made to relate such a credit to the period to which the award  
2544 applies. Any amount of overpayment so deducted by the employer  
2545 and not transmitted to the department shall be subject to the same  
2546 procedures for collection as is provided for contributions by  
2547 Sections 71-5-363 through 71-5-381. Any amount of overpayment not  
2548 deducted by the employer shall be established as an overpayment  
2549 against the claimant and collected as provided above. It is the  
2550 purpose of this paragraph to assure equity in the situations to  
2551 which it applies, and it shall be construed accordingly.

2552 B. Notwithstanding any other provision in this chapter, no  
2553 otherwise eligible individual shall be denied benefits for any  
2554 week because he is in training with the approval of the  
2555 department; nor shall such individual be denied benefits with  
2556 respect to any week in which he is in training with the approval  
2557 of the department by reason of the application of provisions in  
2558 Section 71-5-511, subsection (c), relating to availability for  
2559 work, or the provisions of subsection A(3) of this section,  
2560 relating to failure to apply for, or a refusal to accept, suitable  
2561 work.



2562 C. Notwithstanding any other provisions of this chapter, no  
2563 otherwise eligible individual shall be denied benefits for any  
2564 week because he or she is in training approved under Section  
2565 236(a)(1) of the Trade Act of 1974, nor shall such individual be  
2566 denied benefits by reason of leaving work to enter such training,  
2567 provided the work left is not suitable employment, or because of  
2568 the application to any such week in training of provisions in this  
2569 law (or any applicable federal unemployment compensation law),  
2570 relating to availability for work, active search for work or  
2571 refusal to accept work.

2572 For purposes of this section, the term "suitable employment"  
2573 means with respect to an individual, work of a substantially equal  
2574 or higher skill level than the individual's past adversely  
2575 affected employment (as defined for purposes of the Trade Act of  
2576 1974), and wages for such work at not less than eighty percent  
2577 (80%) of the individual's average weekly wage as determined for  
2578 the purposes of the Trade Act of 1974.

2579 **SECTION 40.** Section 71-5-517, Mississippi Code of 1972, is  
2580 amended as follows:

2581 71-5-517. An examiner designated by the department shall  
2582 take the claim. An initial determination thereon shall be made  
2583 promptly and shall include a determination with respect to whether  
2584 or not benefits are payable, the week with respect to which  
2585 benefits shall commence, the weekly benefit amount payable and the  
2586 maximum duration of benefits. In any case in which the payment or  
2587 denial of benefits will be determined by the provisions of  
2588 subsection A(4) of Section 71-5-513, the examiner shall promptly  
2589 transmit all the evidence with respect to that subsection to the  
2590 department, which, on the basis of evidence so submitted and such  
2591 additional evidence as it may require, shall make an initial  
2592 determination with respect thereto. An initial determination may  
2593 for good cause be reconsidered. The claimant, his most recent

2594 employing unit and all employers whose experience-rating record  
2595 would be charged with benefits pursuant to such determination  
2596 shall be promptly notified of such initial determination or any  
2597 amended initial determination and the reason therefor. Benefits  
2598 shall be denied or, if the claimant is otherwise eligible,  
2599 promptly paid in accordance with the initial determination or  
2600 amended initial determination. The jurisdiction of the department  
2601 over benefit claims which have not been appealed shall be  
2602 continuous. The claimant or any party to the initial  
2603 determination or amended initial determination may file an appeal  
2604 from such initial determination or amended initial determination  
2605 within fourteen (14) days after notification thereof, or after the  
2606 date such notification was mailed to his last known address.

2607         Notwithstanding any other provision of this section, benefits  
2608 shall be paid promptly in accordance with a determination or  
2609 redetermination, or the decision of an appeal tribunal, the board  
2610 of review or a reviewing court upon the issuance of such  
2611 determination, redetermination or decision in favor of the  
2612 claimant (regardless of the pendency of the period to apply for  
2613 reconsideration, file an appeal, or petition for judicial review,  
2614 as the case may be, or the pendency of any such application,  
2615 filing or petition), unless and until such determination,  
2616 redetermination or decision has been modified or reversed by a  
2617 subsequent redetermination or decision, in which event benefits  
2618 shall be paid or denied in accordance with such modifying or  
2619 reversing redetermination or decision. Any benefits finally  
2620 determined to have been erroneously paid shall be set up as an  
2621 overpayment to the claimant and must be liquidated before any  
2622 future benefits can be paid to the claimant. If, subsequent to  
2623 such initial determination or amended initial determination,  
2624 benefits with respect to any week for which a claim has been filed  
2625 are denied for reasons other than matters included in the initial

2626 determination or amended initial determination, the claimant shall  
2627 be promptly notified of the denial and the reason therefor and may  
2628 appeal therefrom in accordance with the procedure herein described  
2629 for appeals from initial determination or amended initial  
2630 determination.

2631         **SECTION 41.** Section 71-5-519, Mississippi Code of 1972, is  
2632 amended as follows:

2633         71-5-519. Unless such appeal is withdrawn, an appeal  
2634 tribunal appointed by the executive director, after affording the  
2635 parties reasonable opportunity for fair hearing, shall affirm,  
2636 modify or reverse the findings of fact and initial determination  
2637 or amended initial determination. The parties shall be duly  
2638 notified of such tribunal's decision, together with its reasons  
2639 therefor, which shall be deemed to be the final decision of the  
2640 executive director unless, within fourteen (14) days after the  
2641 date of notification or mailing of such decision, further appeal  
2642 is initiated pursuant to Section 71-5-523.

2643         **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is  
2644 amended as follows:

2645         71-5-523. The board of review may on its own motion affirm,  
2646 modify, or set aside any decision of an appeal tribunal on the  
2647 basis of the evidence previously submitted in such case, or direct  
2648 the taking of additional evidence, or may permit any of the  
2649 parties to such decision to initiate further appeals before it.  
2650 The board of review shall permit such further appeal by any of the  
2651 parties to a decision of an appeal tribunal which is not  
2652 unanimous, and by the examiner whose decision has been overruled  
2653 or modified by an appeal tribunal. The board of review may remove  
2654 to itself or transfer to another appeal tribunal the proceedings  
2655 on any claim pending before an appeal tribunal. Any proceedings  
2656 so removed to the board of review shall be heard by a quorum  
2657 thereof in accordance with the requirements of Section 71-5-519

2658 and within fifteen (15) days after notice of appeal has been  
2659 received by the executive director. No notice of appeal shall be  
2660 deemed to be received by the executive director, within the  
2661 meaning of this section, until all prior appeals pending before  
2662 the board of review have been heard. The board of review shall,  
2663 within four (4) days after its decision, so notify the parties to  
2664 any proceeding of its findings and decision. \* \* \*

2665 **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is  
2666 amended as follows:

2667 71-5-525. The manner in which appealed claims shall be  
2668 presented and the conduct of hearings and appeals shall be in  
2669 accordance with regulations prescribed by the board of review for  
2670 determining the rights of the parties, whether or not such  
2671 regulations conform to common law or statutory rules of evidence  
2672 and other technical rules of procedure. A full and complete  
2673 record shall be kept of all proceedings in connection with an  
2674 appealed claim. The department's entire file relative to the  
2675 appealed claim shall be a part of such record and shall be  
2676 considered as evidence. All testimony at any hearing upon an  
2677 appealed claim shall be recorded, but need not be transcribed  
2678 unless the claim is further appealed.

2679 **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is  
2680 amended as follows:

2681 71-5-529. Any decision of the board of review, in the  
2682 absence of an appeal therefrom as herein provided, shall become  
2683 final ten (10) days after the date of notification or mailing  
2684 thereof; and judicial review thereof shall be permitted only after  
2685 any party claiming to be aggrieved thereby has exhausted his  
2686 administrative remedies as provided by this chapter. The  
2687 department shall be deemed to be a party to any judicial action  
2688 involving any such decision, and may be represented in any such  
2689 judicial action by any qualified attorney employed by the

2690 department and designated by it for that purpose or, at the  
2691 department's request, by the Attorney General.

2692         **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is  
2693 amended as follows:

2694         71-5-531. Within ten (10) days after the decision of the  
2695 Board of Review has become final, any party aggrieved thereby may  
2696 secure judicial review thereof by commencing an action, in the  
2697 circuit court of the county in which the plaintiff resides,  
2698 against the department for the review of such decision, in which  
2699 action any other party to the proceeding before the Board of  
2700 Review shall be made a defendant. In cases wherein the plaintiff  
2701 is not a resident of the State of Mississippi, such action may be  
2702 filed in the circuit court of the county in which the employer  
2703 resides, the county in which the cause of action arose, or in the  
2704 county of employment. In such action, a petition which need not  
2705 be verified, but which shall state the grounds upon which a review  
2706 is sought, shall be served upon the department or upon such person  
2707 as the department may designate, and such service shall be deemed  
2708 completed service on all parties; but there shall be left with the  
2709 party so served as many copies of the petition as there are  
2710 defendants, and the department shall forthwith mail one (1) such  
2711 copy to each such defendant. With its answer, the department  
2712 shall certify and file with said court all documents and papers  
2713 and a transcript of all testimony taken in the matter, together  
2714 with the Board of Review's findings of fact and decision therein.  
2715 The department may also, in its discretion, certify to such court  
2716 questions of law involved in any decision. In any judicial  
2717 proceedings under this section, the findings of the Board of  
2718 Review as to the facts, if supported by evidence and in the  
2719 absence of fraud, shall be conclusive, and the jurisdiction of the  
2720 court shall be confined to questions of law. Such actions, and  
2721 the questions so certified, shall be heard in a summary manner and

2722 shall be given precedence over all other civil cases. An appeal  
2723 may be taken from the decision of the circuit court of the county  
2724 in which the plaintiff resides to the Supreme Court of  
2725 Mississippi, in the same manner, but not inconsistent with the  
2726 provisions of this chapter, as is provided in civil cases. It  
2727 shall not be necessary, in any judicial proceeding under this  
2728 section, to enter exceptions to the rulings of the Board of  
2729 Review, and no bond shall be required for entering such appeal.  
2730 Upon the final determination of such judicial proceeding, the  
2731 Board of Review shall enter an order in accordance with such  
2732 determination. A petition for judicial review shall not act as a  
2733 supersedeas or stay unless the Board of Review shall so order.

2734       **SECTION 46.** Section 71-5-541, Mississippi Code of 1972, is  
2735 amended as follows:

2736       71-5-541. A. (1) In the administration of this chapter,  
2737 the department shall cooperate with the Department of Labor to the  
2738 fullest extent consistent with the provisions of this chapter and  
2739 shall take such action, through the adoption of appropriate rules,  
2740 regulations, administrative methods and standards, as may be  
2741 necessary to secure to this state and its citizens all advantages  
2742 available under the provisions of the Social Security Act that  
2743 relate to unemployment compensation, the Federal Unemployment Tax  
2744 Act, the Wagner-Peyser Act and the Federal-State Extended  
2745 Unemployment Compensation Act of 1970, all as amended.

2746       (2) In the administration of the provisions of this  
2747 section, which are enacted to conform with the requirements of the  
2748 Federal-State Extended Unemployment Compensation Act of 1970, as  
2749 amended, the department shall take such actions as may be  
2750 necessary:

2751               (a) To ensure that the provisions are so  
2752 interpreted and applied as to meet the requirements of such  
2753 federal act as interpreted by the U.S. Department of Labor; and

2754 (b) To secure to this state the full reimbursement  
2755 of the federal share of extended benefits paid under this chapter  
2756 that are reimbursable under the federal act; and also

2757 (c) To limit the amount of extended benefits paid  
2758 as may be necessary so that the reimbursement of the federal share  
2759 of extended benefits paid shall remain at one-half (1/2) of the  
2760 total extended benefits paid.

2761 B. As used in this section, unless the context clearly  
2762 requires otherwise:

2763 (1) "Extended benefit period" means a period which:

2764 (a) Begins with the third week after a week for  
2765 which there is a state "on" indicator; and

2766 (b) Ends with either of the following weeks,  
2767 whichever occurs later:

2768 (i) The third week after the first week for  
2769 which there is a state "off" indicator; or

2770 (ii) The thirteenth consecutive week of such  
2771 period.

2772 No extended benefit period may begin by reason of a state  
2773 "on" indicator before the fourteenth week following the end of a  
2774 prior extended benefit period which was in effect with respect to  
2775 this state.

2776 (2) For weeks beginning after September 25, 1982, there  
2777 is a "state 'on' indicator" for a week if the rate of insured  
2778 unemployment under this chapter for the period consisting of such  
2779 week and the immediately preceding twelve (12) weeks:

2780 (a) Equaled or exceeded one hundred twenty percent  
2781 (120%) of the average of such rates for the corresponding period  
2782 of thirteen (13) weeks ending in each of the preceding two (2)  
2783 calendar years; and

2784 (b) Equaled or exceeded five percent (5%).

2785           \* \* \* The determination of whether there has been a state  
2786 "on" or "off" indicator beginning or ending any extended benefit  
2787 period shall be made under this subsection as if (i) paragraph (2)  
2788 did not contain subparagraph (a) thereof, and (ii) the figure "5"  
2789 contained in subparagraph (b) thereof were "6"; except that,  
2790 notwithstanding any such provision of this subsection, any week  
2791 for which there would otherwise be a "state 'on' indicator" shall  
2792 continue to be such week and shall not be determined to be a week  
2793 for which there is a "state 'off' indicator."

2794           (3) There is a "state 'off' indicator" for a week if,  
2795 for the period consisting of such week and the immediately  
2796 preceding twelve (12) weeks, either subparagraph (a) or (b) of  
2797 paragraph (2) was not satisfied.

2798           (4) "Rate of insured unemployment," for purposes of  
2799 paragraphs (2) and (3) of this subsection, means the percentage  
2800 derived by dividing:

2801           (a) The average number of continued weeks claimed  
2802 for regular state compensation in this state for weeks of  
2803 unemployment with respect to the most recent period of thirteen  
2804 (13) consecutive weeks, as determined by the department on the  
2805 basis of its reports to the U.S. Secretary of Labor; by

2806           (b) The average monthly employment covered under  
2807 this chapter for the first four (4) of the most recent six (6)  
2808 completed calendar quarters ending before the end of such period  
2809 of thirteen (13) weeks.

2810           (5) "Regular benefits" means benefits payable to an  
2811 individual under this chapter or under any other state law  
2812 (including benefits payable to federal civilian employees and to  
2813 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than  
2814 extended benefits.

2815           (6) "Extended benefits" means benefits (including  
2816 benefits payable to federal civilian employees and to



2817 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an  
2818 individual under the provisions of this section for weeks of  
2819 unemployment in his eligibility period.

2820 (7) "Eligibility period" of an individual means the  
2821 period consisting of the weeks in his benefit year which begin in  
2822 an extended benefit period and, if his benefit year ends within  
2823 such extended benefit period, any weeks thereafter which begin in  
2824 such period.

2825 (8) "Exhaustee" means an individual who, with respect  
2826 to any week of unemployment in his eligibility period:

2827 (a) Has received, prior to such week, all of the  
2828 regular benefits that were available to him under this chapter or  
2829 any other state law (including dependents' allowances and benefits  
2830 payable to federal civilian employees and ex-servicemen under 5  
2831 USCS Section 8501-8525) in his current benefit year that includes  
2832 such week;

2833 For the purposes of this subparagraph, an individual shall be  
2834 deemed to have received all of the regular benefits that were  
2835 available to him although, as a result of a pending appeal with  
2836 respect to wages that were not considered in the original monetary  
2837 determination in his benefit year, he may subsequently be  
2838 determined to be entitled to added regular benefits; or

2839 (b) Has no, or insufficient, wages on the basis of  
2840 which he could establish a new benefit year that would include  
2841 such week, his benefit year having expired prior to such week; and

2842 (c) (i) Has no right to unemployment benefits or  
2843 allowances, as the case may be, under the Railroad Unemployment  
2844 Insurance Act, the Trade Expansion Act of 1962, the Automotive  
2845 Products Trade Act of 1965, and such other federal laws as are  
2846 specified in regulations issued by the U.S. Secretary of Labor;  
2847 and

2848 (ii) Has not received and is not seeking  
2849 unemployment benefits under the Unemployment Compensation Law of  
2850 the Virgin Islands or of Canada; but if he is seeking such  
2851 benefits and the appropriate agency finally determines that he is  
2852 not entitled to benefits under such law, he is considered an  
2853 exhaustee; however, the reference in this subsection to the Virgin  
2854 Islands shall be inapplicable effective on the day on which the  
2855 United States Secretary of Labor approves under Section 3304(a) of  
2856 the Internal Revenue Code of 1954, an unemployment compensation  
2857 law submitted to the Secretary by the Virgin Islands for approval.

2858 (9) "State law" means the unemployment insurance law of  
2859 any state, approved by the United States Secretary of Labor under  
2860 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section  
2861 3304). C. Except when the result would be inconsistent with  
2862 the other provisions of this section, as provided in the  
2863 regulations of the department, the provisions of this chapter  
2864 which apply to claims for, or the payment of, regular benefits  
2865 shall apply to claims for, and the payment of, extended benefits.

2866 D. An individual shall be eligible to receive extended  
2867 benefits with respect to any week of unemployment in his  
2868 eligibility period only if the department finds that with respect  
2869 to such week:

2870 (1) He is an "exhaustee" as defined in subsection B(8)  
2871 of this section.

2872 (2) He has satisfied the requirements of this chapter  
2873 for the receipt of regular benefits that are applicable to  
2874 individuals claiming extended benefits, including not being  
2875 subject to a disqualification for the receipt of benefits.

2876 (3) For a week beginning after September 25, 1982, he  
2877 has, during his base period, been paid wages for insured work  
2878 equal to not less than forty (40) times his weekly benefit amount;  
2879 he has been paid wages for insured work during at least two (2)

2880 quarters of his base period, and he has, during that quarter of  
2881 his base period in which his total wages were highest, been paid  
2882 wages for insured work equal to not less than twenty-six (26)  
2883 times the minimum weekly benefit amount.

2884 E. The weekly extended benefit amount payable to an  
2885 individual for a week of total unemployment in his eligibility  
2886 period shall be an amount equal to the weekly benefit amount  
2887 payable to him during his applicable benefit year; \* \* \*  
2888 however, \* \* \* benefits paid to individuals during eligibility  
2889 periods beginning before October 1, 1983, shall be computed to the  
2890 next higher multiple of One Dollar (\$1.00), if not a multiple of  
2891 One Dollar (\$1.00); and benefits paid to individuals during  
2892 eligibility periods beginning on or after October 1, 1983, shall  
2893 be computed to the next lower multiple of One Dollar (\$1.00), if  
2894 not a multiple of One Dollar (\$1.00). \* \* \* In no event shall the  
2895 weekly extended benefit amount payable to an individual be more  
2896 than two (2) times the amount of the reimbursement of the federal  
2897 share of extended benefits paid.

2898 F. (1) The total extended benefit amount payable to any  
2899 eligible individual with respect to his applicable benefit year  
2900 shall be the least of the following amounts:

2901 (a) Fifty percent (50%) of the total amount of  
2902 regular benefits which were payable to him under this chapter in  
2903 his applicable benefit year; \* \* \* however, \* \* \* benefits paid to  
2904 individuals during eligibility periods beginning before October 1,  
2905 1983, shall be computed to the next higher multiple of One Dollar  
2906 (\$1.00), if not a multiple of One Dollar (\$1.00), and benefits  
2907 paid to individuals during eligibility periods beginning on or  
2908 after October 1, 1983, shall be computed to the next lower  
2909 multiple of One Dollar (\$1.00), if not a multiple of One Dollar  
2910 (\$1.00); or

2911 (b) Thirteen (13) times his weekly benefit amount  
2912 which was payable to him under this chapter for a week of total  
2913 unemployment in the applicable benefit year.

2914 (2) The total extended benefits otherwise payable to an  
2915 individual who is filing an interstate claim under the interstate  
2916 benefit payment plan shall not exceed two (2) weeks whenever an  
2917 extended benefit period is not in effect for such week in the  
2918 state where the claim is filed.

2919 (3) \* \* \* In no event shall the total extended benefit  
2920 amount payable to any eligible individual with respect to his  
2921 applicable benefit year be more than two (2) times the amount of  
2922 the reimbursement of the federal share of extended benefits paid.

2923 G. (1) Whenever an extended benefit period is to become  
2924 effective in this state as a result of a state "on" indicator, or  
2925 an extended benefit period is to be terminated in this state as a  
2926 result of state "off" indicators, the department shall make an  
2927 appropriate public announcement.

2928 (2) Computations required by the provisions of  
2929 subsection B(4) shall be made by the department, in accordance  
2930 with regulations prescribed by the United States Secretary of  
2931 Labor.

2932 H. Extended benefits paid under the provisions of this  
2933 section which are not reimbursable from federal funds shall be  
2934 charged to the experience-rating record of base period employers.

2935 I. (1) Notwithstanding the provisions of subsections C and  
2936 D of this section, an individual shall be disqualified for receipt  
2937 of extended benefits if the department finds that during any week  
2938 of his eligibility period:

2939 (a) He has failed either to apply for or to accept  
2940 an offer of suitable work (as defined under paragraph (3)) to  
2941 which he was referred by the department; or

2942 (b) He has failed to furnish tangible evidence  
2943 that he has actively engaged in a systematic and sustained effort  
2944 to find work, unless such individual is not actively engaged in  
2945 seeking work because such individual is:

2946 (i) Before any court of the United States or  
2947 any state pursuant to a lawfully issued summons to appear for jury  
2948 duty;

2949 (ii) Hospitalized for treatment of an  
2950 emergency or a life-threatening condition.

2951 The entitlement to benefits of any individual who is  
2952 determined not to be actively engaged in seeking work in any week  
2953 for the foregoing reasons shall be decided pursuant to the able  
2954 and available requirements in Section 71-5-511 without regard to  
2955 the disqualification provisions otherwise applicable under Section  
2956 71-5-541. The conditions prescribed in clauses (i) and (ii) of  
2957 this subparagraph (b) must be applied in the same manner to  
2958 individuals filing claims for regular benefits.

2959 (2) Such disqualification shall begin with the week in  
2960 which such failure occurred and shall continue until he has been  
2961 employed in each of eight (8) subsequent weeks (whether or not  
2962 consecutive) and has earned remuneration for personal services  
2963 performed for an employer, as in this chapter defined, equal to  
2964 not less than eight (8) times his weekly extended benefit amount.

2965 (3) For the purpose of subparagraph (a) of paragraph  
2966 (1) the term "suitable work" means any work which is within the  
2967 individual's capabilities to perform, if:

2968 (a) The gross average weekly remuneration payable  
2969 for the work exceeds the sum of the individual's weekly extended  
2970 benefit amount plus the amount, if any, of supplemental  
2971 unemployment benefits (as defined in Section 501(c)(17)(D) of the  
2972 Internal Revenue Code of 1954) payable to such individual for such  
2973 week;

2974 (b) The wages payable for the work equal the  
2975 higher of the minimum wages provided by Section 6(a)(1) of the  
2976 Fair Labor Standards Act of 1938 (without regard to any  
2977 exemption), or the state or local minimum wage; and

2978 (c) The position was offered to the individual in  
2979 writing or was listed with the state employment service; and

2980 (d) Such work otherwise meets the definition of  
2981 "suitable work" for regular benefits contained in Section  
2982 71-5-513A(4) to the extent that such criteria of suitability are  
2983 not inconsistent with the provisions of this paragraph (3); and

2984 (e) The individual cannot furnish satisfactory  
2985 evidence to the department that his prospects for obtaining work  
2986 in his customary occupation within a reasonably short period are  
2987 good. If such evidence is deemed satisfactory for this purpose,  
2988 the determination of whether any work is suitable with respect to  
2989 such individual shall be made in accordance with the definition of  
2990 suitable work contained in Section 71-5-513A(4) without regard to  
2991 the definition specified by this paragraph (3).

2992 (4) Notwithstanding any provisions of subsection I to  
2993 the contrary, no work shall be deemed to be suitable work for an  
2994 individual which does not accord with the labor standard  
2995 provisions set forth herein under Section 71-5-513A(4).

2996 (5) The employment service shall refer any claimant  
2997 entitled to extended benefits under this section to any suitable  
2998 work which meets the criteria prescribed in paragraph (3).

2999 (6) An individual shall be disqualified for extended  
3000 benefits for the week, or fraction thereof, which immediately  
3001 follows the day on which he left work voluntarily without good  
3002 cause (as defined in Section 71-5-513A(1)), was discharged for  
3003 misconduct connected with his work, or refused suitable work  
3004 (except as provided in subsection I of this section), and for each  
3005 week thereafter until he has earned remuneration for personal

3006 services performed for an employer, as in this chapter defined,  
3007 equal to not less than eight (8) times his weekly benefit amount,  
3008 as determined in each case.

3009 (7) The provisions of paragraphs I(1) through (6) of  
3010 this section shall not apply to claims for weeks of unemployment  
3011 beginning after March 6, 1993, and before January 1, 1995, and  
3012 during that period the provisions of this chapter applicable to  
3013 claims for regular compensation shall apply.

3014 J. Notwithstanding any other provisions of this chapter, if  
3015 the benefit year of any individual ends within an extended benefit  
3016 period, the remaining balance of extended benefits that such  
3017 individual would, but for this section, be entitled to receive in  
3018 that extended benefit period, with respect to weeks of  
3019 unemployment beginning after the end of the benefit year, shall be  
3020 reduced (but not below zero) by the product of the number of weeks  
3021 for which the individual received any amounts as trade  
3022 readjustment allowances within that benefit year, multiplied by  
3023 the individual's weekly benefit amount for extended benefits.

3024 **SECTION 47.** Section 73-30-25, Mississippi Code of 1972, is  
3025 amended as follows:

3026 73-30-25. It is not the intent of this chapter to regulate  
3027 against members of other duly regulated professions in this state  
3028 who do counseling in the normal course of the practice of their  
3029 own profession. This chapter does not apply to:

3030 (a) Any person registered, certified or licensed by the  
3031 state to practice any other occupation or profession while  
3032 rendering counseling services in the performance of the occupation  
3033 or profession for which he is registered, certified or licensed;

3034 (b) Certified school counselors when they are  
3035 practicing counseling within the scope of their employment;

3036 (c) Certified vocational counselors when they are  
3037 practicing vocational counseling within the scope of their  
3038 employment;

3039 (d) Counselors in post-secondary institutions when they  
3040 are practicing within the scope of their employment;

3041 (e) Student interns or trainees in counseling pursuing  
3042 a course of study in counseling in a regionally or nationally  
3043 accredited institution of higher learning or training institution  
3044 if activities and services constitute a part of the supervised  
3045 course of study, provided that such persons be designated a  
3046 counselor intern;

3047 (f) Professionals employed by regionally or nationally  
3048 accredited post-secondary institutions as counselor educators when  
3049 they are practicing counseling within the scope of their  
3050 employment;

3051 (g) Professionals registered, certified or licensed by  
3052 a recognized state or national professional association that has a  
3053 published code of ethics and requires adherence to same;

3054 (h) Duly ordained ministers or clergy while functioning  
3055 in their ministerial capacity and duly accredited Christian  
3056 Science practitioners;

3057 (i) Professional employees of regional mental health  
3058 centers, state mental hospitals, vocational rehabilitation  
3059 institutions, youth court counselors and employees of the  
3060 Mississippi Department of Employment Security or other  
3061 governmental agency so long as they practice within the scope of  
3062 their employment;

3063 (j) Professional employees of alcohol or drug abuse  
3064 centers or treatment facilities, whether privately or publicly  
3065 funded, so long as they practice within the scope of their  
3066 employment;

3067 (k) Private employment counselors;



3068           (1) Any nonresident temporarily employed in this state  
3069 to render counseling services for not more than thirty (30) days  
3070 in any year, if in the opinion of the board the person would  
3071 qualify for a license under this chapter and if the person holds  
3072 any license required for counselors in his home state or country;  
3073 and

3074           (m) Any social workers holding a master's degree in  
3075 social work from a school accredited by the Council on Social Work  
3076 Education and who do counseling in the normal course of the  
3077 practice of their own profession.

3078           **SECTION 48.** Section 43-1-30, Mississippi Code of 1972, is  
3079 amended as follows:

3080           43-1-30. (1) There is \* \* \* created the Mississippi TANF  
3081 Implementation Council. It shall serve as the independent, single  
3082 state advisory and review council for assuring Mississippi's  
3083 compliance with the federal Personal Responsibility and Work  
3084 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as  
3085 amended. The council shall further cooperation between  
3086 government, education and the private sector in meeting the needs  
3087 of the TANF program. It shall also further cooperation between  
3088 the business and labor communities, education and training  
3089 delivery systems, and between businesses in developing highly  
3090 skilled workers for high skill, high paying jobs in Mississippi.

3091           (2) The council shall be comprised of thirteen (13) public  
3092 members and certain ex officio nonvoting members. All public  
3093 members of the council shall be appointed as follows by the  
3094 Governor:

3095           Ten (10) members shall be representatives from business and  
3096 industry, provided that no fewer than five (5) members are from  
3097 the manufacturing and industry sector who are also serving as  
3098 members of private industry councils established within the state,  
3099 and one (1) member may be a representative of a nonprofit

3100 organization. Three (3) members shall be recipients or former  
3101 recipients of TANF assistance appointed from the state at large.

3102 The ex officio nonvoting members of the council shall consist  
3103 of the following, or their designees:

3104 (a) The Executive Director of the Mississippi  
3105 Department of Human Services;

3106 (b) The Executive Director of the Mississippi  
3107 Department of Employment Security;

3108 (c) The Executive Director of the Mississippi  
3109 Development Authority;

3110 (d) The State Superintendent of Public Education;

3111 (e) The Director of the State Board for Community and  
3112 Junior Colleges;

3113 (f) The Executive Director of the Division of Medicaid;

3114 (g) The Commissioner of the Mississippi Department of  
3115 Corrections; and

3116 (h) The Director of the Mississippi Cooperative  
3117 Extension Service.

3118 (3) The Governor shall designate one (1) public member to  
3119 serve as chairman of the council for a term of two (2) years and  
3120 until a successor as chairman is appointed and qualified.

3121 (4) The term of office for public members appointed by the  
3122 Governor shall be four (4) years and until their successors are  
3123 appointed and qualified.

3124 (5) Any vacancy shall be filled for the unexpired term by  
3125 the Governor in the manner of the original appointment, unless  
3126 otherwise specified in this section.

3127 (6) Public members shall receive a per diem as authorized in  
3128 Section 25-3-69, for each day actually engaged in meetings of the  
3129 council, and shall be reimbursed for mileage and necessary  
3130 expenses incurred in the performance of their duties, as provided  
3131 in Section 25-3-41.

3132 (7) The council shall:

3133 (a) Annually review and recommend policies and programs  
3134 to the Governor and the Legislature that will implement and meet  
3135 federal requirements under the TANF program.

3136 (b) Annually review and recommend policies and programs  
3137 to the Governor and to the Legislature that will enable citizens  
3138 of Mississippi to acquire the skills necessary to maximize their  
3139 economic self-sufficiency.

3140 (c) Review the provision of services and the use of  
3141 funds and resources under the TANF program, and under all  
3142 state-financed job training and job retraining programs, and  
3143 advise the Governor and the Legislature on methods of coordinating  
3144 such provision of services and use of funds and resources  
3145 consistent with the laws and regulations governing such programs.

3146 (d) Assist in developing outcome and output measures to  
3147 measure the success of the Department of Human Services' efforts  
3148 in implementing the TANF program. These recommendations shall be  
3149 made to the Department of Human Services at such times as required  
3150 in the event that the department implements new programs to comply  
3151 with the TANF program requirements.

3152 (e) Collaborate with the Mississippi Development  
3153 Authority, local planning and development districts and local  
3154 industrial development boards, and shall develop an economic  
3155 development plan for the creation of manufacturing jobs in each of  
3156 the counties in the state that has an unemployment rate of ten  
3157 percent (10%) or more, which shall include, but not be limited to,  
3158 procedures for business development, entrepreneurship and  
3159 financial and technical assistance.

3160 (8) A majority of the members of the council shall  
3161 constitute a quorum for the conduct of meetings and all actions of  
3162 the council shall be by a majority of the members present at a  
3163 meeting.

3164 (9) The council shall adopt rules and regulations as it  
3165 deems necessary to carry out its responsibilities under this  
3166 section and under applicable federal human resources programs.

3167 (10) The council may make and enter into contracts and  
3168 interagency agreements as may be necessary and proper.

3169 (11) The council is authorized to commit and expend monies  
3170 appropriated to it by the Legislature for its authorized purposes.  
3171 The council is authorized to solicit, accept and expend public and  
3172 private gifts, grants, awards and contributions related to  
3173 furtherance of its statutory duties.

3174 (12) Funds for the operations of the council shall be  
3175 derived from federal funds for the operation of state councils  
3176 pursuant to applicable federal human resources programs and from  
3177 such other monies appropriated to it by the Legislature.

3178 **SECTION 49.** Section 43-17-5, Mississippi Code of 1972, is  
3179 amended as follows:

3180 43-17-5. (1) The amount of Temporary Assistance for Needy  
3181 Families (TANF) benefits which may be granted for any dependent  
3182 child and a needy caretaker relative shall be determined by the  
3183 county department with due regard to the resources and necessary  
3184 expenditures of the family and the conditions existing in each  
3185 case, and in accordance with the rules and regulations made by the  
3186 Department of Human Services which shall not be less than the  
3187 Standard of Need in effect for 1988, and shall be sufficient when  
3188 added to all other income (except that any income specified in the  
3189 federal Social Security Act, as amended, may be disregarded) and  
3190 support available to the child to provide such child with a  
3191 reasonable subsistence compatible with decency and health. The  
3192 first family member in the dependent child's budget may receive an  
3193 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;  
3194 the second family member in the dependent child's budget may  
3195 receive an amount not to exceed Thirty-six Dollars (\$36.00) per

3196 month; and each additional family member in the dependent child's  
3197 budget an amount not to exceed Twenty-four Dollars (\$24.00) per  
3198 month. The maximum for any individual family member in the  
3199 dependent child's budget may be exceeded for foster or medical  
3200 care or in cases of mentally retarded or physically handicapped  
3201 children. TANF benefits granted shall be specifically limited  
3202 only (a) to children existing or conceived at the time the  
3203 caretaker relative initially applies and qualifies for such  
3204 assistance, unless this limitation is specifically waived by the  
3205 department, or (b) to a child born following a twelve (12)  
3206 consecutive month period of discontinued benefits by the caretaker  
3207 relative.

3208 (2) TANF cash benefits in Mississippi shall be provided by  
3209 monthly checks mailed to the recipient family until such time as  
3210 an on-line electronic benefits transfer system for TANF benefit  
3211 payments is implemented pursuant to Section 43-1-28.

3212 (3) The Department of Human Services shall deny TANF  
3213 benefits to the following categories of individuals, except for  
3214 individuals and families specifically exempt or excluded for good  
3215 cause as allowed by federal statute or regulation:

3216 (a) Families without a minor child residing with the  
3217 custodial parent or other adult caretaker relative of the child;

3218 (b) Families which include an adult who has received  
3219 TANF assistance for sixty (60) months after the commencement of  
3220 the Mississippi TANF program, whether or not such period of time  
3221 is consecutive;

3222 (c) Families not assigning to the state any rights a  
3223 family member may have, on behalf of the family member or of any  
3224 other person for whom the family member has applied for or is  
3225 receiving such assistance, to support from any other person, as  
3226 required by law;

3227 (d) Families who fail to cooperate in establishing  
3228 paternity or obtaining child support, as required by law;

3229 (e) Any individual who has not attained eighteen (18)  
3230 years of age, is not married to the head of household, has a minor  
3231 child at least twelve (12) weeks of age in his or her care, and  
3232 has not successfully completed a high school education or its  
3233 equivalent, if such individual does not participate in educational  
3234 activities directed toward the attainment of a high school diploma  
3235 or its equivalent, or an alternative educational or training  
3236 program approved by the department;

3237 (f) Any individual who has not attained eighteen (18)  
3238 years of age, is not married, has a minor child in his or her  
3239 care, and does not reside in a place or residence maintained by a  
3240 parent, legal guardian or other adult relative or the individual  
3241 as such parent's, guardian's or adult relative's own home;

3242 (g) Any minor child who has been, or is expected by a  
3243 parent or other caretaker relative of the child to be, absent from  
3244 the home for a period of more than thirty (30) days;

3245 (h) Any individual who is a parent or other caretaker  
3246 relative of a minor child who fails to notify the department of  
3247 the absence of the minor child from the home for the thirty-day  
3248 period specified in paragraph (g), by the end of the five-day  
3249 period that begins with the date that it becomes clear to the  
3250 individual that the minor child will be absent for the thirty-day  
3251 period;

3252 (i) Any individual who fails to comply with the  
3253 provisions of the Employability Development Plan signed by the  
3254 individual which prescribe those activities designed to help the  
3255 individual become and remain employed, or to participate  
3256 satisfactorily in the assigned work activity, as authorized under  
3257 subsections (6)(c) and (d);

3258           (j) A parent or caretaker relative who has not engaged  
3259 in an allowable work activity once the department determines the  
3260 parent or caretaker relative is ready to engage in work, or once  
3261 the parent or caretaker relative has received TANF assistance  
3262 under the program for twenty-four (24) months, whether or not  
3263 consecutive, whichever is earlier;

3264           (k) Any individual who is fleeing to avoid prosecution,  
3265 or custody or confinement after conviction, under the laws of the  
3266 jurisdiction from which the individual flees, for a crime, or an  
3267 attempt to commit a crime, which is a felony under the laws of the  
3268 place from which the individual flees, or who is violating a  
3269 condition of probation or parole imposed under federal or state  
3270 law;

3271           (l) Aliens who are not qualified under federal law;

3272           (m) For a period of ten (10) years following  
3273 conviction, individuals convicted in federal or state court of  
3274 having made a fraudulent statement or representation with respect  
3275 to the individual's place of residence in order to receive TANF,  
3276 food stamps or Supplemental Security Income (SSI) assistance under  
3277 Title XVI or Title XIX simultaneously from two (2) or more states;  
3278 and

3279           (n) Individuals who are recipients of federal  
3280 Supplemental Security Income (SSI) assistance.

3281           (4) (a) Any person who is otherwise eligible for TANF  
3282 benefits, including custodial and noncustodial parents, shall be  
3283 required to attend school and meet the monthly attendance  
3284 requirement as provided in this subsection if all of the following  
3285 apply:

3286                   (i) The person is under age twenty (20);

3287                   (ii) The person has not graduated from a public or  
3288 private high school or obtained a GED equivalent;

3289 (iii) The person is physically able to attend  
3290 school and is not excused from attending school; and

3291 (iv) If the person is a parent or caretaker  
3292 relative with whom a dependent child is living, child care is  
3293 available for the child.

3294 The monthly attendance requirement under this subsection  
3295 shall be attendance at the school in which the person is enrolled  
3296 for each day during a month that the school conducts classes in  
3297 which the person is enrolled, with not more than two (2) absences  
3298 during the month for reasons other than the reasons listed in  
3299 paragraph (e)(iv) of this subsection. Persons who fail to meet  
3300 participation requirements in this subsection shall be subject to  
3301 sanctions as provided in paragraph (f) of this subsection.

3302 (b) As used in this subsection, "school" means any one  
3303 (1) of the following:

3304 (i) A school as defined in Section 37-13-91(2);

3305 (ii) A vocational, technical and adult education  
3306 program; or

3307 (iii) A course of study meeting the standards  
3308 established by the State Department of Education for the granting  
3309 of a declaration of equivalency of high school graduation.

3310 (c) If any compulsory-school-age child, as defined in  
3311 Section 37-13-91(2), to which TANF eligibility requirements apply  
3312 is not in compliance with the compulsory school attendance  
3313 requirements of Section 37-13-91(6), the superintendent of schools  
3314 of the school district in which the child is enrolled or eligible  
3315 to attend shall notify the county department of human services of  
3316 the child's noncompliance. The Department of Human Services shall  
3317 review school attendance information as provided under this  
3318 paragraph at all initial eligibility determinations and upon  
3319 subsequent report of unsatisfactory attendance.



3320           (d) The signature of a person on an application for  
3321 TANF benefits constitutes permission for the release of school  
3322 attendance records for that person or for any child residing with  
3323 that person. The department shall request information from the  
3324 child's school district about the child's attendance in the school  
3325 district's most recently completed semester of attendance. If  
3326 information about the child's previous school attendance is not  
3327 available or cannot be verified, the department shall require the  
3328 child to meet the monthly attendance requirement for one (1)  
3329 semester or until the information is obtained. The department  
3330 shall use the attendance information provided by a school district  
3331 to verify attendance for a child. The department shall review  
3332 with the parent or caretaker relative a child's claim that he or  
3333 she has a good cause for not attending school.

3334           A school district shall provide information to the department  
3335 about the attendance of a child who is enrolled in a public school  
3336 in the district within five (5) working days of the receipt of a  
3337 written request for such information from the department. The  
3338 school district shall define how many hours of attendance count as  
3339 a full day and shall provide that information, upon request, to  
3340 the department. In reporting attendance, the school district may  
3341 add partial days' absence together to constitute a full day's  
3342 absence.

3343           (e) A child who is required to attend school to meet  
3344 the requirements under this subsection shall comply except when  
3345 there is good cause, which shall be demonstrated by any of the  
3346 following circumstances:

3347                   (i) The minor parent is the caretaker of a child  
3348 less than twelve (12) weeks old; or

3349                   (ii) The department determines that child care  
3350 services are necessary for the minor parent to attend school and  
3351 there is no child care available; or

3352 (iii) The child is prohibited by the school  
3353 district from attending school and an expulsion is pending. This  
3354 exemption no longer applies once the teenager has been expelled;  
3355 however, a teenager who has been expelled and is making  
3356 satisfactory progress towards obtaining a GED equivalent shall be  
3357 eligible for TANF benefits; or

3358 (iv) The child failed to attend school for one or  
3359 more of the following reasons:

- 3360 1. Illness, injury or incapacity of the child  
3361 or the minor parent's child;
- 3362 2. Court-required appearances or temporary  
3363 incarceration;
- 3364 3. Medical or dental appointments for the  
3365 child or minor parent's child;
- 3366 4. Death of a close relative;
- 3367 5. Observance of a religious holiday;
- 3368 6. Family emergency;
- 3369 7. Breakdown in transportation;
- 3370 8. Suspension; or
- 3371 9. Any other circumstance beyond the control  
3372 of the child, as defined in regulations of the department.

3373 (f) Upon determination that a child has failed without  
3374 good cause to attend school as required, the department shall  
3375 provide written notice to the parent or caretaker relative  
3376 (whoever is the primary recipient of the TANF benefits) that  
3377 specifies:

3378 (i) That the family will be sanctioned in the next  
3379 possible payment month because the child who is required to attend  
3380 school has failed to meet the attendance requirement of this  
3381 subsection;

3382 (ii) The beginning date of the sanction, and the  
3383 child to whom the sanction applies;

3384 (iii) The right of the child's parents or  
3385 caretaker relative (whoever is the primary recipient of the TANF  
3386 benefits) to request a fair hearing under this subsection.

3387 The child's parent or caretaker relative (whoever is the  
3388 primary recipient of the TANF benefits) may request a fair hearing  
3389 on the department's determination that the child has not been  
3390 attending school. If the child's parents or caretaker relative  
3391 does not request a fair hearing under this subsection, or if,  
3392 after a fair hearing has been held, the hearing officer finds that  
3393 the child without good cause has failed to meet the monthly  
3394 attendance requirement, the department shall discontinue or deny  
3395 TANF benefits to the child thirteen (13) years old, or older, in  
3396 the next possible payment month. The department shall discontinue  
3397 or deny twenty-five percent (25%) of the family grant when a child  
3398 six (6) through twelve (12) years of age without good cause has  
3399 failed to meet the monthly attendance requirement. Both the child  
3400 and family sanction may apply when children in both age groups  
3401 fail to meet the attendance requirement without good cause. A  
3402 sanction applied under this subsection shall be effective for one  
3403 (1) month for each month that the child failed to meet the monthly  
3404 attendance requirement. In the case of a dropout, the sanction  
3405 shall remain in force until the parent or caretaker relative  
3406 provides written proof from the school district that the child has  
3407 reenrolled and met the monthly attendance requirement for one (1)  
3408 calendar month. Any month in which school is in session for at  
3409 least ten (10) days during the month may be used to meet the  
3410 attendance requirement under this subsection. This includes  
3411 attendance at summer school. The sanction shall be removed the  
3412 next possible payment month.

3413 (5) All parents or caretaker relatives shall have their  
3414 dependent children receive vaccinations and booster vaccinations  
3415 against those diseases specified by the State Health Officer

3416 pursuant to Section 41-23-37 in accordance with the vaccination  
3417 and booster vaccination schedule prescribed by the State Health  
3418 Officer for children of that age, in order for the parents or  
3419 caretaker relatives to be eligible or remain eligible to receive  
3420 TANF benefits. Proof of having received such vaccinations and  
3421 booster vaccinations shall be given by presenting the certificates  
3422 of vaccination issued by any health care provider licensed to  
3423 administer vaccinations, and submitted on forms specified by the  
3424 State Board of Health. If the parents without good cause do not  
3425 have their dependent children receive the vaccinations and booster  
3426 vaccinations as required by this subsection and they fail to  
3427 comply after thirty (30) days' notice, the department shall  
3428 sanction the family's TANF benefits by twenty-five percent (25%)  
3429 for the next payment month and each subsequent payment month until  
3430 the requirements of this subsection are met.

3431 (6) (a) If the parent or caretaker relative applying for  
3432 TANF assistance is an employable person, as determined by the  
3433 Department of Human Services, the person shall be required to  
3434 engage in an allowable work activity once the department  
3435 determines the parent or caretaker relative is ready to engage in  
3436 work, or once the parent or caretaker relative has received TANF  
3437 assistance under the program for twenty-four (24) months, whether  
3438 or not consecutive, whichever is earlier. No TANF benefits shall  
3439 be given to any person to whom this section applies who fails  
3440 without good cause to comply with the Employability Development  
3441 Plan prepared by the department for the person, or who has refused  
3442 to accept a referral or offer of employment, training or education  
3443 in which he or she is able to engage, subject to the penalties  
3444 prescribed in subsection (6)(e). A person shall be deemed to have  
3445 refused to accept a referral or offer of employment, training or  
3446 education if he or she:

3447 (i) Willfully fails to report for an interview  
3448 with respect to employment when requested to do so by the  
3449 department; or

3450 (ii) Willfully fails to report to the department  
3451 the result of a referral to employment; or

3452 (iii) Willfully fails to report for allowable work  
3453 activities as prescribed in subsections (6)(c) and (d).

3454 (b) The Department of Human Services shall operate a  
3455 statewide work program for TANF recipients to provide work  
3456 activities and supportive services to enable families to become  
3457 self-sufficient and improve their competitive position in the work  
3458 force in accordance with the requirements of the federal Personal  
3459 Responsibility and Work Opportunity Reconciliation Act of 1996  
3460 (Public Law 104-193), as amended, and the regulations promulgated  
3461 thereunder. All adults who are not specifically exempt shall be  
3462 referred by the department for allowable work activities. An  
3463 adult may be exempt from the mandatory work activity requirement  
3464 for the following reasons:

3465 (i) Incapacity;

3466 (ii) Temporary illness or injury, verified by  
3467 physician's certificate;

3468 (iii) Is in the third trimester of pregnancy,  
3469 verified by physician's certificate;

3470 (iv) Caretaker of a child under twelve (12)  
3471 months, for not more than twelve (12) months of the sixty-month  
3472 maximum benefit period;

3473 (v) Caretaker of an ill or incapacitated person,  
3474 as verified by physician's certificate;

3475 (vi) Age, if over sixty (60) or under eighteen  
3476 (18) years of age;

3477 (vii) Receiving treatment for substance abuse, if  
3478 the person is in compliance with the substance abuse treatment  
3479 plan;

3480 (viii) In a two-parent family, the caretaker of a  
3481 severely disabled child, as verified by a physician's certificate;  
3482 or

3483 (ix) History of having been a victim of domestic  
3484 violence, which has been reported as required by state law and is  
3485 substantiated by police reports or court records, and being at  
3486 risk of further domestic violence, shall be exempt for a period as  
3487 deemed necessary by the department but not to exceed a total of  
3488 twelve (12) months, which need not be consecutive, in the  
3489 sixty-month maximum benefit period. For the purposes of this  
3490 paragraph (ix), "domestic violence" means that an individual has  
3491 been subjected to:

3492 1. Physical acts that resulted in, or  
3493 threatened to result in, physical injury to the individual;

3494 2. Sexual abuse;

3495 3. Sexual activity involving a dependent  
3496 child;

3497 4. Being forced as the caretaker relative of  
3498 a dependent child to engage in nonconsensual sexual acts or  
3499 activities;

3500 5. Threats of, or attempts at, physical or  
3501 sexual abuse;

3502 6. Mental abuse; or

3503 7. Neglect or deprivation of medical care.

3504 (c) For all families, all adults who are not  
3505 specifically exempt shall be required to participate in work  
3506 activities for at least the minimum average number of hours per  
3507 week specified by federal law or regulation, not fewer than twenty  
3508 (20) hours per week (thirty-five (35) hours per week for

3509 two-parent families) of which are attributable to the following  
3510 allowable work activities:

- 3511 (i) Unsubsidized employment;
- 3512 (ii) Subsidized private employment;
- 3513 (iii) Subsidized public employment;
- 3514 (iv) Work experience (including work associated  
3515 with the refurbishing of publicly assisted housing), if sufficient  
3516 private employment is not available;
- 3517 (v) On-the-job training;
- 3518 (vi) Job search and job readiness assistance  
3519 consistent with federal TANF regulations;
- 3520 (vii) Community service programs;
- 3521 (viii) Vocational educational training (not to  
3522 exceed twelve (12) months with respect to any individual);
- 3523 (ix) The provision of child care services to an  
3524 individual who is participating in a community service program;
- 3525 (x) Satisfactory attendance at high school or in a  
3526 course of study leading to a high school equivalency certificate,  
3527 for heads of household under age twenty (20) who have not  
3528 completed high school or received such certificate;
- 3529 (xi) Education directly related to employment, for  
3530 heads of household under age twenty (20) who have not completed  
3531 high school or received such equivalency certificate.

3532 (d) The following are allowable work activities which  
3533 may be attributable to hours in excess of the minimum specified in  
3534 subsection (6)(c):

- 3535 (i) Job skills training directly related to  
3536 employment;
- 3537 (ii) Education directly related to employment for  
3538 individuals who have not completed high school or received a high  
3539 school equivalency certificate;

3540 (iii) Satisfactory attendance at high school or in  
3541 a course of study leading to a high school equivalency, for  
3542 individuals who have not completed high school or received such  
3543 equivalency certificate;

3544 (iv) Job search and job readiness assistance  
3545 consistent with federal TANF regulations.

3546 (e) If any adult or caretaker relative refuses to  
3547 participate in allowable work activity as required under this  
3548 subsection (6), the following full family TANF benefit penalty  
3549 will apply, subject to due process to include notification,  
3550 conciliation and a hearing if requested by the recipient:

3551 (i) For the first violation, the department shall  
3552 terminate the TANF assistance otherwise payable to the family for  
3553 a two-month period or until the person has complied with the  
3554 required work activity, whichever is longer;

3555 (ii) For the second violation, the department  
3556 shall terminate the TANF assistance otherwise payable to the  
3557 family for a six-month period or until the person has complied  
3558 with the required work activity, whichever is longer;

3559 (iii) For the third violation, the department  
3560 shall terminate the TANF assistance otherwise payable to the  
3561 family for a twelve-month period or until the person has complied  
3562 with the required work activity, whichever is longer;

3563 (iv) For the fourth violation, the person shall be  
3564 permanently disqualified.

3565 For a two-parent family, unless prohibited by state or  
3566 federal law, Medicaid assistance shall be terminated only for the  
3567 person whose failure to participate in allowable work activity  
3568 caused the family's TANF assistance to be sanctioned under this  
3569 subsection (6)(e), unless an individual is pregnant, but shall not  
3570 be terminated for any other person in the family who is meeting  
3571 that person's applicable work requirement or who is not required



3572 to work. Minor children shall continue to be eligible for  
3573 Medicaid benefits regardless of the disqualification of their  
3574 parent or caretaker relative for TANF assistance under this  
3575 subsection (6), unless prohibited by state or federal law.

3576 (f) Any person enrolled in a two-year or four-year  
3577 college program who meets the eligibility requirements to receive  
3578 TANF benefits, and who is meeting the applicable work requirements  
3579 and all other applicable requirements of the TANF program, shall  
3580 continue to be eligible for TANF benefits while enrolled in the  
3581 college program for as long as the person meets the requirements  
3582 of the TANF program, unless prohibited by federal law.

3583 (g) No adult in a work activity required under this  
3584 subsection (6) shall be employed or assigned (i) when any other  
3585 individual is on layoff from the same or any substantially  
3586 equivalent job within six (6) months before the date of the TANF  
3587 recipient's employment or assignment; or (ii) if the employer has  
3588 terminated the employment of any regular employee or otherwise  
3589 caused an involuntary reduction of its work force in order to fill  
3590 the vacancy so created with an adult receiving TANF assistance.  
3591 The Mississippi Department of Employment Security, established  
3592 under Section 71-5-101, shall appoint one or more impartial  
3593 hearing officers to hear and decide claims by employees of  
3594 violations of this paragraph (f). The hearing officer shall hear  
3595 all the evidence with respect to any claim made hereunder and such  
3596 additional evidence as he may require and shall make a  
3597 determination and the reason therefor. The claimant shall be  
3598 promptly notified of the decision of the hearing officer and the  
3599 reason therefor. Within ten (10) days after the decision of the  
3600 hearing officer has become final, any party aggrieved thereby may  
3601 secure judicial review thereof by commencing an action, in the  
3602 circuit court of the county in which the claimant resides, against  
3603 the department for the review of such decision, in which action

3604 any other party to the proceeding before the hearing officer shall  
3605 be made a defendant. Any such appeal shall be on the record which  
3606 shall be certified to the court by the department in the manner  
3607 provided in Section 71-5-531, and the jurisdiction of the court  
3608 shall be confined to questions of law which shall render its  
3609 decision as provided in that section.

3610 (7) The Department of Human Services may provide child care  
3611 for eligible participants who require such care so that they may  
3612 accept employment or remain employed. The department may also  
3613 provide child care for those participating in the TANF program  
3614 when it is determined that they are satisfactorily involved in  
3615 education, training or other allowable work activities. The  
3616 department may contract with Head Start agencies to provide child  
3617 care services to TANF recipients. The department may also arrange  
3618 for child care by use of contract or vouchers, provide vouchers in  
3619 advance to a caretaker relative, reimburse a child care provider,  
3620 or use any other arrangement deemed appropriate by the department,  
3621 and may establish different reimbursement rates for child care  
3622 services depending on the category of the facility or home. Any  
3623 center-based or group home child care facility under this  
3624 paragraph shall be licensed by the State Department of Health  
3625 pursuant to law. When child care is being provided in the child's  
3626 own home, in the home of a relative of the child, or in any other  
3627 unlicensed setting, the provision of such child care may be  
3628 monitored on a random basis by the Department of Human Services or  
3629 the State Department of Health. Transitional child care  
3630 assistance may be continued if it is necessary for parents to  
3631 maintain employment once support has ended, unless prohibited  
3632 under state or federal law. Transitional child care assistance  
3633 may be provided for up to twenty-four (24) months after the last  
3634 month during which the family was eligible for TANF assistance, if  
3635 federal funds are available for such child care assistance.

3636 (8) The Department of Human Services may provide  
3637 transportation or provide reasonable reimbursement for  
3638 transportation expenses that are necessary for individuals to be  
3639 able to participate in allowable work activity under the TANF  
3640 program.

3641 (9) Medicaid assistance shall be provided to a family of  
3642 TANF program participants for up to twenty-four (24) consecutive  
3643 calendar months following the month in which the participating  
3644 family would be ineligible for TANF benefits because of increased  
3645 income, expiration of earned income disregards, or increased hours  
3646 of employment of the caretaker relative; however, Medicaid  
3647 assistance for more than twelve (12) months may be provided only  
3648 if a federal waiver is obtained to provide such assistance for  
3649 more than twelve (12) months and federal and state funds are  
3650 available to provide such assistance.

3651 (10) The department shall require applicants for and  
3652 recipients of public assistance from the department to sign a  
3653 personal responsibility contract that will require the applicant  
3654 or recipient to acknowledge his or her responsibilities to the  
3655 state.

3656 (11) The department shall enter into an agreement with the  
3657 State Personnel Board and other state agencies that will allow  
3658 those TANF participants who qualify for vacant jobs within state  
3659 agencies to be placed in state jobs. State agencies participating  
3660 in the TANF work program shall receive any and all benefits  
3661 received by employers in the private sector for hiring TANF  
3662 recipients. This subsection (11) shall be effective only if the  
3663 state obtains any necessary federal waiver or approval and if  
3664 federal funds are available therefor.

3665 (12) No new TANF program requirement or restriction  
3666 affecting a person's eligibility for TANF assistance, or allowable  
3667 work activity, which is not mandated by federal law or regulation

3668 may be implemented by the Department of Human Services after the  
3669 effective date of this act, unless such is specifically authorized  
3670 by an amendment to this section by the Legislature.

3671         **SECTION 50.** Section 43-19-45, Mississippi Code of 1972, is  
3672 amended as follows:

3673         43-19-45. (1) The Child Support Unit shall establish a  
3674 state parent locator service for the purpose of locating absent  
3675 and nonsupporting parents and alleged parents, which will utilize  
3676 all appropriate public and private locator sources. In order to  
3677 carry out the responsibilities imposed under Sections 43-19-31  
3678 through 43-19-53, the Child Support Unit may secure by  
3679 administrative subpoena from the customer records of public  
3680 utilities and cable television companies the names and addresses  
3681 of individuals and the names and addresses of employers of such  
3682 individuals that would enable the location of parents or alleged  
3683 parents who have a duty to provide support and maintenance for  
3684 their children. The Child Support Unit may also administratively  
3685 subpoena any and all financial information, including account  
3686 numbers, names and social security numbers of record for assets,  
3687 accounts, and account balances from any individual, financial  
3688 institution, business or other entity, public or private, needed  
3689 to establish, modify or enforce a support order. No entity  
3690 complying with an administrative subpoena to supply the requested  
3691 information of whatever nature shall be liable in any civil action  
3692 or proceeding on account of such compliance. Full faith and  
3693 credit shall be given to all uniform administrative subpoenas  
3694 issued by other state child support units. The recipient of an  
3695 administrative subpoena shall supply the Child Support Unit, other  
3696 state and federal IV-D agencies, its attorneys, investigators,  
3697 probation officers, county or district attorneys in this state,  
3698 all information relative to the location, employment, employment  
3699 related benefits including, but not limited to, availability of

3700 medical insurance, income and property of such parents and alleged  
3701 parents and with all information on hand relative to the location  
3702 and prosecution of any person who has, by means of a false  
3703 statement or misrepresentation or by impersonation or other  
3704 fraudulent device, obtained Temporary Assistance for Needy  
3705 Families (TANF) to which he or she was not entitled,  
3706 notwithstanding any provision of law making such information  
3707 confidential. The Mississippi Department of Information  
3708 Technology Services and any other agency in this state using the  
3709 facilities of the Mississippi Department of Information Technology  
3710 Services are directed to permit the Child Support Unit access to  
3711 their files, inclusive of those maintained for other state  
3712 agencies, for the purpose of locating absent and nonsupporting  
3713 parents and alleged parents, except to the extent that any such  
3714 access would violate any valid federal statute or regulation  
3715 issued pursuant thereto. The Child Support Unit, other state and  
3716 federal IV-D agencies, its attorneys, investigators, probation  
3717 officers, or county or district attorneys, shall use such  
3718 information only for the purpose of investigating or enforcing the  
3719 support liability of such absent parents or alleged parents or for  
3720 the prosecution of other persons mentioned herein. Neither the  
3721 Child Support Unit nor those authorities shall use the  
3722 information, or disclose it, for any other purpose. All records  
3723 maintained pursuant to the provisions of Sections 43-19-31 through  
3724 43-19-53 shall be confidential and shall be available only to the  
3725 Child Support Unit, other state and federal IV-D agencies, the  
3726 attorneys, investigators and other staff employed or under  
3727 contract under Sections 43-19-31 through 43-19-53, district or  
3728 county attorneys, probation departments, child support units in  
3729 other states, and courts having jurisdiction in paternity, support  
3730 or abandonment proceedings. The Child Support Unit may release to  
3731 the public the name, photo, last known address, arrearage amount

3732 and other necessary information of a parent who has a judgment  
3733 against him for child support and is currently in arrears in the  
3734 payment of this support. Such release may be included in a "Most  
3735 Wanted List" or other media in order to solicit assistance.

3736 (2) The Child Support Unit shall have the authority to  
3737 secure information from the records of the Mississippi Department  
3738 of Employment Security that may be necessary to locate absent and  
3739 nonsupporting parents and alleged parents under the provisions of  
3740 Sections 43-19-31 through 43-19-53. Upon request of the Child  
3741 Support Unit, all departments, boards, bureaus and agencies of the  
3742 state shall provide to the Child Support Unit verification of  
3743 employment or payment and the address and social security number  
3744 of any person designated as an absent or nonsupporting parent or  
3745 alleged parent. In addition, upon request of the Child Support  
3746 Unit, the Mississippi Department of Employment Security, or any  
3747 private employer or payor of any income to a person designated as  
3748 an absent or nonsupporting parent or alleged parent, shall provide  
3749 to the Child Support Unit verification of employment or payment  
3750 and the address and social security number of the person so  
3751 designated. Full faith and credit shall be given to such notices  
3752 issued by child support units in other states. All such records  
3753 and information shall be confidential and shall not be used for  
3754 any purposes other than those specified by Sections 43-19-31  
3755 through 43-19-53. The violation of the provisions of this  
3756 subsection shall be unlawful and any person convicted of violating  
3757 the provisions of this subsection shall be guilty of a misdemeanor  
3758 and shall pay a fine of not more than Two Hundred Dollars  
3759 (\$200.00).

3760 (3) Federal and state IV-D agencies shall have access to the  
3761 state parent locator service and any system used by the Child  
3762 Support Unit to locate an individual for purposes relating to  
3763 motor vehicles or law enforcement. No employer or other source of

3764 income who complies with this section shall be liable in any civil  
3765 action or proceeding brought by the obligor or obligee on account  
3766 of such compliance.

3767         **SECTION 51.** Section 43-19-46, Mississippi Code of 1972, is  
3768 amended as follows:

3769         43-19-46. (1) Each employer, as defined in Section  
3770 93-11-101, doing business in Mississippi shall report to the  
3771 Directory of New Hires within the Mississippi Department of Human  
3772 Services:

3773             (a) The hiring of any person who resides or works in  
3774 this state to whom the employer anticipates paying wages; and

3775             (b) The hiring or return to work of any employee who  
3776 was laid off, furloughed, separated, granted leave without pay or  
3777 was terminated from employment.

3778         (2) Employers shall report, by mailing or by other means  
3779 authorized by the Department of Human Services, a copy of the  
3780 employee's W-4 form or its equivalent which will result in timely  
3781 reporting. Each employer shall submit reports within fifteen (15)  
3782 days of the hiring, rehiring or return to work of the employee.  
3783 The report shall contain:

3784             (a) The employee's name, address, social security  
3785 number and the date of birth;

3786             (b) The employer's name, address, and federal and state  
3787 withholding tax identification numbers; and

3788             (c) The date upon which the employee began or resumed  
3789 employment, or is scheduled to begin or otherwise resume  
3790 employment.

3791         (3) The department shall retain the information, which shall  
3792 be forwarded to the federal registry of new hires.

3793         (4) The Department of Human Services may operate the  
3794 program, may enter into a mutual agreement with the Mississippi  
3795 Department of Employment Security or the State Tax Commission, or

3796 both, for the operation of the Directory of New Hires Program, or  
3797 the Department of Human Services may contract for such service, in  
3798 which case the department shall maintain administrative control of  
3799 the program.

3800 (5) In cases in which an employer fails to report  
3801 information, as required by this section, an administratively  
3802 levied civil penalty in an amount not to exceed Five Hundred  
3803 Dollars (\$500.00) shall apply if the failure is the result of a  
3804 conspiracy between the employer and employee to not supply the  
3805 required report or to supply a false or incomplete report. The  
3806 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).  
3807 Appeal shall be as provided in Section 43-19-58.

3808 **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is  
3809 amended as follows:

3810 57-62-5. As used in this chapter, the following words and  
3811 phrases shall have the meanings ascribed in this section unless  
3812 the context clearly indicates otherwise:

3813 (a) "Qualified business or industry" means any  
3814 corporation, limited liability company, partnership, sole  
3815 proprietorship, business trust or other legal entity and subunits  
3816 or affiliates thereof, pursuant to rules and regulations of the  
3817 MDA, which provides an average annual salary, excluding benefits  
3818 which are not subject to Mississippi income taxes, of at least one  
3819 hundred twenty-five percent (125%) of the most recently published  
3820 state average annual wage or the most recently published average  
3821 annual wage of the county in which the qualified business or  
3822 industry is located as determined by the Mississippi Department of  
3823 Employment Security, whichever is the lesser. An establishment  
3824 shall not be considered to be a qualified business or industry  
3825 unless it offers, or will offer within one hundred eighty (180)  
3826 days of the date it receives the first incentive payment pursuant  
3827 to the provisions of this chapter, a basic health benefits plan to



3828 the individuals it employs in new direct jobs in this state which  
3829 is approved by the MDA. Qualified business or industry does not  
3830 include retail business or gaming business;

3831 (b) "New direct job" means full-time employment in this  
3832 state in a qualified business or industry that has qualified to  
3833 receive an incentive payment pursuant to this chapter, which  
3834 employment did not exist in this state before the date of approval  
3835 by the MDA of the application of the qualified business or  
3836 industry pursuant to the provisions of this chapter. "New direct  
3837 job" shall include full-time employment in this state of employees  
3838 who are employed by an entity other than the establishment that  
3839 has qualified to receive an incentive payment and who are leased  
3840 to the qualified business or industry, if such employment did not  
3841 exist in this state before the date of approval by the MDA of the  
3842 application of the establishment;

3843 (c) "Full-time job" means a job of at least thirty-five  
3844 (35) hours per week;

3845 (d) "Estimated direct state benefits" means the tax  
3846 revenues projected by the MDA to accrue to the state as a result  
3847 of the qualified business or industry;

3848 (e) "Estimated direct state costs" means the costs  
3849 projected by the MDA to accrue to the state as a result of the  
3850 qualified business or industry;

3851 (f) "Estimated net direct state benefits" means the  
3852 estimated direct state benefits less the estimated direct state  
3853 costs;

3854 (g) "Net benefit rate" means the estimated net direct  
3855 state benefits computed as a percentage of gross payroll, provided  
3856 that:

3857 (i) Except as otherwise provided in this paragraph  
3858 (g), the net benefit rate may be variable and shall not exceed

3859 four percent (4%) of the gross payroll; and shall be set in the  
3860 sole discretion of the MDA;

3861 (ii) In no event shall incentive payments,  
3862 cumulatively, exceed the estimated net direct state benefits;

3863 (h) "Gross payroll" means wages for new direct jobs of  
3864 the qualified business or industry; and

3865 (i) "MDA" means the Mississippi Development Authority.

3866 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is  
3867 amended as follows:

3868 57-62-9. (1) Except as otherwise provided in this section,  
3869 a qualified business or industry that meets the qualifications  
3870 specified in the Mississippi Advantage Jobs Act may receive  
3871 quarterly incentive payments for a period not to exceed ten (10)  
3872 years from the State Tax Commission pursuant to the provisions of  
3873 the Mississippi Advantage Jobs Act in an amount which shall be  
3874 equal to the net benefit rate multiplied by the actual gross  
3875 payroll of new direct jobs for a calendar quarter as verified by  
3876 the Mississippi Department of Employment Security, but not to  
3877 exceed the amount of money previously paid into the fund by the  
3878 employer. A qualified business or industry that is a project as  
3879 defined in Section 57-75-5(f)(iv)1 may elect the date upon which  
3880 the ten-year period will begin. Such date may not be later than  
3881 sixty (60) months after the date the business or industry applied  
3882 for incentive payments.

3883 (2) (a) A qualified business or industry that is a project  
3884 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
3885 receive incentive payments for an additional period not to exceed  
3886 five (5) years beyond the expiration date of the initial ten-year  
3887 period if:

3888 (i) The qualified business or industry creates at  
3889 least three thousand (3,000) new direct jobs within five (5) years

3890 after the date the business or industry commences commercial  
3891 production;

3892 (ii) Within five (5) years after the date the  
3893 business or industry commences commercial production, the average  
3894 annual wage of the jobs is at least one hundred fifty percent  
3895 (150%) of the most recently published state average annual wage or  
3896 the most recently published average annual wage of the county in  
3897 which the qualified business or industry is located as determined  
3898 by the Mississippi Department of Employment Security, whichever is  
3899 the lesser. The criteria for the average annual wage requirement  
3900 shall be based upon the state average annual wage or the average  
3901 annual wage of the county whichever is appropriate, at the time of  
3902 creation of the minimum number of jobs, and the threshold  
3903 established at that time will remain constant for the duration of  
3904 the additional period; and

3905 (iii) The qualified business or industry meets and  
3906 maintains the job and wage requirements of subparagraphs (i) and  
3907 (ii) of this paragraph (a) for four (4) consecutive calendar  
3908 quarters.

3909 (b) A qualified business or industry that is a project  
3910 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
3911 incentive payments for the additional period provided in paragraph  
3912 (a) of this subsection (2) may apply to the MDA to receive  
3913 incentive payments for an additional period not to exceed ten (10)  
3914 years beyond the expiration date of the additional period provided  
3915 in paragraph (a) of this subsection (2) if:

3916 (i) The qualified business or industry creates at  
3917 least four thousand (4,000) new direct jobs after qualifying for  
3918 the additional incentive period provided in paragraph (a) of this  
3919 subsection (2) but before the expiration of the additional period.  
3920 For purposes of determining whether the business or industry meets  
3921 the minimum jobs requirement of this subparagraph (i), the number

3922 of jobs the business or industry created in order to meet the  
3923 minimum jobs requirement of paragraph (a) of this subsection (2)  
3924 shall be subtracted from the minimum jobs requirement of this  
3925 subparagraph (i);

3926 (ii) The average annual wage of the jobs is at  
3927 least one hundred fifty percent (150%) of the most recently  
3928 published state average annual wage or the most recently published  
3929 average annual wage of the county in which the qualified business  
3930 or industry is located as determined by the Mississippi Department  
3931 of Employment Security, whichever is the lesser. The criteria for  
3932 the average annual wage requirement shall be based upon the state  
3933 average annual wage or the average annual wage of the county  
3934 whichever is appropriate, at the time of creation of the minimum  
3935 number of jobs, and the threshold established at that time will  
3936 remain constant for the duration of the additional period; and

3937 (iii) The qualified business or industry meets and  
3938 maintains the job and wage requirements of subparagraphs (i) and  
3939 (ii) of this paragraph (b) for four (4) consecutive calendar  
3940 quarters.

3941 (3) In order to receive incentive payments, an establishment  
3942 shall apply to the MDA. The application shall be on a form  
3943 prescribed by the MDA and shall contain such information as may be  
3944 required by the MDA to determine if the applicant is qualified.

3945 (4) In order to qualify to receive such payments, the  
3946 establishment applying shall be required to:

3947 (a) Be engaged in a qualified business or industry;

3948 (b) Provide an average salary, excluding benefits which  
3949 are not subject to Mississippi income taxes, of at least one  
3950 hundred twenty-five percent (125%) of the most recently published  
3951 state average annual wage or the most recently published average  
3952 annual wage of the county in which the qualified business or  
3953 industry is located as determined by the Mississippi Department of

3954 Employment Security, whichever is the lesser. The criteria for  
3955 this requirement shall be based upon the state average annual wage  
3956 or the average annual wage of the county whichever is appropriate,  
3957 at the time of application, and the threshold established upon  
3958 application will remain constant for the duration of the project;

3959 (c) The business or industry must create and maintain a  
3960 minimum of ten (10) full-time jobs in counties that have an  
3961 average unemployment rate over the previous twelve-month period  
3962 which is at least one hundred fifty percent (150%) of the most  
3963 recently published state unemployment rate, as determined by the  
3964 Mississippi Department of Employment Security or in Tier Three  
3965 counties as determined under Section 57-73-21. In all other  
3966 counties, the business or industry must create and maintain a  
3967 minimum of twenty-five (25) full-time jobs. The criteria for this  
3968 requirement shall be based on the designation of the county at the  
3969 time of the application. The threshold established upon the  
3970 application will remain constant for the duration of the project.  
3971 The business or industry must meet its job creation commitment  
3972 within twenty-four (24) months of the application approval.  
3973 However, if the qualified business or industry is applying for  
3974 incentive payments for an additional period under subsection (2)  
3975 of this section, the business or industry must comply with the  
3976 applicable job and wage requirements of subsection (2) of this  
3977 section.

3978 (5) The MDA shall determine if the applicant is qualified to  
3979 receive incentive payments. If the applicant is determined to be  
3980 qualified by the MDA, the MDA shall conduct a cost/benefit  
3981 analysis to determine the estimated net direct state benefits and  
3982 the net benefit rate applicable for a period not to exceed ten  
3983 (10) years and to estimate the amount of gross payroll for the  
3984 period. If the applicant is determined to be qualified to receive  
3985 incentive payments for an additional period under subsection (2)

3986 of this section, the MDA shall conduct a cost/benefit analysis to  
3987 determine the estimated net direct state benefits and the net  
3988 benefit rate applicable for the appropriate additional period and  
3989 to estimate the amount of gross payroll for the additional period.  
3990 In conducting such cost/benefit analysis, the MDA shall consider  
3991 quantitative factors, such as the anticipated level of new tax  
3992 revenues to the state along with the cost to the state of the  
3993 qualified business or industry, and such other criteria as deemed  
3994 appropriate by the MDA, including the adequacy of retirement  
3995 benefits that the business or industry provides to individuals it  
3996 employs in new direct jobs in this state. In no event shall  
3997 incentive payments, cumulatively, exceed the estimated net direct  
3998 state benefits. Once the qualified business or industry is  
3999 approved by the MDA, an agreement shall be deemed to exist between  
4000 the qualified business or industry and the State of Mississippi,  
4001 requiring the continued incentive payment to be made as long as  
4002 the qualified business or industry retains its eligibility.

4003 (6) Upon approval of such an application, the MDA shall  
4004 notify the State Tax Commission and shall provide it with a copy  
4005 of the approved application and the estimated net direct state  
4006 benefits. The State Tax Commission may require the qualified  
4007 business or industry to submit such additional information as may  
4008 be necessary to administer the provisions of this chapter. The  
4009 qualified business or industry shall report to the State Tax  
4010 Commission periodically to show its continued eligibility for  
4011 incentive payments. The qualified business or industry may be  
4012 audited by the State Tax Commission to verify such eligibility.

4013 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is  
4014 amended as follows:

4015 57-75-5. Words and phrases used in this chapter shall have  
4016 meanings as follows, unless the context clearly indicates a  
4017 different meaning:

4018 (a) "Act" means the Mississippi Major Economic Impact  
4019 Act as originally enacted or as hereafter amended.

4020 (b) "Authority" means the Mississippi Major Economic  
4021 Impact Authority created pursuant to the act.

4022 (c) "Bonds" means general obligation bonds, interim  
4023 notes and other evidences of debt of the State of Mississippi  
4024 issued pursuant to this chapter.

4025 (d) "Facility related to the project" means and  
4026 includes any of the following, as the same may pertain to the  
4027 project within the project area: (i) facilities to provide  
4028 potable and industrial water supply systems, sewage and waste  
4029 disposal systems and water, natural gas and electric transmission  
4030 systems to the site of the project; (ii) airports, airfields and  
4031 air terminals; (iii) rail lines; (iv) port facilities; (v)  
4032 highways, streets and other roadways; (vi) public school  
4033 buildings, classrooms and instructional facilities, training  
4034 facilities and equipment, including any functionally related  
4035 facilities; (vii) parks, outdoor recreation facilities and  
4036 athletic facilities; (viii) auditoriums, pavilions, campgrounds,  
4037 art centers, cultural centers, folklore centers and other public  
4038 facilities; (ix) health care facilities, public or private; and  
4039 (x) fire protection facilities, equipment and elevated water  
4040 tanks.

4041 (e) "Person" means any natural person, corporation,  
4042 association, partnership, receiver, trustee, guardian, executor,  
4043 administrator, fiduciary, governmental unit, public agency,  
4044 political subdivision, or any other group acting as a unit, and  
4045 the plural as well as the singular.

4046 (f) "Project" means:

4047 (i) Any industrial, commercial, research and  
4048 development, warehousing, distribution, transportation,  
4049 processing, mining, United States government or tourism enterprise

4050 together with all real property required for construction,  
4051 maintenance and operation of the enterprise with an initial  
4052 capital investment of not less than Three Hundred Million Dollars  
4053 (\$300,000,000.00) from private or United States government sources  
4054 together with all buildings, and other supporting land and  
4055 facilities, structures or improvements of whatever kind required  
4056 or useful for construction, maintenance and operation of the  
4057 enterprise; or with an initial capital investment of not less than  
4058 One Hundred Fifty Million Dollars (\$150,000,000.00) from private  
4059 or United States government sources together with all buildings  
4060 and other supporting land and facilities, structures or  
4061 improvements of whatever kind required or useful for construction,  
4062 maintenance and operation of the enterprise and which creates at  
4063 least one thousand (1,000) net new full-time jobs; or which  
4064 creates at least one thousand (1,000) net new full-time jobs which  
4065 provides an average salary, excluding benefits which are not  
4066 subject to Mississippi income taxation, of at least one hundred  
4067 twenty-five percent (125%) of the most recently published average  
4068 annual wage of the state as determined by the Mississippi  
4069 Employment Security Commission. "Project" shall include any  
4070 addition to or expansion of an existing enterprise if such  
4071 addition or expansion has an initial capital investment of not  
4072 less than Three Hundred Million Dollars (\$300,000,000.00) from  
4073 private or United States government sources, or has an initial  
4074 capital investment of not less than One Hundred Fifty Million  
4075 Dollars (\$150,000,000.00) from private or United States government  
4076 sources together with all buildings and other supporting land and  
4077 facilities, structures or improvements of whatever kind required  
4078 or useful for construction, maintenance and operation of the  
4079 enterprise and which creates at least one thousand (1,000) net new  
4080 full-time jobs; or which creates at least one thousand (1,000) net  
4081 new full-time jobs which provides an average salary, excluding



4082 benefits which are not subject to Mississippi income taxation, of  
4083 at least one hundred twenty-five percent (125%) of the most  
4084 recently published average annual wage of the state as determined  
4085 by the Mississippi Department of Employment Security. "Project"  
4086 shall also include any ancillary development or business resulting  
4087 from the enterprise, of which the authority is notified, within  
4088 three (3) years from the date that the enterprise entered into  
4089 commercial production, that the project area has been selected as  
4090 the site for the ancillary development or business.

4091 (ii) Any major capital project designed to  
4092 improve, expand or otherwise enhance any active duty United States  
4093 Air Force or Navy training bases or naval stations, their support  
4094 areas or their military operations, upon designation by the  
4095 authority that any such base was or is at risk to be recommended  
4096 for closure or realignment pursuant to the Defense Base Closure  
4097 and Realignment Act of 1990; or any major development project  
4098 determined by the authority to be necessary to acquire base  
4099 properties and to provide employment opportunities through  
4100 construction of projects as defined in Section 57-3-5, which shall  
4101 be located on or provide direct support service or access to such  
4102 military installation property as such property exists on July 1,  
4103 1993, in the event of closure or reduction of military operations  
4104 at the installation. From and after July 1, 1997, projects  
4105 described in this subparagraph (ii) shall not be considered to be  
4106 within the meaning of the term "project" for purposes of this  
4107 section, unless such projects are commenced before July 1, 1997,  
4108 and shall not be eligible for any funding provided under the  
4109 Mississippi Major Economic Impact Act.

4110 (iii) Any enterprise to be maintained, improved or  
4111 constructed in Tishomingo County by or for a National Aeronautics  
4112 and Space Administration facility in such county.

4113 (iv) 1. Any major capital project with an initial  
4114 capital investment from private sources of not less than Seven  
4115 Hundred Fifty Million Dollars (\$750,000,000.00) which will create  
4116 at least three thousand (3,000) jobs meeting criteria established  
4117 by the Mississippi Development Authority.

4118 2. "Project" shall also include any ancillary  
4119 development or business resulting from an enterprise operating a  
4120 project as defined in item 1 of this paragraph (f)(iv), of which  
4121 the authority is notified, within three (3) years from the date  
4122 that the enterprise entered into commercial production, that the  
4123 state has been selected as the site for the ancillary development  
4124 or business.

4125 (v) Any manufacturing, processing or industrial  
4126 project determined by the authority, in its sole discretion, to  
4127 contribute uniquely and significantly to the economic growth and  
4128 development of the state, and which meets the following criteria:

4129 1. The project shall create at least two  
4130 thousand (2,000) net new full-time jobs meeting criteria  
4131 established by the authority, which criteria shall include, but  
4132 not be limited to, the requirement that such jobs must be held by  
4133 persons eligible for employment in the United States under  
4134 applicable state and federal law.

4135 2. The project and any facility related to  
4136 the project shall include a total investment from private sources  
4137 of not less than Sixty Million Dollars (\$60,000,000.00), or from  
4138 any combination of sources of not less than Eighty Million Dollars  
4139 (\$80,000,000.00).

4140 (vi) Any real property owned or controlled by the  
4141 National Aeronautics and Space Administration, the United States  
4142 government, or any agency thereof, which is legally conveyed to  
4143 the State of Mississippi or to the State of Mississippi for the  
4144 benefit of the Mississippi Major Economic Impact Authority, its

4145 successors and assigns pursuant to Section 212 of Public Law  
4146 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4147 (vii) Any major capital project related to the  
4148 establishment, improvement, expansion and/or other enhancement of  
4149 any active duty military installation and having a minimum capital  
4150 investment from any source or combination of sources other than  
4151 the State of Mississippi of at least Forty Million Dollars  
4152 (\$40,000,000.00), and which will create at least four hundred  
4153 (400) military installation related full-time jobs, which jobs may  
4154 be military jobs, civilian jobs or a combination of military and  
4155 civilian jobs. The authority shall require that binding  
4156 commitments be entered into requiring that the minimum  
4157 requirements for the project provided for in this subparagraph  
4158 shall be met not later than July 1, 2008.

4159 (viii) Any major capital project with an initial  
4160 capital investment from any source or combination of sources of  
4161 not less than Ten Million Dollars (\$10,000,000.00) which will  
4162 create at least eighty (80) full-time jobs which provide an  
4163 average annual salary, excluding benefits which are not subject to  
4164 Mississippi income taxes, of at least one hundred thirty-five  
4165 percent (135%) of the most recently published average annual wage  
4166 of the state or the most recently published average annual wage of  
4167 the county in which the project is located as determined by the  
4168 Mississippi Employment Security Commission, whichever is the  
4169 lesser. The authority shall require that binding commitments be  
4170 entered into requiring that:

4171 1. The minimum requirements for the project  
4172 provided for in this subparagraph shall be met, and

4173 2. That if such commitments are not met, all  
4174 or a portion of the funds provided by the state for the project as  
4175 determined by the authority shall be repaid.

4176 (ix) Any regional retail shopping mall with an  
4177 initial capital investment from private sources in excess of One  
4178 Hundred Fifty Million Dollars (\$150,000,000.00), with a square  
4179 footage in excess of eight hundred thousand (800,000) square feet,  
4180 which will create at least seven hundred (700) full-time jobs with  
4181 an average hourly wage of Eleven Dollars (\$11.00) per hour. The  
4182 authority shall require that binding commitments be entered into  
4183 requiring that:

4184 1. The minimum requirements for the project  
4185 provided for in this subparagraph shall be met, and

4186 2. That if such commitments are not met, all  
4187 or a portion of the funds provided by the state for the project as  
4188 determined by the authority shall be repaid.

4189 (x) Any major capital project with an initial  
4190 capital investment from any source or combination of sources of  
4191 not less than Seventy-five Million Dollars (\$75,000,000.00) which  
4192 will create at least one hundred twenty-five (125) full-time jobs  
4193 which provide an average annual salary, excluding benefits which  
4194 are not subject to Mississippi income taxes, of at least one  
4195 hundred thirty-five percent (135%) of the most recently published  
4196 average annual wage of the state or the most recently published  
4197 average annual wage of the county in which the project is located  
4198 as determined by the Mississippi Department of Employment  
4199 Security, whichever is the greater. The authority shall require  
4200 that binding commitments be entered into requiring that:

4201 1. The minimum requirements for the project  
4202 provided for in this subparagraph shall be met; and

4203 2. That if such commitments are not met, all  
4204 or a portion of the funds provided by the state for the project as  
4205 determined by the authority shall be repaid.

4206 (xi) Any potential major capital project that the  
4207 authority has determined is feasible to recruit.

4208           (g) "Project area" means the project site, together  
4209 with any area or territory within the state lying within  
4210 sixty-five (65) miles of any portion of the project site whether  
4211 or not such area or territory be contiguous; \* \* \* however, \* \* \*  
4212 for the project defined in paragraph (f)(iv) of this section the  
4213 term "project area" means any area or territory within the state.  
4214 The project area shall also include all territory within a county  
4215 if any portion of such county lies within sixty-five (65) miles of  
4216 any portion of the project site. "Project site" means the real  
4217 property on which the principal facilities of the enterprise will  
4218 operate.

4219           (h) "Public agency" means:

4220                 (i) Any department, board, commission, institution  
4221 or other agency or instrumentality of the state;

4222                 (ii) Any city, town, county, political  
4223 subdivision, school district or other district created or existing  
4224 under the laws of the state or any public agency of any such city,  
4225 town, county, political subdivision or district or any other  
4226 public entity created or existing under local and private  
4227 legislation;

4228                 (iii) Any department, commission, agency or  
4229 instrumentality of the United States of America; and

4230                 (iv) Any other state of the United States of  
4231 America which may be cooperating with respect to location of the  
4232 project within the state, or any agency thereof.

4233           (i) "State" means State of Mississippi.

4234           (j) "Fee-in-lieu" means a negotiated fee to be paid by  
4235 the project in lieu of any franchise taxes imposed on the project  
4236 by Chapter 13, Title 27, Mississippi Code of 1972. The  
4237 fee-in-lieu shall not be less than Twenty-five Thousand Dollars  
4238 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an  
4239 enterprise operating an existing project defined in Section

4240 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated  
4241 for other existing enterprises that fall within the definition of  
4242 the term "project."

4243 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is  
4244 amended as follows:

4245 57-80-7. (1) From and after December 31, 2000, and until  
4246 December 31, 2005, the following counties may apply to the MDA for  
4247 the issuance of a certificate of public convenience and necessity:

4248 (a) Any county of this state which has an annualized  
4249 unemployment rate that is at least two hundred percent (200%) of  
4250 the state's unemployment rate as of December 31 of any year from  
4251 2000 through 2005, as determined by the Mississippi Department of  
4252 Employment Security's most recently published data;

4253 (b) Any county of this state in which thirty percent  
4254 (30%) or more of the population of the county is at or below the  
4255 federal poverty level according to the official data compiled by  
4256 the United States Census Bureau as of August 30, 2000, for  
4257 counties that apply before December 31, 2002, or the most recent  
4258 official data compiled by the United States Census Bureau for  
4259 counties that apply from and after December 31, 2002; or

4260 (c) Any county of this state having an eligible  
4261 supervisors district.

4262 (2) The application, at a minimum, must contain (a) the  
4263 Mississippi Department of Employment Security's most recently  
4264 published figures that reflect the annualized unemployment rate of  
4265 the applying county as of December 31 or the most recent official  
4266 data by the United States Census Bureau required by subsection (1)  
4267 of this section, as the case may be, and (b) an order or  
4268 resolution of the county consenting to the designation of the  
4269 county as a growth and prosperity county.

4270 (3) Any municipality of a designated growth and prosperity  
4271 county or within an eligible supervisors district and not more

4272 than eight (8) miles from the boundary of the county that meets  
4273 the criteria of subsection (1)(b) of this section may by order or  
4274 resolution of the municipality consent to participation in the  
4275 Growth and Prosperity Program.

4276 (4) No incentive or tax exemption shall be given under this  
4277 chapter without the consent of the affected county or  
4278 municipality.

4279 **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is  
4280 amended as follows:

4281 69-2-5. (1) The Mississippi Cooperative Extension Service  
4282 shall act as a clearinghouse for the dissemination of information  
4283 regarding programs and services which may be available to help  
4284 those persons and businesses which have been adversely affected by  
4285 the present emergency in the agricultural community. The  
4286 Cooperative Extension Service shall develop a plan of assistance  
4287 which shall identify all programs and services available within  
4288 the state which can be of assistance to those affected by the  
4289 present emergency. The Department of Agriculture and Commerce,  
4290 the Department of Finance and Administration, Department of Human  
4291 Services, Department of Mental Health, State Department of Health,  
4292 Board of Trustees of State Institutions of Higher Learning, State  
4293 Board for Community and Junior Colleges, Research and Development  
4294 Center, Mississippi Development Authority, Department of  
4295 Employment Security, Office of the Governor, Board of Vocational  
4296 and Technical Education, Mississippi Authority for Educational  
4297 Television, and other agencies of the state which have programs  
4298 and services that can be of assistance to those affected by the  
4299 present emergency, shall provide information regarding their  
4300 programs and services to the Cooperative Extension Service for use  
4301 in the clearinghouse. The types of programs and services shall  
4302 include, but not be limited to, financial counseling, farm and  
4303 small business management, employment services, labor market

4304 information, job re-training, vocational and technical training,  
4305 food stamp programs, personal counseling, health services, and  
4306 free or low cost legal services. The clearinghouse shall provide  
4307 a single contact point to provide program information and referral  
4308 services to individuals interested or needing services from state  
4309 funded assistance programs affecting agriculture, horticulture,  
4310 aquaculture and other agribusinesses or related industries. Such  
4311 assistance information shall identify all monies available under  
4312 the Small Business Financing Act, the Business Investment Act, the  
4313 Emerging Crop Fund legislation and any other sources which may be  
4314 used singularly or combined, to provide a comprehensive financing  
4315 package. The provisions of this section in establishing a single  
4316 contact point for information and referral services shall not be  
4317 construed to authorize the hiring of additional personnel.

4318 (2) The Cooperative Extension Service may accept monetary or  
4319 in-kind contributions, gifts and grants for the establishment or  
4320 operation of the clearinghouse.

4321 (3) The Cooperative Extension Service shall establish a  
4322 method for the dissemination of information to those who can be  
4323 benefited by the existing programs and services of the state.

4324 (4) The Cooperative Extension Service shall file an annual  
4325 report with the Governor, Lieutenant Governor and Speaker of the  
4326 House of Representatives regarding the efforts which have been  
4327 made in the clearinghouse operation. The report shall also  
4328 recommend any additional measures, including legislation, which  
4329 may be needed or desired in providing programs and benefits to  
4330 those affected by the agricultural emergency.

4331 **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is  
4332 amended as follows:

4333 7-1-355. (1) The Mississippi Development Authority,  
4334 is \* \* \* designated as the sole administrator of all programs for  
4335 which the state is the prime sponsor under Title 1(B) of Public



4336 Law 105-220, Workforce Investment Act of 1998, and the regulations  
4337 promulgated thereunder, and may take all necessary action to  
4338 secure to this state the benefits of that legislation. The  
4339 Mississippi Development Authority may receive and disburse funds  
4340 for those programs that become available to it from any source.

4341 (2) The Mississippi Development Authority shall establish  
4342 guidelines on the amount and/or percentage of indirect and/or  
4343 administrative expenses by the local fiscal agent or the Workforce  
4344 Development Center operator. The Mississippi Development  
4345 Authority shall develop an accountability system and make an  
4346 annual report to the Legislature before December 31 of each year  
4347 on Workforce Investment Act activities. The report shall include,  
4348 but is not limited to, the following:

4349 (a) The total number of individuals served through the  
4350 Workforce Development Centers and the percentage and number of  
4351 individuals for which a quarterly follow up is provided;

4352 (b) The number of individuals who receive core services  
4353 by center;

4354 (c) The number of individuals who receive intensive  
4355 services by each center;

4356 (d) The number of Workforce Investment Act vouchers  
4357 issued by the Workforce Development Centers including:

4358 (i) A list of schools and colleges to which these  
4359 vouchers were issued and the average cost per school of the  
4360 vouchers; and

4361 (ii) A list of the types of programs for which  
4362 these vouchers were issued;

4363 (e) The number of individuals placed in a job through  
4364 Workforce Development Centers;

4365 (f) The monies and the amount retained for  
4366 administrative and other costs received from Workforce Investment  
4367 Act funds for each agency or organization that Workforce

4368 Investment Act funds flow through as a percentage and actual  
4369 dollar amount of all Workforce Investment Act funds received.

4370       **SECTION 58.** Sections 37-151-69, 37-151-71 and 37-151-73,  
4371 Mississippi Code of 1972, which authorize a Mississippi Workforce  
4372 Development Council, local district councils and workforce  
4373 development centers, are repealed.

4374       **SECTION 59.** Sections 71-5-103 and 71-5-105, Mississippi Code  
4375 of 1972, which provide for the organization and compensation of  
4376 members of the Mississippi Employment Security Commission, are  
4377 repealed.

4378       **SECTION 60.** This act shall stand repealed on July 1, 2008.

4379       **SECTION 61.** Sections 1 through 4 of this act shall take  
4380 effect and be in force from and after the passage of this act,  
4381 this act shall take effect and be in force from and after July 1,  
4382 2004.

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

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 THOSE PROGRAMS UNDER  
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 TO THE PROVISIONS OF  
28 THIS ACT; TO AMEND SECTION 7-1-355, MISSISSIPPI CODE OF 1972, TO  
29 REQUIRE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO MAKE AN ANNUAL

30 REPORT TO THE LEGISLATURE ON WORKFORCE INVESTMENT ACTIVITIES; TO  
31 REPEAL SECTIONS 37-151-69, 37-151-71 AND 37-151-73, MISSISSIPPI  
32 CODE OF 1972, WHICH AUTHORIZE A MISSISSIPPI WORKFORCE DEVELOPMENT  
33 COUNCIL, LOCAL DISTRICT COUNCILS AND WORKFORCE DEVELOPMENT  
34 CENTERS; TO REPEAL SECTIONS 71-5-103 AND 71-5-105, MISSISSIPPI  
35 CODE OF 1972, WHICH PROVIDE FOR THE ORGANIZATION AND COMPENSATION  
36 OF MEMBERS OF THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION; AND  
37 FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE

X (SIGNED)  
Johnny W. Stringer

X (SIGNED)  
Cecil Brown

X (SIGNED)  
Herb Frierson

CONFEREES FOR THE SENATE

X (SIGNED)  
Thomas E. Robertson

X (SIGNED)  
Stacey E. Pickering

X (SIGNED)  
John Horhn