

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 973**

**BY: Committee**

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

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

44           37-153-1. This chapter shall be known and may be cited as  
45 the "Mississippi Comprehensive Workforce Training and Education  
46 Consolidation Act of 2004."

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

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

61 the workforce, reduce welfare dependency and enhance the  
62 productivity and competitiveness of the State of Mississippi.

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

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

68 (a) "State board" means the Mississippi Workforce  
69 Investment Board; and

70 (b) "District councils" means the Local Workforce  
71 Development Councils.

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

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

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

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

83 (ii) One (1) elected county supervisor, who shall  
84 serve in a nonvoting capacity;

85 (iii) The Executive Director of the Mississippi  
86 Municipal League, or his designee;

87 (iv) One (1) elected mayor or member of the  
88 legislative body of a municipality, who shall serve in a nonvoting  
89 capacity;

90 (v) One (1) representative of a labor  
91 organization, who shall have been nominated by the organization;

92                    (vi) One (1) representative of a youth activities  
93 organization, who shall have been nominated by the organization;

94                    (vii) One (1) representative from each of the four  
95 (4) workforce areas in the state, who shall have been nominated by  
96 the community colleges in each respective area, with the consent  
97 of the local elected supervisors within the respective workforce  
98 area;

99                    (viii) The Executive Director of the Mississippi  
100 Development Authority;

101                    (ix) Seventeen (17) representatives of business  
102 owners nominated by business and industry organizations, which may  
103 include representatives of the various planning and development  
104 districts in Mississippi;

105                    (x) The State Superintendent of Education;

106                    (xi) The Executive Director of the State  
107 Department of Rehabilitation Services;

108                    (xii) A representative of the state planning and  
109 development districts appointed by the Governor;

110                    (xiii) The Executive Director of the State Board  
111 for Community and Junior Colleges;

112                    (xiv) The Director of the Department of Employment  
113 Security, Office of the Governor; and

114                    (xv) The Executive Director of the Department of  
115 Human Services.

116                    (b) The Governor, or his designee, shall serve as a  
117 member.

118                    (c) Four (4) legislators, who shall serve in a  
119 nonvoting capacity, two (2) of whom shall be appointed by the  
120 Lieutenant Governor from the membership of the Mississippi Senate,  
121 and two (2) of whom shall be appointed by the Speaker of the House  
122 from the membership of the Mississippi House of Representatives.

123           (d) The Governor shall designate the chairman of the  
124 Mississippi State Workforce Investment Board from among the voting  
125 members of the board, and a quorum of the board shall consist of a  
126 majority of the voting members of the board.

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

131           (f) The Mississippi Development Authority shall  
132 establish limits on administrative costs for each portion of  
133 Mississippi's Workforce Development System consistent with the  
134 Federal Workforce Investment Act or any future federal workforce  
135 legislation. 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 Workforce Investment Board shall have  
140 the following duties:

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

147           (b) Assist the Governor in the development and  
148 continuous improvement of the statewide workforce investment  
149 system that shall include:

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

152                   (ii) Review local training plans that reflect the  
153 use of funds from the Federal Workforce Investment Act,

154 Wagner-Peyser Act and the Mississippi Comprehensive Workforce  
155 Training and Education Consolidation Act of 2004;

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

168 (d) Assist the Governor in the development of an  
169 allocation formula for the distribution of funds for adult  
170 employment and training activities and youth activities to local  
171 workforce investment areas;

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

175 (f) Assist the Governor in the establishment and  
176 management of a one-stop employment and training delivery system  
177 conforming to the requirements of the Federal Workforce Investment  
178 Act of 1998, as amended, recommending policy for implementing the  
179 Governor's approved plan for employment and training activities  
180 and services within the state. In developing this one-stop career  
181 operating system, the State Workforce Investment Board in  
182 conjunction with local workforce investment boards shall:

183 (i) Design broad guidelines for the delivery of  
184 workforce development programs;

185                   (ii) Identify all existing delivery agencies and  
186 other resources;

187                   (iii) Define appropriate roles of the various  
188 agencies to include an analysis of service providers' strengths  
189 and weaknesses;

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

192                   (v) Develop a financial plan to support the  
193 delivery system that shall, at a minimum, include an  
194 accountability system;

195                   (g) Assist the Governor in reducing duplication of  
196 services by urging the Local Workforce Investment Boards to  
197 designate the local community/junior college as the operator of  
198 the WIN Job Center. The board shall be authorized to utilize  
199 Federal Workforce Investment Act funds to award incentive grants  
200 of Two Hundred Thousand Dollars (\$200,000.00) to each workforce  
201 area in the state which designates the local community/junior  
202 college as the operator of the WIN Job Center. These grants will  
203 be used for the implementation and coordination of this combined  
204 approach for specialized training programs and advanced  
205 technology;

206                   (h) To provide a forum for developing the necessary  
207 collaboration among state agencies at the highest level for  
208 accomplishing the purposes of this chapter;

209                   (i) To monitor the effectiveness of the workforce  
210 development centers and WIN job centers;

211                   (j) To advise the Governor and public schools,  
212 community/junior colleges and institutions of higher learning on  
213 effective school-to-work transition policies and programs that  
214 link students moving from high school to higher education and  
215 students moving between community colleges and four-year  
216 institutions in pursuit of academic and technical skills training;

217           (k) To work with industry to identify barriers that  
218 inhibit the delivery of quality work force education and the  
219 responsiveness of educational institutions to the needs of  
220 industry; \* \* \*

221           (l) To provide periodic assessments on effectiveness  
222 and results of the system of career centers and district councils;  
223 and

224           (m) To assist the Governor in carrying out any other  
225 responsibility required by the federal Workforce Investment Act of  
226 1998, as amended.

227           (3) The Mississippi Workforce Investment Board shall  
228 coordinate all training programs and funds in the State of  
229 Mississippi.

230           Each state agency director responsible for workforce training  
231 activities shall advise the Mississippi Workforce Investment Board  
232 of appropriate federal and state requirements. Each such state  
233 agency director shall remain responsible for the actions of his  
234 agency; however, each state agency and director shall work  
235 cooperatively, and shall be individually and collectively  
236 responsible to the Governor for the successful implementation of  
237 the statewide workforce investment system. The Governor, as the  
238 Chief Executive Officer of the state, shall have complete  
239 authority to enforce cooperation among all entities within the  
240 state which utilize federal or state funding for the conduct of  
241 workforce training activities.

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

244           37-153-9. (1) In accordance with the Federal Workforce  
245 Investment Act of 1998, there will be established, for each of the  
246 four (4) state workforce areas prescribed in Section 37-153-3  
247 (2)(c) a Local Workforce Investment Board appointed by the local  
248 elected county supervisors from the respective workforce areas as

249 required by the Federal Workforce Investment Act to set policy for  
250 the portion of the statewide workforce investment system within  
251 the local area, which shall have the following advisory duties:

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

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

256 (ii) Sets short-term and long-term goals for  
257 industry-specific training and upgrading and for general  
258 development of the workforce; and

259 (iii) Provides for coordination of all training  
260 programs, including ABE/GED, Skills Enhancement and Industrial  
261 Services, and shall work collaboratively with the State Literacy  
262 Resource Center;

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

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

267 (d) To encourage continuous improvement through  
268 evaluation and assessment; and

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

271 (2) Each community college district shall have an affiliated  
272 District Workforce Development Council. The district council  
273 shall be composed of a diverse group of fifteen (15) persons  
274 appointed by the board of trustees of the affiliated public  
275 community or junior college. The members of each district council  
276 shall be selected from persons recommended by the chambers of  
277 commerce, employee groups, industrial foundations, community  
278 organizations and local governments located in the community  
279 college district of the affiliated community college with one (1)  
280 appointee being involved in basic literacy training. However, at



281 least eight (8) members of each district council shall be chief  
282 executive officers, plant managers that are representatives of  
283 employers in that district or service sector executives. The  
284 District Workforce Development Council affiliated with each  
285 respective community or junior college shall advise the president  
286 of the community or junior college on the operation of its  
287 workforce development center/one-stop center.

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

290 37-153-11. (1) There are created One-Stop Career Centers to  
291 provide assessment, training and placement services to individuals  
292 needing retraining, training and upgrading for small businesses  
293 and local industry. Each career center shall be affiliated with a  
294 separate public community or junior college district.

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

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

302 (a) For individuals needing training and retraining:

303 (i) Recruiting, assessing, counseling and  
304 referring to resources, training or jobs;

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

307 (iii) Basic literacy skills training and high  
308 school equivalency education;

309 (iv) Vocational and technical training, full-time  
310 or part-time; and

311 (v) Short-term skills training for educationally  
312 and economically disadvantaged adults in cooperation with  
313 federally established employment and training programs;

314 (b) For specific small businesses, industries or firms  
315 within the district:

316 (i) Job analysis, testing and curriculum  
317 development;

318 (ii) Development of specific long-range training  
319 plans;

320 (iii) Industry or firm-related preemployment  
321 training;

322 (iv) Workplace basic skills and literacy training;

323 (v) Customized skills training;

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

326 (vii) Technology transfer information and referral  
327 services to business of local applications of new research in  
328 cooperation with the University Research Center, the state's  
329 universities and other laboratories; and

330 (viii) Development of business plans;

331 (c) For public schools within the district technical  
332 assistance to secondary schools in curriculum coordination,  
333 development of tech prep programs, instructional development and  
334 resource coordination; and

335 (d) For economic development, a local forum and  
336 resource center for all local industrial development groups to  
337 meet and promote regional economic development.

338 (4) Each career center shall compile and make accessible to  
339 the Mississippi Workforce Investment Board necessary information  
340 for use in evaluating outcomes of its efforts and in improving the  
341 quality of programs at each community college, and shall include  
342 information on literacy initiatives. Each career center shall,

343 through an interagency management information system, maintain  
344 records on new small businesses, placement, length of time on the  
345 job after placement and wage rates of those placed in a form  
346 containing such information as established by the state council.

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

349 37-153-13. The State Board for Community and Junior Colleges  
350 is designated as the primary support agency to the career  
351 centers \* \* \*. The state board may exercise the following powers:

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

354 (b) To provide the career centers consistent standards  
355 and benchmarks to guide development of the local workforce  
356 development system and to provide a means by which the outcomes of  
357 local services can be measured;

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

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

363 (ii) Establishing rigorous and comprehensive local  
364 pre-employment training programs;

365 (iii) Developing local institutional capacity to  
366 deliver Total Quality Management training;

367 (iv) Developing local institutional capacity to  
368 transfer new technologists into the marketplace;

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

371 (vi) Developing data for strategic planning;

372 (d) To collaborate with the Mississippi Development  
373 Authority and other economic development organizations to increase  
374 the community college systems' economic development potential;

375 (e) To administer presented and approved certification  
376 programs by the community colleges for tax credits and partnership  
377 funding for corporate training;

378 (f) To create and maintain an evaluation team that  
379 examines which kinds of curricula and programs and what forms of  
380 quality control of training are most productive so that the  
381 knowledge developed at one (1) institution of education can be  
382 transferred to others;

383 (g) To develop internal capacity to provide services  
384 and to contract for services from universities and other providers  
385 directly to local institutions;

386 (h) To develop and administer an incentive  
387 certification program; \* \* \*

388 (i) To develop and hire staff and purchase equipment  
389 necessary to accomplish the goals set forth in this section; and

390 (j) To collaborate, partner and contract for services  
391 with community-based organizations in the delivery of workforce  
392 training and career information especially to youth, as defined by  
393 the Federal Workforce Investment Act, and to those adults who are  
394 in low income jobs or whose individual skill levels are so low as  
395 to be unable initially to be aided by a workforce development  
396 center. Community-based organizations must meet performance-based  
397 certification requirements set by the State Board for Community  
398 and Junior Colleges.

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

401 71-5-5. The Legislature hereby finds and declares that the  
402 existence and continued operation of a federal tax upon employers,  
403 against which some portion of the contributions required under  
404 this chapter may be credited, will protect Mississippi employers  
405 from undue disadvantages in their competition with employers in  
406 other states. If at any time, upon a formal complaint to the

407 Governor, he shall find that Title IX of the Social Security Act  
408 has been amended or repealed by Congress or has been held  
409 unconstitutional by the Supreme Court of the United States, and  
410 that, as a result thereof, the provisions of this chapter  
411 requiring Mississippi employers to pay contributions will subject  
412 them to a serious competitive disadvantage in relation to  
413 employers in other states, he shall publish such findings and  
414 proclaim that the operation of the provisions of this chapter  
415 requiring the payment of contributions and benefits shall be  
416 suspended for a period of not more than six (6) months. The  
417 Department of Employment Security shall thereupon requisition from  
418 the Unemployment Trust Fund all monies therein standing to its  
419 credit, and shall direct the State Treasurer to deposit such  
420 monies, together with any other monies in the Unemployment  
421 Compensation Fund, as a special fund in any banks or public  
422 depositories in this state in which general funds of the state may  
423 be deposited.

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

426 If within the aforesaid six-months' period the Governor shall  
427 find that other federal legislation has been enacted which avoids  
428 the competitive disadvantage herein described, he shall forthwith  
429 publicly so proclaim, and upon the date of such proclamation, the  
430 provisions of this chapter requiring the payment of contributions  
431 and benefits shall again become fully operative as of the date of  
432 such suspension with the same effect as if such suspension had not  
433 occurred. If within such six-months' period no such other federal  
434 legislation is enacted or the Legislature of this state has not  
435 otherwise prescribed, the Department of Employment Security shall,  
436 under regulations prescribed by it, refund, without interest, to  
437 each employer by whom contributions have been paid his pro rata  
438 share of the total contributions paid under this chapter. Any

439 interest or earnings of the fund shall be available to the  
440 Department of Employment Security to pay for the costs of making  
441 such refunds. When the Department of Employment Security shall  
442 have executed the duties herein prescribed and performed such  
443 other acts as are incidental to the termination of its duties  
444 under this chapter, the Governor shall by public proclamation  
445 declare that the provisions of this chapter, in their entirety,  
446 shall cease to be operative.

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

449 71-5-11. As used in this chapter, unless the context clearly  
450 requires otherwise:

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

454 B. "Benefits" means the money payments payable to an  
455 individual, as provided in this chapter, with respect to his  
456 unemployment.

457 C. "Benefit year" with respect to any individual means the  
458 period beginning with the first day of the first week with respect  
459 to which he first files a valid claim for benefits, and ending  
460 with the day preceding the same day of the same month in the next  
461 calendar year; and, thereafter, the period beginning with the  
462 first day of the first week with respect to which he next files  
463 his valid claim for benefits, and ending with the day preceding  
464 the same day of the same month in the next calendar year. Any  
465 claim for benefits made in accordance with Section 71-5-515 shall  
466 be deemed to be a "valid claim" for purposes of this subsection if  
467 the individual has been paid the wages for insured work required  
468 under Section 71-5-511(e).

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

471 E. "Calendar quarter" means the period of three (3)  
472 consecutive calendar months ending on March 31, June 30, September  
473 30, or December 31.

474 F. "Department" or "commission" means the Mississippi  
475 Department of Employment Security, Office of the Governor.

476 "Executive director" means the Executive Director of the  
477 Mississippi Department of Employment Security, Office of the  
478 Governor, appointed pursuant to Section 71-5-107.

479 G. "Employing unit" means this state or another state or any  
480 instrumentalities or any political subdivisions thereof or any of  
481 their instrumentalities or any instrumentality of more than one  
482 (1) of the foregoing or any instrumentality of any of the  
483 foregoing and one or more other states or political subdivisions,  
484 any Indian tribe as defined in Section 3306(u) of the Federal  
485 Unemployment Tax Act (FUTA), which includes any subdivision,  
486 subsidiary or business enterprise wholly owned by such Indian  
487 tribe, any individual or type of organization, including any  
488 partnership, association, trust, estate, joint-stock company,  
489 insurance company, or corporation, whether domestic or foreign, or  
490 the receiver, trustee in bankruptcy, trustee or successor thereof,  
491 or the legal representative of a deceased person, which has or had  
492 in its employ one or more individuals performing services for it  
493 within this state. All individuals performing services within  
494 this state for any employing unit which maintains two (2) or more  
495 separate establishments within this state shall be deemed to be  
496 employed by a single employing unit for all the purposes of this  
497 chapter. Each individual employed to perform or to assist in  
498 performing the work of any agent or employee of an employing unit  
499 shall be deemed to be employed by such employing unit for all  
500 purposes of this chapter, whether such individual was hired or  
501 paid directly by such employing unit or by such agent or employee,  
502 provided the employing unit had actual or constructive knowledge

503 of the work. All individuals performing services in the employ of  
504 an elected fee-paid county official, other than those related by  
505 blood or marriage within the third degree computed by the rule of  
506 the civil law to such fee-paid county official, shall be deemed to  
507 be employed by such county as the employing unit for all the  
508 purposes of this chapter. For purposes of defining an "employing  
509 unit" which shall pay contributions on remuneration paid to  
510 individuals, if two (2) or more related corporations concurrently  
511 employ the same individual and compensate such individual through  
512 a common paymaster which is one (1) of such corporations, then  
513 each such corporation shall be considered to have paid as  
514 remuneration to such individual only the amounts actually  
515 disbursed by it to such individual and shall not be considered to  
516 have paid as remuneration to such individual such amounts actually  
517 disbursed to such individual by another of such corporations.

518 H. "Employer" means:

519 (1) Any employing unit which,

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

524 (b) For some portion of a day in each of twenty  
525 (20) different calendar weeks, whether or not such weeks were  
526 consecutive, in either the current or the preceding calendar year  
527 had in employment at least one (1) individual (irrespective of  
528 whether the same individual was in employment in each such day),  
529 except as provided in paragraph (9) of this subsection;

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

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



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

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

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

544           (6) Any individual or employing unit which acquired its  
545 organization, trade, business, or substantially all the assets  
546 thereof, from another employing unit, if the employment record of  
547 the acquiring individual or employing unit subsequent to such  
548 acquisition, together with the employment record of the acquired  
549 organization, trade, or business prior to such acquisition, both  
550 within the same calendar year, would be sufficient to constitute  
551 an employing unit an employer subject to this chapter under  
552 paragraph (1) or (3) of this subsection;

553           (7) Any employing unit which, having become an employer  
554 under paragraph (1), (3), (5) or (6) of this subsection or under  
555 any other provisions of this chapter, has not, under Section  
556 71-5-361, ceased to be an employer subject to this chapter;

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

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

565                   (b) In determining whether or not an employing  
566 unit for which service other than agricultural labor is also  
567 performed is an employer under paragraph (1) or (4)(b) of this  
568 subsection, the wages earned or the employment of an employee  
569 performing services in agricultural labor, shall not be taken into  
570 account. If an employing unit is determined an employer of  
571 agricultural labor, such employing unit shall be determined an  
572 employer for purposes of paragraph (1) of this subsection;

573                   (10) All entities utilizing the services of any  
574 employee leasing firm shall be considered the employer of the  
575 individuals leased from the employee leasing firm. Temporary help  
576 firms shall be considered the employer of the individuals they  
577 provide to perform services for other individuals or  
578 organizations.

579           I. "Employment" means and includes:

580                   (1) Any service performed, which was employment as  
581 defined in this section and, subject to the other provisions of  
582 this subsection, including service in interstate commerce,  
583 performed for wages or under any contract of hire, written or  
584 oral, express or implied.

585                   (2) Services performed for remuneration for a  
586 principal:

587                   (a) As an agent-driver or commission-driver  
588 engaged in distributing meat products, vegetable products, fruit  
589 products, bakery products, beverages (other than milk), or laundry  
590 or dry cleaning services;

591                   (b) As a traveling or city salesman, other than as  
592 an agent-driver or commission-driver, engaged upon a full-time  
593 basis in the solicitation on behalf of, and the transmission to, a  
594 principal (except for sideline sales activities on behalf of some  
595 other person) of orders from wholesalers, retailers, contractors,  
596 or operator of hotels, restaurants, or other similar

597 establishments for merchandise for resale or supplies for use in  
598 their business operations.

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

602                     (i) The contract of service contemplates that  
603 substantially all of the services are to be performed personally  
604 by such individual;

605                     (ii) The individual does not have a  
606 substantial investment in facilities used in connection with the  
607 performance of the services (other than in facilities for  
608 transportation); and

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

612             (3) Service performed in the employ of this state or  
613 any of its instrumentalities or any political subdivision thereof  
614 or any of its instrumentalities or any instrumentality of more  
615 than one (1) of the foregoing or any instrumentality of any of the  
616 foregoing and one or more other states or political subdivisions  
617 or any Indian tribe as defined in Section 3306(u) of the Federal  
618 Unemployment Tax Act (FUTA), which includes any subdivision,  
619 subsidiary or business enterprise wholly owned by such Indian  
620 tribe; provided that such service is excluded from "employment" as  
621 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)  
622 of that act and is not excluded from "employment" under subsection  
623 I(5) of this section.

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

628                   (b) The organization had four (4) or more  
629 individuals in employment for some portion of a day in each of  
630 twenty (20) different weeks, whether or not such weeks were  
631 consecutive, within the current or preceding calendar year,  
632 regardless of whether they were employed at the same moment of  
633 time.

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

637                   (a) In the employ of:

638                   (i) A church or convention or association of  
639 churches; or

640                   (ii) An organization which is operated  
641 primarily for religious purposes and which is operated,  
642 supervised, controlled, or principally supported by a church or  
643 convention or association of churches; or

644                   (b) By a duly ordained, commissioned, or licensed  
645 minister of a church in the exercise of his ministry, or by a  
646 member of a religious order in the exercise of duties required by  
647 such order; or

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

651                   (i) As an elected official;

652                   (ii) As a member of a legislative body, or a  
653 member of the judiciary, of a state or political subdivision or a  
654 member of an Indian tribal council;

655                   (iii) As a member of the State National Guard  
656 or Air National Guard;

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

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

663 1. A major nontenured policy-making or  
664 advisory position, or

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

668 (d) In a facility conducted for the purpose of  
669 carrying out a program of rehabilitation for individuals whose  
670 earning capacity is impaired by age or physical or mental  
671 deficiency or injury, or providing remunerative work for  
672 individuals who because of their impaired physical or mental  
673 capacity cannot be readily absorbed in the competitive labor  
674 market, by an individual receiving such rehabilitation or  
675 remunerative work; or

676 (e) By an inmate of a custodial or penal  
677 institution; or

678 (f) As part of an unemployment work-relief or  
679 work-training program assisted or financed in whole or in part by  
680 any federal agency or agency of a state or political subdivision  
681 thereof or of an Indian tribe, by an individual receiving such  
682 work relief or work training, unless coverage of such service is  
683 required by federal law or regulation.

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

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

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

691                   (ii) For some portion of a day in each of  
692 twenty (20) different calendar weeks, whether or not such weeks  
693 were consecutive, in either the current or the preceding calendar  
694 year, employed in agricultural labor ten (10) or more individuals,  
695 regardless of whether they were employed at the same moment of  
696 time.

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

701                   (i) If such crew leader holds a valid  
702 certificate of registration under the Farm Labor Contractor  
703 Registration Act of 1963; or substantially all the members of such  
704 crew operate or maintain tractors, mechanized harvesting or crop  
705 dusting equipment, or any other mechanized equipment, which is  
706 provided by such crew leader; and

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

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

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

716                   (ii) Such other person shall be treated as  
717 having paid cash remuneration to such individual in an amount  
718 equal to the amount of cash remuneration paid to such individual  
719 by the crew leader (either on his own behalf or on behalf of such  
720 other person) for the service in agricultural labor performed for  
721 such other person.

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

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

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

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

732 (7) The term "employment" shall include domestic  
733 service in a private home, local college club or local chapter of  
734 a college fraternity or sorority performed for an employing unit  
735 which paid cash remuneration of One Thousand Dollars (\$1,000.00)  
736 or more in any calendar quarter in the current or the preceding  
737 calendar year to individuals employed in such domestic service.  
738 For the purpose of this subsection, the term "employment" does not  
739 apply to service performed as a "sitter" at a hospital in the  
740 employ of an individual.

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

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

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

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

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

753           (9) Services not covered under paragraph (8) of this  
754 subsection and performed entirely without this state, with respect  
755 to no part of which contributions are required and paid under an  
756 unemployment compensation law of any other state or of the federal  
757 government, shall be deemed to be employment subject to this  
758 chapter if the individual performing such services is a resident  
759 of this state and the department approves the election of the  
760 employing unit for whom such services are performed that the  
761 entire service of such individual shall be deemed to be employment  
762 subject to this chapter.

763           (10) Service shall be deemed to be localized within a  
764 state if:

765                   (a) The service is performed entirely within such  
766 state; or

767                   (b) The service is performed both within and  
768 without such state, but the service performed without such state  
769 is incidental to the individual's service within the state; for  
770 example, is temporary or transitory in nature or consists of  
771 isolated transactions.

772           (11) The services of an individual who is a citizen of  
773 the United States, performed outside the United States (except in  
774 Canada), in the employ of an American employer (other than service  
775 which is deemed "employment" under the provisions of paragraph  
776 (8), (9) or (10) of this subsection or the parallel provisions of  
777 another state's law), if:

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

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

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



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

786                   (iii) The employer is a partnership or a  
787 trust and the number of the partners or trustees who are residents  
788 of this state is greater than the number who are residents of any  
789 one (1) other state; or

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

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

797                   (i) An individual who is a resident of the  
798 United States; or

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

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

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

805                   (12) All services performed by an officer or member of  
806 the crew of an American vessel on or in connection with such  
807 vessel, if the operating office from which the operations of such  
808 vessel operating on navigable waters within, or within and  
809 without, the United States are ordinarily and regularly  
810 supervised, managed, directed and controlled is within this state;  
811 notwithstanding the provisions of subsection I(8).

812                   (13) Service with respect to which a tax is required to  
813 be paid under any federal law imposing a tax against which credit  
814 may be taken for contributions required to be paid into a state  
815 unemployment fund, or which as a condition for full tax credit

816 against the tax imposed by the Federal Unemployment Tax Act, 26  
817 USCS Section 3301 et seq., is required to be covered under this  
818 chapter, notwithstanding any other provisions of this subsection.

819           (14) Services performed by an individual for wages  
820 shall be deemed to be employment subject to this chapter unless  
821 and until it is shown to the satisfaction of the department that  
822 such individual has been and will continue to be free from control  
823 and direction over the performance of such services both under his  
824 contract of service and in fact; and the relationship of employer  
825 and employee shall be determined in accordance with the principles  
826 of the common law governing the relation of master and servant.

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

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

831                           (i) On a farm or in a forest in the employ of  
832 any employing unit in connection with cultivating the soil, in  
833 connection with cutting, planting, deadening, marking or otherwise  
834 improving timber, or in connection with raising or harvesting any  
835 agricultural or horticultural commodity, including the raising,  
836 shearing, feeding, caring for, training, and management of  
837 livestock, bees, poultry, fur-bearing animals and wildlife;

838                           (ii) In the employ of the owner or tenant or  
839 other operator of a farm, in connection with the operation,  
840 management, conservation, improvement or maintenance of such farm  
841 and its tools and equipment, or in salvaging timber or clearing  
842 land of brush and other debris left by a hurricane, if the major  
843 part of such service is performed on a farm;

844                           (iii) In connection with the production or  
845 harvesting of naval stores products or any commodity defined in  
846 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),  
847 or in connection with the raising or harvesting of mushrooms, or

848 in connection with the ginning of cotton, or in connection with  
849 the operation or maintenance of ditches, canals, reservoirs, or  
850 waterways not owned or operated for profit, used exclusively for  
851 supplying and storing water for farming purposes;

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

859 (B) In the employ of a group of  
860 operators of farms (or a cooperative organization of which such  
861 operators are members) in the performance of service described in  
862 subparagraph (A), but only if such operators produced more than  
863 one-half (1/2) of the commodity with respect to which such service  
864 is performed;

865 (C) The provisions of subparagraphs (A)  
866 and (B) shall not be deemed to be applicable with respect to  
867 service performed in connection with commercial canning or  
868 commercial freezing or in connection with any agricultural or  
869 horticultural commodity after its delivery to a terminal market  
870 for distribution for consumption;

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

873 (vi) As used in paragraph (15)(a) of this  
874 subsection, the term "farm" includes stock, dairy, poultry, fruit,  
875 fur-bearing animals, and truck farms, plantations, ranches,  
876 nurseries, ranges, greenhouses, or other similar structures used  
877 primarily for the raising of agricultural or horticultural  
878 commodities, and orchards.

879                   (b) Domestic service in a private home, local  
880 college club, or local chapter of a college fraternity or  
881 sorority, except as provided in subsection I(7) of this section,  
882 or service performed as a "sitter" at a hospital in the employ of  
883 an individual.

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

886                   (d) Service performed by an individual in the  
887 employ of his son, daughter, or spouse, and service performed by a  
888 child under the age of twenty-one (21) in the employ of his father  
889 or mother.

890                   (e) Service performed in the employ of the United  
891 States government or of an instrumentality wholly owned by the  
892 United States; except that if the Congress of the United States  
893 shall permit states to require any instrumentalities of the United  
894 States to make payments into an unemployment fund under a state  
895 unemployment compensation act, then to the extent permitted by  
896 Congress and from and after the date as of which such permission  
897 becomes effective, all of the provisions of this chapter shall be  
898 applicable to such instrumentalities and to services performed by  
899 employees for such instrumentalities in the same manner, to the  
900 same extent, and on the same terms as to all other employers and  
901 employing units. If this state should not be certified under the  
902 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any  
903 year, then the payment required by such instrumentality with  
904 respect to such year shall be deemed to have been erroneously  
905 collected and shall be refunded by the department from the fund in  
906 accordance with the provisions of Section 71-5-383.

907                   (f) Service performed in the employ of an  
908 "employer" as defined by the Railroad Unemployment Insurance Act,  
909 45 USCS Section 351(a), or as an "employee representative" as  
910 defined by the Railroad Unemployment Insurance Act, 45 USCS

911 Section 351(f), and service with respect to which unemployment  
912 compensation is payable under an unemployment compensation system  
913 for maritime employees, or under any other unemployment  
914 compensation system established by an act of Congress; provided  
915 that the department is hereby authorized and directed to enter  
916 into agreements with the proper agencies under such act or acts of  
917 Congress, which agreements shall become effective ten (10) days  
918 after publication thereof in the manner provided in Section  
919 71-5-117 for general rules, to provide reciprocal treatment to  
920 individuals who have, after acquiring potential rights to benefits  
921 under this chapter, acquired rights to unemployment compensation  
922 under such act or acts of Congress or who have, after acquiring  
923 potential rights to unemployment compensation under such act or  
924 acts of Congress, acquired rights to benefits under this chapter.

925 (g) Service performed in any calendar quarter in  
926 the employ of any organization exempt from income tax under the  
927 Internal Revenue Code, 26 USCS Section 501(a) (other than an  
928 organization described in 26 USCS Section 401(a)), or exempt from  
929 income tax under 26 USCS Section 521 if the remuneration for such  
930 service is less than Fifty Dollars (\$50.00).

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

933 (i) By a student who is enrolled and is  
934 regularly attending classes at such school, college or university,  
935 or

936 (ii) By the spouse of such a student if such  
937 spouse is advised, at the time such spouse commences to perform  
938 such service, that

939 (A) The employment of such spouse to  
940 perform such service is provided under a program to provide  
941 financial assistance to such student by such school, college, or  
942 university, and

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

945                                   (i) Service performed by an individual under the  
946 age of twenty-two (22) who is enrolled at a nonprofit or public  
947 educational institution which normally maintains a regular faculty  
948 and curriculum and normally has a regularly organized body of  
949 students in attendance at the place where its educational  
950 activities are carried on, as a student in a full-time program  
951 taken for credit at such institution, which combines academic  
952 instruction with work experience, if such service is an integral  
953 part of such program and such institution has so certified to the  
954 employer, except that this subparagraph shall not apply to service  
955 performed in a program established for or on behalf of an employer  
956 or group of employers.

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

960                                   (k) Service performed as a student nurse in the  
961 employ of a hospital or a nurses' training school by an individual  
962 who is enrolled and is regularly attending classes in a nurses'  
963 training school chartered or approved pursuant to state law; and  
964 services performed as an intern in the employ of a hospital by an  
965 individual who has completed a four-year course in a medical  
966 school chartered or approved pursuant to state law.

967                                   (l) Service performed by an individual as an  
968 insurance agent or as an insurance solicitor, if all such service  
969 performed by such individual is performed for remuneration solely  
970 by way of commission.

971                                   (m) Service performed by an individual under the  
972 age of eighteen (18) in the delivery or distribution of newspapers  
973 or shopping news, not including delivery or distribution to any  
974 point for subsequent delivery or distribution.

975                   (n) If the services performed during one-half  
976 (1/2) or more of any pay period by an employee for the employing  
977 unit employing him constitute employment, all the services of such  
978 employee for such period shall be deemed to be employment; but if  
979 the services performed during more than one-half (1/2) of any such  
980 pay period by an employee for the employing unit employing him do  
981 not constitute employment, then none of the services of such  
982 employee for such period shall be deemed to be employment. As  
983 used in this subsection the term "pay period" means a period (of  
984 not more than thirty-one (31) consecutive days) for which a  
985 payment of remuneration is ordinarily made to the employee by the  
986 employing unit employing him.

987                   (o) Service performed by an individual who is a  
988 CETA/PSE (Comprehensive Employment Training Act/Public Service  
989 Employment) participant unless coverage of such service is  
990 required by federal law or regulation.

991                   (p) Service performed by a barber or beautician  
992 whose work station is leased to him or her by the owner of the  
993 shop in which he or she works and who is compensated directly by  
994 the patrons he or she serves and who is free from direction and  
995 control by the lessor.

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

999           "Public employment service" means the operation of a program  
1000 that offers free placement and referral services to applicants and  
1001 employers, including job development.

1002           K. "Fund" means the Unemployment Compensation Fund  
1003 established by this chapter, to which all contributions required  
1004 and from which all benefits provided under this chapter shall be  
1005 paid.

1006 L. "Hospital" means an institution which has been licensed,  
1007 certified, or approved by the Mississippi Commission on Hospital  
1008 Care as a hospital.

1009 M. "Institution of higher learning," for the purposes of  
1010 this section, means an educational institution which:

1011 (1) Admits as regular students only individuals having  
1012 a certificate of graduation from a high school, or the recognized  
1013 equivalent of such a certificate;

1014 (2) Is legally authorized in this state to provide a  
1015 program of education beyond high school;

1016 (3) Provides an educational program for which it awards  
1017 a bachelor's or higher degree, or provides a program which is  
1018 acceptable for full credit toward such a degree, a program of  
1019 postgraduate or postdoctoral studies, or a program of training to  
1020 prepare students for gainful employment in a recognized  
1021 occupation;

1022 (4) Is a public or other nonprofit institution;

1023 (5) Notwithstanding any of the foregoing provisions of  
1024 this subsection, all colleges and universities in this state are  
1025 institutions of higher learning for purposes of this section.

1026 N. (1) "State" includes, in addition to the states of the  
1027 United States of America, the District of Columbia, Commonwealth  
1028 of Puerto Rico and the Virgin Islands.

1029 (2) The term "United States" when used in a  
1030 geographical sense includes the states, the District of Columbia,  
1031 Commonwealth of Puerto Rico and the Virgin Islands.

1032 (3) The provisions of subsections (1) and (2) of  
1033 paragraph N, as including the Virgin Islands, shall become  
1034 effective on the day after the day on which the United States  
1035 Secretary of Labor approves for the first time under Section  
1036 3304(a) of the Internal Revenue Code of 1954 an unemployment



1037 compensation law submitted to the secretary by the Virgin Islands  
1038 for such approval.

1039 O. "Unemployment."

1040 (1) An individual shall be deemed "unemployed" in any  
1041 week during which he performs no services and with respect to  
1042 which no wages are payable to him, or in any week of less than  
1043 full-time work if the wages payable to him with respect to such  
1044 week are less than his weekly benefit amount as computed and  
1045 adjusted in Section 71-5-505. The department shall prescribe  
1046 regulations applicable to unemployed individuals, making such  
1047 distinctions in the procedure as to total unemployment, part-total  
1048 unemployment, partial unemployment of individuals attached to  
1049 their regular jobs, and other forms of short-time work, as the  
1050 department deems necessary.

1051 (2) An individual's week of total unemployment shall be  
1052 deemed to commence only after his registration at an employment  
1053 office, except as the department may by regulation otherwise  
1054 prescribe.

1055 P. (1) "Wages" means all remuneration for personal  
1056 services, including commissions and bonuses and the cash value of  
1057 all remuneration in any medium other than cash, except that  
1058 "wages," for purposes of determining employer's coverage and  
1059 payment of contributions for agricultural and domestic service  
1060 means cash remuneration only. The reasonable cash value of  
1061 remuneration in any medium other than cash shall be estimated and  
1062 determined in accordance with rules prescribed by the department;  
1063 provided, that the term "wages" shall not include:

1064 (a) The amount of any payment made to, or on  
1065 behalf of, an employee under a plan or system established by an  
1066 employer which makes provision for his employees generally or for  
1067 a class or classes of his employees (including any amount paid by

1068 an employer for insurance or annuities, or into a fund, to provide  
1069 for any such payment), on account of:

1070 (i) Retirement, or

1071 (ii) Sickness or accident disability, or

1072 (iii) Medical or hospitalization expenses in  
1073 connection with sickness or actual disability, or

1074 (iv) Death, provided the employee:

1075 (A) Has not the option to receive,  
1076 instead of provision for such death benefit, any part of such  
1077 payment or, if such death benefit is insured, any part of the  
1078 premiums (or contributions to premiums) paid by his employer, and

1079 (B) Has not the right, under the  
1080 provisions of the plan or system or policy of insurance providing  
1081 for such death benefit, to assign such benefit or to receive a  
1082 cash consideration in lieu of such benefit, either upon his  
1083 withdrawal from the plan or system providing for such benefit or  
1084 upon termination of such plan or system or policy of insurance or  
1085 of his employment with such employer;

1086 (b) Dismissal payments which the employer is not  
1087 legally required to make;

1088 (c) Payment by an employer (without deduction from  
1089 the remuneration of an employee) of the tax imposed by the  
1090 Internal Revenue Code, 26 USCS Section 3101;

1091 (d) From and after January 1, 1992, the amount of  
1092 any payment made to or on behalf of an employee for a "cafeteria"  
1093 plan, which meets the following requirements:

1094 (i) Qualifies under Section 125 of the  
1095 Internal Revenue Code;

1096 (ii) Covers only employees;

1097 (iii) Covers only noncash benefits;

1098 (iv) Does not include deferred compensation  
1099 plans.

1100 (2) [Not enacted].

1101 Q. "Week" means calendar week or such period of seven (7)  
1102 consecutive days as the department may by regulation prescribe.  
1103 The department may by regulation prescribe that a week shall be  
1104 deemed to be in, within, or during any benefit year which includes  
1105 any part of such week.

1106 R. "Insured work" means "employment" for "employers."

1107 S. The term "includes" and "including," when used in a  
1108 definition contained in this chapter, shall not be deemed to  
1109 exclude other things otherwise within the meaning of the term  
1110 defined.

1111 T. "Employee leasing arrangement" means any agreement  
1112 between an employee leasing firm and a client, whereby specified  
1113 client responsibilities such as payment of wages, reporting of  
1114 wages for unemployment insurance purposes, payment of unemployment  
1115 insurance contributions and other such administrative duties are  
1116 to be performed by an employee leasing firm, on an ongoing basis.

1117 U. "Employee leasing firm" means any entity which provides  
1118 specified duties for a client company such as payment of wages,  
1119 reporting of wages for unemployment insurance purposes, payment of  
1120 unemployment insurance contributions and other administrative  
1121 duties, in connection with the client's employees, that are  
1122 directed and controlled by the client and that are providing  
1123 ongoing services for the client.

1124 V. "Temporary help firm" means an entity which hires its own  
1125 employees and provides those employees to other individuals or  
1126 organizations to perform some service, to support or supplement  
1127 the existing work force in special situations such as employee  
1128 absences, temporary skill shortages, seasonal workloads and  
1129 special assignments and projects, with the expectation that the  
1130 worker's position will be terminated upon the completion of the  
1131 specified task or function.

1132           **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is  
1133 amended as follows:

1134           71-5-19. (1) Whoever makes a false statement or  
1135 representation knowing it to be false, or knowingly fails to  
1136 disclose a material fact, to obtain or increase any benefit or  
1137 other payment under this chapter or under an employment security  
1138 law of any other state, of the federal government or of a foreign  
1139 government, either for himself or for any other person, shall be  
1140 punished by a fine of not less than One Hundred Dollars (\$100.00)  
1141 nor more than Five Hundred Dollars (\$500.00), or by imprisonment  
1142 for not longer than thirty (30) days, or by both such fine and  
1143 imprisonment; and each such false statement or representation or  
1144 failure to disclose a material fact shall constitute a separate  
1145 offense.

1146           (2) Any employing unit, any officer or agent of an employing  
1147 unit or any other person who makes a false statement or  
1148 representation knowing it to be false, or who knowingly fails to  
1149 disclose a material fact, to prevent or reduce the payment of  
1150 benefits to any individual entitled thereto, or to avoid becoming  
1151 or remaining subject hereto, or to avoid or reduce any  
1152 contribution or other payment required from any employing unit  
1153 under this chapter, or who willfully fails or refuses to make any  
1154 such contribution or other payment, or to furnish any reports  
1155 required hereunder or to produce or permit the inspection or  
1156 copying of records as required hereunder, shall be punished by a  
1157 fine of not less than One Hundred Dollars (\$100.00) nor more than  
1158 One Thousand Dollars (\$1,000.00), or by imprisonment for not  
1159 longer than sixty (60) days, or by both such fine and  
1160 imprisonment; and each such false statement, or representation, or  
1161 failure to disclose a material fact, and each day of such failure  
1162 or refusal shall constitute a separate offense. In lieu of such  
1163 fine and imprisonment, the employing unit or representative, or

1164 both employing unit and representative, if such representative is  
1165 an employing unit in this state and is found to be a party to such  
1166 violation, shall not be eligible for a contributions rate of less  
1167 than five and four-tenths percent (5.4%) for the tax year in which  
1168 such violation is discovered by the department and for the next  
1169 two (2) succeeding tax years.

1170 (3) Any person who shall willfully violate any provision of  
1171 this chapter or any other rule or regulation thereunder, the  
1172 violation of which is made unlawful or the observance of which is  
1173 required under the terms of this chapter and for which a penalty  
1174 is neither prescribed herein nor provided by any other applicable  
1175 statute, shall be punished by a fine of not less than One Hundred  
1176 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),  
1177 or by imprisonment for not longer than sixty (60) days, or by both  
1178 such fine and imprisonment; and each day such violation continues  
1179 shall be deemed to be a separate offense. In lieu of such fine  
1180 and imprisonment, the employing unit or representative, or both  
1181 employing unit and representative, if such representative is an  
1182 employing unit in this state and is found to be a party to such  
1183 violation, shall not be eligible for a contributions rate of less  
1184 than five and four-tenths percent (5.4%) for the tax year in which  
1185 the violation is discovered by the department and for the next two  
1186 (2) succeeding tax years.

1187 (4) Any person who, by reason of the nondisclosure or  
1188 misrepresentation by him or by another of a material fact,  
1189 irrespective of whether such nondisclosure or misrepresentation  
1190 was known or fraudulent, or who, for any other reason has received  
1191 any such benefits under this chapter, while any conditions for the  
1192 receipt of benefits imposed by this chapter were not fulfilled in  
1193 his case, or while he was disqualified from receiving benefits,  
1194 shall, in the discretion of the department, either be liable to  
1195 have such sum deducted from any future benefits payable to him

1196 under this chapter or shall be liable to repay to the department  
1197 for the unemployment compensation fund a sum equal to the amount  
1198 so received by him; and such sum shall be collectible in the  
1199 manner provided in Sections 71-5-363 through 71-5-383 for the  
1200 collection of past-due contributions. Provided, however, that no  
1201 such deduction shall be made, nor shall any action be taken for  
1202 the collection of any such overpayments, after five (5) years have  
1203 elapsed from the date of the receipt of the benefits at issue;  
1204 provided further that any such judgment against such person for  
1205 collection of such overpayments shall not be a lien upon the  
1206 property of the person for a longer period than five (5) years  
1207 from the date of the filing of the lien, and any such notice of  
1208 lien shall not be refiled by the department.

1209 (5) The department, by agreement with another state or the  
1210 United States, as provided under Section 303(g) of the Social  
1211 Security Act, may recover any overpayment of benefits paid to any  
1212 individual under the laws of this state or of another state or  
1213 under an unemployment benefit program of the United States. Any  
1214 overpayments subject to this subsection may be deducted from any  
1215 future benefits payable to the individual under the laws of this  
1216 state or of another state or under an unemployment program of the  
1217 United States.

1218 **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is  
1219 amended as follows:

1220 71-5-101. There is hereby established the Mississippi  
1221 Department of Employment Security, Office of the Governor. The  
1222 Department of Employment Security shall be the Mississippi  
1223 Employment Security Commission and shall retain all powers and  
1224 duties as granted to the Mississippi Employment Security  
1225 Commission. Wherever the term "Employment Security Commission"  
1226 appears in any law, the same shall mean the Mississippi Department  
1227 of Employment Security, Office of the Governor. The Executive

1228 Director of the Department of Employment Security may assign to  
1229 the appropriate offices such powers and duties deemed appropriate  
1230 to carry out the lawful functions of the department.

1231       **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is  
1232 amended as follows:

1233       71-5-107. The Mississippi Department of Employment Security,  
1234 Office of the Governor, shall administer this chapter through a  
1235 full-time salaried executive director, to be appointed by the  
1236 Governor, with the advice and consent of the Senate. He \* \* \*  
1237 shall be responsible for the administration of this chapter under  
1238 authority delegated to him by the Governor.

1239       **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is  
1240 amended as follows:

1241       71-5-109. There is hereby created a board of review  
1242 consisting of three (3) members to be appointed by the Executive  
1243 Director of the Department of Employment Security. The executive  
1244 director shall designate one (1) member of the board of review as  
1245 chairman. Each member shall be paid a salary or per diem at a  
1246 rate to be determined by the executive director, and such expenses  
1247 as may be allowed by the executive director. All salaries, per  
1248 diem and expenses of the Board of Review shall be paid from the  
1249 Employment Security Administration Fund.

1250       **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is  
1251 amended as follows:

1252       71-5-111. There is hereby created in the State Treasury a  
1253 special fund to be known as the Employment Security Administration  
1254 Fund. All monies which are deposited or paid into this fund are  
1255 hereby appropriated and made available to the department. All  
1256 monies in this fund shall be expended solely for the purpose of  
1257 defraying the cost of administration of this chapter, and for no  
1258 other purpose whatsoever. The fund shall consist of all monies  
1259 appropriated by this state and all monies received from the United

1260 States of America, or any agency thereof, or from any other source  
1261 for such purpose. Notwithstanding any provision of this section,  
1262 all monies requisitioned and deposited in this fund pursuant to  
1263 Section 71-5-457 shall remain part of the Employment Security  
1264 Administration Fund and shall be used only in accordance with the  
1265 conditions specified in said section. All monies in this fund  
1266 shall be deposited, administered and disbursed in the same manner  
1267 and under the same conditions and requirements as is provided by  
1268 law for other special funds in the State Treasury. The State  
1269 Treasurer shall be liable on his official bond for the faithful  
1270 performance of his duties in connection with the employment  
1271 Security Administration Fund under this chapter.

1272       **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is  
1273 amended as follows:

1274       71-5-112. All funds received by the Mississippi Employment  
1275 Security Commission shall clear through the State Treasury as  
1276 provided and required by Sections 71-5-111 and 71-5-453. All  
1277 expenditures from the administration fund of said department  
1278 authorized by Section 71-5-111 shall be expended only pursuant to  
1279 appropriation approved by the Legislature and as provided by law.

1280       **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is  
1281 amended as follows:

1282       71-5-113. All monies received from the Social Security Board  
1283 or its successors for the administration of this chapter shall be  
1284 expended solely for the purposes and in the amounts found  
1285 necessary by the Social Security Board or its successors for the  
1286 proper and efficient administration of this chapter.

1287       It shall be the duty of the department to take appropriate  
1288 action with respect to the replacement, within a reasonable time,  
1289 of any monies received from the Social Security Board, or its  
1290 successors, for the administration of this chapter, and monies  
1291 used to match grants pursuant to the provisions of the



1292 Wagner-Peyser Act, which the board, or its successors, find,  
1293 because of any action or contingency, have been lost or have been  
1294 expended for purposes other than, or in amounts in excess of those  
1295 found necessary by the Social Security Board, or its successors,  
1296 for the proper administration of this chapter. Funds which have  
1297 been expended by the department or its agents in accordance with  
1298 the budget approved by the Social Security Board, or its  
1299 successors, or in accordance with the general standards and  
1300 limitations promulgated by the Social Security Board, or its  
1301 successors, prior to such expenditure (where proposed expenditures  
1302 have not been specifically disapproved by the Social Security  
1303 Board, or its successors), shall not be deemed to require  
1304 replacement. To effectuate the purposes of this paragraph, it  
1305 shall be the duty of the department to take such action to  
1306 safeguard the expenditure of the funds referred to herein as it  
1307 deems necessary. In the event of a loss of such funds or an  
1308 improper expenditure thereof as herein defined, it shall be the  
1309 duty of the department to notify the Governor of any such loss or  
1310 improper expenditure and submit to him a request for an  
1311 appropriation in the amount thereof. The Governor shall transmit  
1312 to the next regular session of the Legislature following such  
1313 notification, the department's request for an appropriation in an  
1314 amount necessary to replace funds which have been lost or  
1315 improperly expended as defined above. Such request of the  
1316 department for an appropriation shall not be subject to the  
1317 provisions of Sections 27-103-1 through 27-103-75. The  
1318 Legislature recognizes its obligation to replace such funds as may  
1319 be necessary and shall make necessary appropriations in accordance  
1320 with such requests.

1321 **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is  
1322 amended as follows:

1323           71-5-114. There is hereby created in the State Treasury a  
1324 special fund, to be known as the "Special Employment Security  
1325 Administration Fund," into which shall be deposited or transferred  
1326 all interest, penalties and damages collected on and after July 1,  
1327 1982, pursuant to Sections 71-5-363 through 71-5-379. Interest,  
1328 penalties and damages collected on delinquent payments deposited  
1329 during any calendar quarter in the clearing account in the  
1330 Unemployment Compensation Fund shall, as soon as practicable after  
1331 the close of such calendar quarter, be transferred to the Special  
1332 Employment Security Administration Fund. All monies in this fund  
1333 shall be deposited, administered and disbursed in the same manner  
1334 and under the same conditions and requirements as is provided by  
1335 law for other special funds in the State Treasury. The State  
1336 Treasurer shall be liable on his official bond for the faithful  
1337 performance of his duties in connection with the Special  
1338 Employment Security Administration Fund under this chapter. Said  
1339 monies shall not be expended or made available for expenditure in  
1340 any manner which would permit their substitution for (or permit a  
1341 corresponding reduction in) federal funds which would, in the  
1342 absence of said monies, be available to finance expenditures for  
1343 the administration of the state unemployment compensation and  
1344 employment service laws. Nothing in this section shall prevent  
1345 said monies in this fund from being used as a revolving fund to  
1346 cover expenditures necessary and proper under the law for which  
1347 federal funds have been duly requested but not yet received,  
1348 subject to the charging of such expenditures against such funds  
1349 when necessary. The monies in this fund may be used by the  
1350 department for the payment of costs of administration of the  
1351 employment security laws of this state which are found not to be  
1352 or not to have been properly and validly chargeable against funds  
1353 obtained from federal sources. All monies in this Special  
1354 Employment Security Administration Fund shall be continuously

1355 available to the department for expenditure in accordance with the  
1356 provisions of this chapter, and shall not lapse at any time. The  
1357 monies in this fund are hereby specifically made available to  
1358 replace, as contemplated by Section 71-5-113, expenditures from  
1359 the Employment Security Administration Fund established by Section  
1360 71-5-111, which have been found, because of any action or  
1361 contingency, to have been lost or improperly expended.

1362 The department, whenever it is of the opinion that the money  
1363 in the Special Employment Security Administration Fund is more  
1364 than ample to pay for all foreseeable needs for which such special  
1365 fund is set up, may, by written order, order the transfer  
1366 therefrom to the Unemployment Compensation Fund of such amount of  
1367 money in the said Special Employment Security Administration Fund  
1368 as it deems proper, and the same shall thereupon be immediately  
1369 transferred to the Unemployment Compensation Fund.

1370 **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is  
1371 amended as follows:

1372 71-5-115. It shall be the duty of the Executive Director of  
1373 the Mississippi Department of Employment Security, Office of the  
1374 Governor, to administer this chapter; and the director shall have  
1375 the power and authority to adopt, amend or rescind such rules and  
1376 regulations, to employ such persons, make such expenditures,  
1377 require such reports, make such investigations, and take such  
1378 other action as he deems necessary or suitable to that end. Such  
1379 rules and regulations shall be effective upon publication in the  
1380 manner, not inconsistent with the provisions of this chapter,  
1381 which the director shall prescribe. The director shall determine  
1382 the department's own organization and methods of procedure in  
1383 accordance with the provisions of this chapter, and shall have an  
1384 official seal which shall be judicially noticed. Not later than  
1385 the first day of February in each year, the director shall submit  
1386 to the Governor a report covering the administration and operation

1387 of this chapter during the preceding fiscal year and shall make  
1388 such recommendations for amendments to this chapter as the  
1389 director deems proper. Whenever the director believes that a  
1390 change in contribution or benefit rates will become necessary to  
1391 protect the solvency of the fund, he shall promptly so inform the  
1392 Governor and the Legislature, and make recommendations with  
1393 respect thereto.

1394 **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is  
1395 amended as follows:

1396 71-5-117. General rules may be adopted, amended or rescinded  
1397 by the director only after public hearing or opportunity to be  
1398 heard thereon, of which proper notice has been given. General  
1399 rules shall become effective ten (10) days after filing with the  
1400 Secretary of State and publication in one or more newspapers of  
1401 general circulation in this state. Regulations may be adopted,  
1402 amended or rescinded by the director and shall become effective in  
1403 the manner and at the time prescribed by the director.

1404 **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is  
1405 amended as follows:

1406 71-5-119. The department shall cause to be printed for  
1407 distribution to the public the text of this chapter, its  
1408 regulations and general rules, its reports to the Governor, and  
1409 any other material it deems relevant and suitable, and shall  
1410 furnish the same to any person upon application therefor.

1411 **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is  
1412 amended as follows:

1413 71-5-121. Subject to other provisions of this chapter, the  
1414 Executive Director of the Mississippi Department of Employment  
1415 Security, Office of the Governor, is authorized to appoint, fix  
1416 the compensation, and prescribe the duties and powers of such  
1417 officers, accountants, attorneys, experts and other persons as may  
1418 be necessary in the performance of department duties, provided

1419 that all personnel who were former members of the Armed Forces of  
1420 the United States of America shall be given credit regardless of  
1421 rate, rank or commission. All positions shall be filled by  
1422 persons selected and appointed on a nonpartisan merit basis, in  
1423 accordance with Section 25-9-101 et seq., that provides for a  
1424 state service personnel system. The director shall not employ any  
1425 person who is an officer or committee member of any political  
1426 party organization. The director may delegate to any such person  
1427 so appointed such power and authority as he deems reasonable and  
1428 proper for the effective administration of this chapter, and may  
1429 in his discretion bond any person handling monies or signing  
1430 checks hereunder. The veteran status of an individual shall be  
1431 considered and preference given in accordance with the provisions  
1432 of the State Personnel Board.

1433 The department and its employees are exempt from Sections  
1434 25-15-101 and 25-15-103.

1435 The department may use federal granted funds to provide such  
1436 group health, life, accident and hospitalization insurance for its  
1437 employees as may be agreed upon by the department and the federal  
1438 granting authorities.

1439 The department shall adopt a "layoff formula" to be used  
1440 wherever it is determined that, because of reduced workload,  
1441 budget reductions or in order to effect a more economical  
1442 operation, a reduction in force shall occur in any group.

1443 In establishing this formula, the department shall give  
1444 effect to the principle of seniority and shall provide that  
1445 seniority points may be added for disabled veterans and veterans,  
1446 with due regard to the efficiency of the service. Any such layoff  
1447 formula shall be implemented according to the policies, rules and  
1448 regulations of the State Personnel Board.

1449 **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is  
1450 amended as follows:

1451           71-5-123. The Executive Director of the Mississippi  
1452 Department of Employment Security, Office of the Governor, shall  
1453 retain all powers and duties as granted to the state advisory  
1454 council appointed by the former Employment Security Commission.  
1455 The director \* \* \* may appoint local advisory councils, composed  
1456 in each case of an equal number of employer representatives and  
1457 employee representatives who may fairly be regarded as  
1458 representative because of their vocation, employment or  
1459 affiliations, and of such members representing the general public  
1460 as the director may designate. Such councils shall aid the  
1461 department in formulating policies and discussing problems related  
1462 to the administration of this chapter and in assuring impartiality  
1463 and freedom from political influence in the solution of such  
1464 problems. Members of the advisory councils shall receive a per  
1465 diem in accordance with Section 25-3-69 for attendance upon  
1466 meetings of the council, and shall be reimbursed for actual and  
1467 necessary traveling expenses. The per diem and expenses herein  
1468 authorized shall be paid from the Employment Security  
1469 Administration Fund.

1470           **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is  
1471 amended as follows:

1472           71-5-125. The department \* \* \* shall take all appropriate  
1473 steps to reduce and prevent unemployment; to encourage and assist  
1474 in the adoption of practical methods of vocational training,  
1475 retraining and vocational guidance; to investigate, recommend,  
1476 advise and assist in the establishment and operation, by  
1477 municipalities, counties, school districts and the state, of  
1478 reserves for public works to be used in times of business  
1479 depression and unemployment; to promote the reemployment of  
1480 unemployed workers throughout the state in every other way that  
1481 may be feasible; and to these ends to carry on and publish the  
1482 results of investigation and research studies.

1483           **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is  
1484 amended as follows:

1485           71-5-127. Each employing unit shall keep true and accurate  
1486 work records, containing such information as the department may  
1487 prescribe. Such records shall be open to inspection and be  
1488 subject to being copied by the department or its authorized  
1489 representatives at any reasonable time and as often as may be  
1490 necessary. The department, board of review and any referee may  
1491 require from any employing unit any sworn or unsworn reports with  
1492 respect to persons employed by it which they or any of them deem  
1493 necessary for the effective administration of this chapter.  
1494 Information thus obtained or obtained from any individual pursuant  
1495 to the administration of this chapter shall, except to the extent  
1496 necessary for the proper administration of this chapter, be held  
1497 confidential and shall not be published or be opened to public  
1498 inspection (other than to public employees in the performance of  
1499 their public duties) in any manner revealing the individual's or  
1500 employing unit's identity, but any claimant (or his legal  
1501 representative) at a hearing before an appeal tribunal or the  
1502 board of review shall be supplied with information from such  
1503 records to the extent necessary for the proper presentation of his  
1504 claim. Any employee or member of the board of review or any  
1505 employee of the department who violates any provisions of this  
1506 section shall be fined not less than Twenty Dollars (\$20.00) nor  
1507 more than Two Hundred Dollars (\$200.00), or imprisoned for not  
1508 longer than ninety (90) days, or both. The department may make  
1509 the state's records relating to the administration of this chapter  
1510 available to the Railroad Retirement Board, and may furnish the  
1511 Railroad Retirement Board, at the expense of such board, such  
1512 copies thereof as the railroad retirement board deems necessary  
1513 for its purposes. The department may afford reasonable

1514 cooperation with every agency of the United States charged with  
1515 the administration of any unemployment insurance law.

1516 **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is  
1517 amended as follows:

1518 71-5-129. Records hereinafter designated, which are found by  
1519 the department to be useless, may be disposed of in accordance  
1520 with approved records control schedules.

1521 (a) Records which have been preserved by it for not  
1522 less than three (3) years:

- 1523 (1) Initial claims for benefits,
- 1524 (2) Continued claims for benefits,
- 1525 (3) Correspondence and master index cards in  
1526 connection with such claims for benefits, and
- 1527 (4) Individual wage slips filed by employers  
1528 subject to the provisions of the Unemployment Compensation Law.

1529 (b) Records which have been preserved by it for not  
1530 less than six (6) months after becoming inactive:

- 1531 (1) Work applications,
- 1532 (2) Cross-index cards for work applications,
- 1533 (3) Test records,
- 1534 (4) Employer records,
- 1535 (5) Work orders,
- 1536 (6) Clearance records,
- 1537 (7) Counseling records,
- 1538 (8) Farm placement records, and
- 1539 (9) Correspondence relating to all such records.

1540 Nothing herein contained shall be construed as authorizing  
1541 the destruction or disposal of basic fiscal records reflecting the  
1542 financial operations of the said department and no records may be  
1543 destroyed without the approval of the Director of the Department  
1544 of Archives and History.



1545           **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is  
1546 amended as follows:

1547           71-5-131. All letters, reports, communications, or any other  
1548 matters, either oral or written, from the employer or employee to  
1549 each other or to the department or any of its agents,  
1550 representatives or employees, which shall have been written, sent,  
1551 delivered or made in connection with the requirements and  
1552 administration of this chapter shall be absolutely privileged and  
1553 shall not be made the subject matter or basis of any suit for  
1554 slander or libel in any court of the State of Mississippi unless  
1555 the same be false in fact and maliciously written, sent, delivered  
1556 or made for the purpose of causing a denial of benefits under this  
1557 chapter.

1558           **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is  
1559 amended as follows:

1560           71-5-133. In any case where an employing unit or any  
1561 officer, member or agent thereof, or any other person having  
1562 possession of the records thereof, shall fail or refuse upon  
1563 demand by the department or its duly appointed agents to produce  
1564 or permit the examination or copying of any book, paper, account,  
1565 record or other data pertaining to payrolls or employment or  
1566 ownership of interests or stock in any employing unit, or bearing  
1567 upon the correctness of any report, or for the purpose of making a  
1568 report as required by this chapter where none has been made, then  
1569 and in that event the department or its duly authorized agents  
1570 may, by the issuance of a subpoena, require the attendance of such  
1571 employing unit or any officer, member or agent thereof, or any  
1572 other person having possession of the records thereof, and take  
1573 testimony with respect to any such matter and may require any such  
1574 person to produce any books or records specified in such subpoena.  
1575 The department or its authorized agents at any such hearing shall  
1576 have power to administer oaths to any such person or persons.

1577 When any person called as a witness by a subpoena signed by the  
1578 department or its agents and served upon him by the sheriff of a  
1579 county of which such person is a resident, or wherein is located  
1580 the principal office of such employing unit or wherein such  
1581 records are located or kept, shall fail to obey such subpoena to  
1582 appear before the department or its authorized agent, or shall  
1583 refuse to testify or to answer any questions or to produce any  
1584 book, record, paper or other data when required to do so, such  
1585 failure or refusal shall be reported to the Attorney General, who  
1586 shall thereupon institute proceedings by the filing of a petition  
1587 in the name of the State of Mississippi, on the relation of the  
1588 department, in the circuit court or other court of competent  
1589 jurisdiction of the county where such witness resides, or wherein  
1590 such records are located or kept, to compel the obedience of such  
1591 witness. Such petition shall set forth the facts and  
1592 circumstances of the demand for and refusal or failure to permit  
1593 the examination or copying of such records, or the failure or  
1594 refusal of such witness to testify in answer to such subpoena or  
1595 to produce the records so required by such subpoena. Such court,  
1596 upon the filing and docketing of such petition, shall thereupon  
1597 promptly issue an order to the defendants named in said petition  
1598 to produce forthwith in such court, or at a place in such county  
1599 designated in such order for the examination or copying by the  
1600 department or its duly appointed agents, the records, books or  
1601 documents so described, and to testify concerning matters  
1602 described in such petition. Unless such defendants to such  
1603 petition shall appear in said court upon a day specified in such  
1604 order, which said day shall be not more than ten (10) days after  
1605 the date of issuance of such order, and offer, under oath, good  
1606 and sufficient reasons why such examination or copying should not  
1607 be permitted, or why such subpoena should not be obeyed, such  
1608 court shall thereupon deliver to the department or its agents, for

1609 examination or copying, the records, books and documents so  
1610 described in said petition and so produced in such court, and  
1611 shall order said defendants to appear in answer to the subpoena of  
1612 said department or its agents, and to testify concerning matters  
1613 inquired about by said department. Any employing unit or any  
1614 officer, member or agent thereof, or any other person having  
1615 possession of the records thereof, who shall willfully disobey  
1616 such order of the court after the same shall have been served upon  
1617 him shall be guilty of indirect contempt of such court from which  
1618 such order shall have issued, and may be adjudged in contempt of  
1619 said court and punished therefor as provided by law.

1620       **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is  
1621 amended as follows:

1622       71-5-135. If any employing unit fails to make any report  
1623 required by this chapter, the department or its authorized agents  
1624 shall give written notice by mail to such employing unit to make  
1625 and file such report within fifteen (15) days from the date of  
1626 such notice. If such employing unit, by its proper members,  
1627 officers or agents, shall fail or refuse to make and file such  
1628 reports within such time, then and in that event such report shall  
1629 be made by the department or its authorized agents from the best  
1630 information available, and the amount of contributions due shall  
1631 be computed thereon; and such report shall be prima facie correct  
1632 for the purposes of this chapter.

1633       **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is  
1634 amended as follows:

1635       71-5-137. In the discharge of the duties imposed by this  
1636 chapter, the department, any referee, the members of the board of  
1637 review, and any duly authorized representative of any of them  
1638 shall have power to administer oaths and affirmations, to take  
1639 depositions, certify to official acts, and issue subpoenas to  
1640 compel the attendance of witnesses and the production of books,

1641 papers, correspondence, memoranda and other records deemed  
1642 necessary as evidence in connection with a disputed claim or the  
1643 administration of this chapter.

1644       **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is  
1645 amended as follows:

1646       71-5-139. In case of contumacy or refusal to obey a subpoena  
1647 issued to any person, any court in this state within the  
1648 jurisdiction of which the inquiry is carried on, or within the  
1649 jurisdiction of which said person guilty of contumacy or refusal  
1650 to obey is found or resides or transacts business, upon  
1651 application by the department, the board of review, any referee,  
1652 or any duly authorized representative of any of them, shall have  
1653 jurisdiction to issue to such person an order requiring such  
1654 person to appear before the department, the Board of Review, any  
1655 referee, or any duly authorized representative of any of them,  
1656 there to produce evidence if so ordered or there to give testimony  
1657 touching the matter under investigation or in question. Any  
1658 failure to obey such order of the court may be punished by said  
1659 court as a contempt thereof. Any person who shall, without just  
1660 cause, fail or refuse to attend and testify or to answer any  
1661 lawful inquiry or to produce books, papers, correspondence,  
1662 memoranda and other records if it is in his power so to do, in  
1663 obedience to a subpoena of the department, the Board of Review,  
1664 any referee, or any duly authorized representative of any of them,  
1665 shall be punished by a fine of not more than Two Hundred Dollars  
1666 (\$200.00), or by imprisonment for not longer than sixty (60) days,  
1667 or by both such fine and imprisonment; and each day such violation  
1668 continues shall be deemed to be a separate offense.

1669       **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is  
1670 amended as follows:

1671       71-5-141. No person shall be excused from attending and  
1672 testifying or from producing books, papers, correspondence,

1673 memoranda and other records before the department, the Board of  
1674 Review, any referee, or any duly authorized representative of any  
1675 of them, or in obedience to the subpoena of any of them in any  
1676 cause or proceeding before the department, the Board of Review or  
1677 an appeal tribunal, on the ground that the testimony or evidence,  
1678 documentary or otherwise, required of him may tend to incriminate  
1679 him or subject him to a penalty or forfeiture; but no individual  
1680 shall be prosecuted or subjected to any penalty or forfeiture for  
1681 or on account of any transaction, matter or thing concerning which  
1682 he is compelled, after having claimed his privilege against  
1683 self-incrimination, to testify or produce evidence, documentary or  
1684 otherwise, except that such individual so testifying shall not be  
1685 exempt from prosecution and punishment for perjury committed in so  
1686 testifying.

1687         **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is  
1688 amended as follows:

1689         71-5-143. In the administration of this chapter, the  
1690 department shall cooperate, to the fullest extent consistent with  
1691 the provisions of this chapter, with the Social Security Board  
1692 created by the Social Security Act, approved August 14, 1935, as  
1693 amended; shall make such reports in such form and containing such  
1694 information as the Social Security Board may from time to time  
1695 require, and shall comply with such provisions as the Social  
1696 Security Board may from time to time find necessary to assure the  
1697 correctness and verification of such reports; and shall comply  
1698 with the reasonable, valid and lawful regulations prescribed by  
1699 the Social Security Board pursuant to and under the authority of  
1700 the Social Security Act, governing the expenditures of such sums  
1701 as may be allotted and paid to this state under Title III of the  
1702 Social Security Act, as amended, for the purpose of assisting in  
1703 the administration of this chapter.

1704           Upon request therefor, the department shall furnish to any  
1705 agency of the United States charged with the administration of  
1706 public works, or assistance through public employment, the name,  
1707 address, ordinary occupation and employment status of each  
1708 recipient of benefits, and such recipient's rights to further  
1709 benefits under this chapter.

1710           **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is  
1711 amended as follows:

1712           71-5-201. The Mississippi State Employment Service is hereby  
1713 established in the Mississippi Department of Employment Security,  
1714 Office of the Governor. The department, in the conduct of such  
1715 service, shall establish and maintain free public employment  
1716 offices in such number and in such places as may be necessary for  
1717 the proper administration of this article and for the purpose of  
1718 performing such functions as are within the purview of the act of  
1719 Congress entitled "An act to provide for the establishment of a  
1720 national employment system and for cooperation with the states in  
1721 the promotion of such system, and for other purposes" (29 USCS  
1722 Section 49 et seq). Any existing free public employment offices  
1723 maintained by the state but not heretofore under the jurisdiction  
1724 of the department shall be transferred to the jurisdiction of the  
1725 department, and upon such transfer all duties and powers conferred  
1726 upon any other department, agency or officers of this state  
1727 relating to the establishment, maintenance and operation of free  
1728 public employment offices shall be vested in the department. The  
1729 said Mississippi State Employment Service shall be administered by  
1730 the department, which is charged with the duty to cooperate with  
1731 any official or agency of the United States having powers or  
1732 duties under the provisions of the act of Congress, as amended,  
1733 and to do and perform all things necessary to secure to this state  
1734 the benefits of the said act of Congress, as amended, in the  
1735 promotion and maintenance of a system of public employment

1736 offices. The provisions of said act of Congress, as amended, are  
1737 hereby accepted by this state, in conformity with 29 USCS Section  
1738 49c, and this state will observe and comply with the requirements  
1739 thereof. The department is hereby designated and constituted the  
1740 agency of this state for the purposes of said act. The department  
1741 may cooperate with or enter into agreements with the Railroad  
1742 Retirement Board or veteran's organization with respect to the  
1743 establishment, maintenance and use of free employment service  
1744 facilities.

1745 **SECTION 34.** Section 71-5-357, Mississippi Code of 1972, is  
1746 amended as follows:

1747 71-5-357. Benefits paid to employees of nonprofit  
1748 organizations shall be financed in accordance with the provisions  
1749 of this section. For the purpose of this section, a nonprofit  
1750 organization is an organization (or group of organizations)  
1751 described in Section 501(c)(3) of the Internal Revenue Code of  
1752 1954 which is exempt from income tax under Section 501(a) of such  
1753 code (26 USCS Section 501).

1754 (a) Any nonprofit organization which, pursuant to  
1755 Section 71-5-11, subsection H(3), is or becomes subject to this  
1756 chapter shall pay contributions under the provisions of Sections  
1757 71-5-351 through 71-5-355 unless it elects, in accordance with  
1758 this paragraph, to pay to the department for the unemployment fund  
1759 an amount equal to the amount of regular benefits and one-half  
1760 (1/2) of the extended benefits paid, that is attributable to  
1761 service in the employ of such nonprofit organization, to  
1762 individuals for weeks of unemployment which begin during the  
1763 effective period of such election.

1764 (i) Any nonprofit organization which becomes  
1765 subject to this chapter may elect to become liable for payments in  
1766 lieu of contributions for a period of not less than twelve (12)  
1767 months, beginning with the date on which such subjectivity begins,

1768 by filing a written notice of its election with the department not  
1769 later than thirty (30) days immediately following the date of the  
1770 determination of such subjectivity.

1771 (ii) Any nonprofit organization which makes an  
1772 election in accordance with subparagraph (i) of this paragraph  
1773 will continue to be liable for payments in lieu of contributions  
1774 unless it files with the department a written termination notice  
1775 not later than thirty (30) days prior to the beginning of the tax  
1776 year for which such termination shall first be effective.

1777 (iii) Any nonprofit organization which has been  
1778 paying contributions under this chapter may change to a  
1779 reimbursable basis by filing with the department, not later than  
1780 thirty (30) days prior to the beginning of any tax year, a written  
1781 notice of election to become liable for payments in lieu of  
1782 contributions. Such election shall not be terminable by the  
1783 organization for that and the next tax year.

1784 (iv) The department may for good cause extend the  
1785 period within which a notice of election or a notice of  
1786 termination must be filed, and may permit an election to be  
1787 retroactive.

1788 (v) The department, in accordance with such  
1789 regulations as it may prescribe, shall notify each nonprofit  
1790 organization of any determination which it may make of its status  
1791 as an employer, of the effective date of any election which it  
1792 makes and of any termination of such election. Such  
1793 determinations shall be subject to reconsideration, appeal and  
1794 review in accordance with the provisions of Sections 71-5-351  
1795 through 71-5-355.

1796 (b) Payments in lieu of contributions shall be made in  
1797 accordance with the provisions of subparagraph (i) of this  
1798 paragraph.



1799 (i) At the end of each calendar quarter, or at the  
1800 end of any other period as determined by the department, the  
1801 department shall bill each nonprofit organization (or group of  
1802 such organizations) which has elected to make payments in lieu of  
1803 contributions, for an amount equal to the full amount of regular  
1804 benefits plus one-half (1/2) of the amount of extended benefits  
1805 paid during such quarter or other prescribed period that is  
1806 attributable to service in the employ of such organization.

1807 (ii) Payment of any bill rendered under  
1808 subparagraph (i) of this paragraph shall be made not later than  
1809 forty-five (45) days after such bill was mailed to the last known  
1810 address of the nonprofit organization or was otherwise delivered  
1811 to it, unless there has been an application for review and  
1812 redetermination in accordance with subparagraph (v) of this  
1813 paragraph.

1814 1. All of the enforcement procedures for the  
1815 collection of delinquent contributions contained in Sections  
1816 71-5-363 through 71-5-383 shall be applicable in all respects for  
1817 the collection of delinquent payments due by nonprofit  
1818 organizations who have elected to become liable for payments in  
1819 lieu of contributions.

1820 2. If any nonprofit organization is  
1821 delinquent in making payments in lieu of contributions, the  
1822 department may terminate such organization's election to make  
1823 payments in lieu of contributions as of the beginning of the next  
1824 tax year, and such termination shall be effective for the balance  
1825 of such tax year.

1826 (iii) Payments made by any nonprofit organization  
1827 under the provisions of this paragraph shall not be deducted or  
1828 deductible, in whole or in part, from the remuneration of  
1829 individuals in the employ of the organization.

1830                   (iv) Payments due by employers who elect to  
1831 reimburse the fund in lieu of contributions as provided in this  
1832 paragraph may not be noncharged under any condition. The  
1833 reimbursement must be on a dollar-for-dollar basis (One Dollar  
1834 (\$1.00) reimbursement for each dollar paid in benefits) in every  
1835 case, so that the trust fund shall be reimbursed in full, such  
1836 reimbursement to include, but not be limited to, benefits or  
1837 payments erroneously or incorrectly paid, or paid as a result of a  
1838 determination of eligibility which is subsequently reversed, or  
1839 paid as a result of claimant fraud. Provided that political  
1840 subdivisions who are reimbursing employers may elect to pay to the  
1841 fund an amount equal to five-tenths percent (.5%) of the taxable  
1842 wages paid during the calendar year with respect to employment,  
1843 and those employers who so elect shall be relieved of liability  
1844 for reimbursement of benefits paid under the same conditions that  
1845 benefits are not charged to the experience rating record of a  
1846 contributing employer as provided in Section 71-5-355(2)(b)(ii)  
1847 other than Clause 5 thereof. Benefits paid in such circumstances  
1848 for which reimbursing employers are relieved of liability for  
1849 reimbursement shall not be considered attributable to service in  
1850 the employment of such reimbursing employer.

1851                   (v) The amount due specified in any bill from the  
1852 department shall be conclusive on the organization unless, not  
1853 later than fifteen (15) days after the bill was mailed to its last  
1854 known address or otherwise delivered to it, the organization files  
1855 an application for redetermination by the department, setting  
1856 forth the grounds for such application or appeal. The department  
1857 shall promptly review and reconsider the amount due specified in  
1858 the bill and shall thereafter issue a redetermination in any case  
1859 in which such application for redetermination has been filed. Any  
1860 such redetermination shall be conclusive on the organization  
1861 unless, not later than fifteen (15) days after the redetermination

1862 was mailed to its last known address or otherwise delivered to it,  
1863 the organization files an appeal to the Circuit Court of the First  
1864 Judicial District of Hinds County, Mississippi, in accordance with  
1865 the provisions of law with respect to review of civil causes by  
1866 certiorari.

1867 (vi) Past due payments of amounts in lieu of  
1868 contributions shall be subject to the same interest and penalties  
1869 that, pursuant to Section 71-5-363, apply to past due  
1870 contributions.

1871 (c) Each employer that is liable for payments in lieu  
1872 of contributions shall pay to the department for the fund the  
1873 amount of regular benefits plus the amount of one-half (1/2) of  
1874 extended benefits paid are attributable to service in the employ  
1875 of such employer. If benefits paid to an individual are based on  
1876 wages paid by more than one (1) employer and one or more of such  
1877 employers are liable for payments in lieu of contributions, the  
1878 amount payable to the fund by each employer that is liable for  
1879 such payments shall be determined in accordance with the  
1880 provisions of subparagraph (i) or subparagraph (ii) of this  
1881 paragraph.

1882 (i) If benefits paid to an individual are based on  
1883 wages paid by one or more employers that are liable for payment in  
1884 lieu of contributions and on wages paid by one or more employers  
1885 who are liable for contributions, the amount of benefits payable  
1886 by each employer that is liable for payments in lieu of  
1887 contributions shall be an amount which bears the same ratio to the  
1888 total benefits paid to the individual as the total base-period  
1889 wages paid to the individual by such employer bear to the total  
1890 base-period wages paid to the individual by all of his base-period  
1891 employers.

1892 (ii) If benefits paid to an individual are based  
1893 on wages paid by two (2) or more employers that are liable for

1894 payments in lieu of contributions, the amount of benefits payable  
1895 by each such employer shall be an amount which bears the same  
1896 ratio to the total benefits paid to the individual as the total  
1897 base-period wages paid to the individual by such employer bear to  
1898 the total base-period wages paid to the individual by all of his  
1899 base-period employers.

1900 (d) In the discretion of the department, any nonprofit  
1901 organization that elects to become liable for payments in lieu of  
1902 contributions shall be required, within thirty (30) days after the  
1903 effective date of its election, to execute and file with the  
1904 department a surety bond approved by the department, or it may  
1905 elect instead to deposit with the department money or securities.  
1906 The amount of such bond or deposit shall be determined in  
1907 accordance with the provisions of this paragraph.

1908 (i) The amount of the bond or deposit required by  
1909 paragraph (d) shall be equal to two and seven-tenths percent  
1910 (2.7%) of the organization's taxable wages paid for employment as  
1911 defined in Section 71-5-11, subsection I(4), for the four (4)  
1912 calendar quarters immediately preceding the effective date of the  
1913 election, the renewal date in the case of a bond, or the biennial  
1914 anniversary of the effective date of election in the case of a  
1915 deposit of money or securities, whichever date shall be most  
1916 recent and applicable. If the nonprofit organization did not pay  
1917 wages in each of such four (4) calendar quarters, the amount of  
1918 the bond or deposit shall be as determined by the department.

1919 (ii) Any bond deposited under paragraph (d) shall  
1920 be in force for a period of not less than two (2) tax years and  
1921 shall be renewed with the approval of the department at such times  
1922 as the department may prescribe, but not less frequently than at  
1923 intervals of two (2) years as long as the organization continues  
1924 to be liable for payments in lieu of contributions. The  
1925 department shall require adjustments to be made in a previously

1926 filed bond as it deems appropriate. If the bond is to be  
1927 increased, the adjusted bond shall be filed by the organization  
1928 within thirty (30) days of the date notice of the required  
1929 adjustment was mailed or otherwise delivered to it. Failure by  
1930 any organization covered by such bond to pay the full amount of  
1931 payments in lieu of contributions when due, together with any  
1932 applicable interest and penalties provided in paragraph (b)(v) of  
1933 this section, shall render the surety liable on said bond to the  
1934 extent of the bond, as though the surety was such organization.

1935 (iii) Any deposit of money or securities in  
1936 accordance with paragraph (d) shall be retained by the department  
1937 in an escrow account until liability under the election is  
1938 terminated, at which time it shall be returned to the  
1939 organization, less any deductions as hereinafter provided. The  
1940 department may deduct from the money deposited under paragraph (d)  
1941 by a nonprofit organization, or sell the securities it has so  
1942 deposited, to the extent necessary to satisfy any due and unpaid  
1943 payments in lieu of contributions and any applicable interest and  
1944 penalties provided for in paragraph (b)(v) of this section. The  
1945 department shall require the organization, within thirty (30) days  
1946 following any deduction from a money deposit or sale of deposited  
1947 securities under the provisions hereof, to deposit sufficient  
1948 additional money or securities to make whole the organization's  
1949 deposit at the prior level. Any cash remaining from the sale of  
1950 such securities shall be a part of the organization's escrow  
1951 account. The department may, at any time, review the adequacy of  
1952 the deposit made by any organization. If, as a result of such  
1953 review, it determines that an adjustment is necessary, it shall  
1954 require the organization to make additional deposit within thirty  
1955 (30) days of written notice of its determination or shall return  
1956 to it such portion of the deposit as it no longer considers  
1957 necessary, whichever action is appropriate. Disposition of income

1958 from securities held in escrow shall be governed by the applicable  
1959 provisions of the state law.

1960 (iv) If any nonprofit organization fails to file a  
1961 bond or make a deposit, or to file a bond in an increased amount,  
1962 or to increase or make whole the amount of a previously made  
1963 deposit as provided under this subparagraph, the department may  
1964 terminate such organization's election to make payments in lieu of  
1965 contributions, and such termination shall continue for not less  
1966 than the four (4) consecutive calendar-quarter periods beginning  
1967 with the quarter in which such termination becomes effective;  
1968 provided, that the department may extend for good cause the  
1969 applicable filing, deposit or adjustment period by not more than  
1970 thirty (30) days.

1971 (v) Group account shall be established according  
1972 to regulations prescribed by the department.

1973 (e) Any employer which elects to make payments in lieu  
1974 of contributions into the Unemployment Compensation Fund as  
1975 provided in this paragraph shall not be liable to make such  
1976 payments with respect to the benefits paid to any individual whose  
1977 base-period wages include wages for previously uncovered services  
1978 as defined in Section 71-5-511(e) to the extent that the  
1979 Unemployment Compensation Fund is reimbursed for such benefits  
1980 pursuant to Section 121 of Public Law 94-566.

1981 **SECTION 35.** Section 71-5-359, Mississippi Code of 1972, is  
1982 amended as follows:

1983 71-5-359. (1) (a) Before January 1, 1978, each state board  
1984 or other instrumentality of this state or one or more other states  
1985 covered under Section 71-5-11, subsection H(3), shall pay  
1986 contributions under the provisions of Sections 71-5-351 through  
1987 71-5-355 for all of the hospitals or institutions of higher  
1988 learning under its jurisdiction unless it elects, in the same  
1989 manner and under the same conditions as provided for nonprofit

1990 organizations in subsections (a), (b) and (c) of Section 71-5-357,  
1991 to pay to the department for the unemployment fund an amount equal  
1992 to the regular benefits and one-half (1/2) of the extended  
1993 benefits paid that are attributable to service in the employ of  
1994 such hospitals or institutions. When an election is made, the  
1995 amounts required to be paid in lieu of contributions shall be  
1996 billed and payment made as provided in Section 71-5-357 with  
1997 respect to similar payments by nonprofit organizations. A state  
1998 board having jurisdiction over two (2) or more state-owned  
1999 hospitals or state-owned institutions of higher learning shall be  
2000 treated as a single employer for the employment in all of said  
2001 hospitals or institutions of higher learning for purposes of  
2002 computing contribution rates and payment of contributions, or for  
2003 purposes of reimbursing the fund, unless it elects, in accordance  
2004 with this section, to have one or more of said hospitals or  
2005 institutions of higher learning treated as a separate employer.

2006 (b) A state board may elect to have one or more  
2007 state-owned hospitals or one or more state-owned institutions of  
2008 higher learning under its jurisdiction treated as a separate  
2009 employer for the purposes of this section, provided it files with  
2010 the department, not later than thirty (30) days prior to the  
2011 beginning of any tax year, a written notice of such election. Any  
2012 such election shall be effective throughout such tax year, and  
2013 shall continue in effect unless the state board files with the  
2014 department a written notice of termination of such election not  
2015 less than thirty (30) days prior to the beginning of the tax year  
2016 for which such termination is to be effective.

2017 (2) (a) From January 1, 1978, through December 31, 1978,  
2018 the Commission of Budget and Accounting shall, in the manner  
2019 provided in subsection (2)(c) of this section, pay, upon warrant  
2020 issued by the State Auditor of Public Accounts, to the department  
2021 for the unemployment compensation fund an amount equal to the

2022 regular benefits and one-half (1/2) of the extended benefits paid  
2023 that are attributable to service in the employ of a state agency.  
2024 The amount required to be reimbursed by a certain agency shall be  
2025 billed to the Commission of Budget and Accounting and shall be  
2026 paid from the Employment Compensation Revolving Fund pursuant to  
2027 subsection (2)(c) of this section not later than thirty (30) days  
2028 after such bill was mailed, unless there has been an application  
2029 for review and redetermination in accordance with Section  
2030 71-5-357(b)(v).

2031 (b) The Department of Finance and Administration shall,  
2032 in the manner provided in subsection (2)(c) of this section, pay,  
2033 upon warrant issued by the State Auditor, or the successor to  
2034 these duties, to the department for the Unemployment Compensation  
2035 Fund an amount equal to the regular benefits and the extended  
2036 benefits paid that are attributable to service in the employ of a  
2037 state agency. The amount required to be reimbursed by a certain  
2038 agency shall be billed to the Department of Finance and  
2039 Administration and shall be paid from the Employment Compensation  
2040 Revolving Fund pursuant to subsection (2)(c) of this section not  
2041 later than thirty (30) days after such bill was mailed, unless  
2042 there has been an application for review and redetermination in  
2043 accordance with Section 71-5-357(b)(v).

2044 (c) Each agency of state government shall deposit  
2045 monthly for a period of twenty-four (24) months an amount equal to  
2046 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand  
2047 Dollars (\$6,000.00) paid to each employee thereof during the next  
2048 preceding year into the Employment Compensation Revolving Fund  
2049 hereby created in the State Treasury. The Department of Finance  
2050 and Administration shall determine the percentage to be applied to  
2051 the amount of covered wages paid in order to maintain a balance in  
2052 the revolving fund of not less than two percent (2%) of the  
2053 covered wages paid during the next preceding year. The State



2054 Treasurer shall invest all funds in the Employment Compensation  
2055 Revolving Fund and all interest earned shall be credited to the  
2056 Employment Compensation Revolving Fund.

2057         The reimbursement of benefits paid by the Mississippi  
2058 Employment Security Commission shall be paid by the Department of  
2059 Finance and Administration from the Employment Compensation  
2060 Revolving Fund upon warrants issued by the State Auditor of Public  
2061 Accounts, or the successor to these duties; and the said auditor  
2062 shall issue his warrants upon requisitions signed by the  
2063 Department of Finance and Administration. Provided, however, that  
2064 the Department of Finance and Administration may, if it so elects,  
2065 contract for the performance of the duties prescribed by  
2066 subsections (2)(b) and (c), and other duties necessarily related  
2067 thereto.

2068         (d) From January 1, 1978, through December 31, 1978,  
2069 any political subdivision of this state shall pay to the  
2070 department for the unemployment fund an amount equal to the  
2071 regular benefits and one-half (1/2) of the extended benefits paid  
2072 that are attributable to service in the employ of such political  
2073 subdivision unless it elects to make contributions to the  
2074 unemployment fund as provided in subsection (2)(j) of this  
2075 section. The amount required to be reimbursed shall be billed and  
2076 shall be paid as provided in Section 71-5-357, with respect to  
2077 similar payments for nonprofit organizations.

2078         (e) On and after January 1, 1979, any political  
2079 subdivision of this state shall pay to the department for the  
2080 unemployment fund an amount equal to the regular benefits and the  
2081 extended benefits paid that are attributable to service in the  
2082 employ of such political subdivision unless it elects to make  
2083 contributions to the unemployment fund as provided in subsection  
2084 (2)(j) of this section. The amount required to be reimbursed

2085 shall be billed and shall be paid as provided in Section 71-5-357,  
2086 with respect to similar payments for nonprofit organizations.

2087 (f) Each political subdivision unless it elects to make  
2088 contributions to the unemployment fund as provided in subsection  
2089 (2)(j) of this section, shall establish a revolving fund and  
2090 deposit therein monthly for a period of twenty-four (24) months an  
2091 amount equal to one-twelfth of one percent (1/12 of 1%) of the  
2092 first Six Thousand Dollars (\$6,000.00) paid to each employee  
2093 thereof during the next preceding year plus an amount each month  
2094 equal to one-third (1/3) of any reimbursement paid to the  
2095 department for the next preceding quarter. After January 1, 1980,  
2096 the balance in the revolving fund shall be maintained at an amount  
2097 not less than two percent (2%) of the covered wages paid during  
2098 the next preceding year. Provided, however, that the department  
2099 shall by regulation establish a procedure to allow reimbursing  
2100 political subdivisions to elect to maintain the balance in the  
2101 revolving fund as required under this paragraph or to annually  
2102 execute a surety bond to be approved by the department in an  
2103 amount not less than two percent (2%) of the covered wages paid  
2104 during the next preceding year.

2105 (g) In the event any political subdivision becomes  
2106 delinquent in payments due under this chapter, upon due notice,  
2107 and upon certification of the delinquency by the department to the  
2108 Department of Finance and Administration, the State Tax  
2109 Commission, the Department of Environmental Quality and the  
2110 Department of Insurance, or any of them, such agencies shall  
2111 direct the issuance of warrants which in the aggregate shall be  
2112 the amount of such delinquency payable to the department and drawn  
2113 upon any funds in the State Treasury which may be available to  
2114 such political subdivision in satisfaction of any such  
2115 delinquency. This remedy shall be in addition to any other  
2116 collection remedies in this chapter or otherwise provided by law.

2117 (h) Payments made by any political subdivision under  
2118 the provisions of this section shall not be deducted or  
2119 deductible, in whole or in part, from the remuneration of  
2120 individuals in the employ of the organization.

2121 (i) Any governmental entity shall not be liable to make  
2122 payments to the unemployment fund with respect to the benefits  
2123 paid to any individual whose base-period wages include wages for  
2124 previously uncovered services as defined in Section 71-5-511,  
2125 subsection (e), to the extent that the unemployment compensation  
2126 fund is reimbursed for such benefits pursuant to Section 121 of  
2127 Public Law 94-566.

2128 (j) Any political subdivision of this state may elect  
2129 to make contributions to the unemployment fund instead of making  
2130 reimbursement for benefits paid as provided in subsections (2)(d),  
2131 (e) and (f) of this section. A political subdivision which makes  
2132 this election shall so notify the department, not later than July  
2133 1, 1978; and shall be subject to the provisions of Section  
2134 71-5-351, with regard to the payment of contributions. A  
2135 political subdivision which makes this election shall pay  
2136 contributions equal to two percent (2%) of wages paid by it during  
2137 each calendar quarter it is subject to this chapter. The  
2138 department shall by regulation establish a procedure to allow  
2139 political subdivisions the option periodically to elect either the  
2140 reimbursement or the contribution method of financing unemployment  
2141 compensation coverage.

2142 **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is  
2143 amended as follows:

2144 71-5-451. There is hereby established as a special fund,  
2145 separate and apart from all public monies or funds of this state,  
2146 an Unemployment Compensation Fund, which shall be administered by  
2147 the department exclusively for:

2148 (a) All contributions collected under this chapter;

2149           (b) Interest earned upon any monies in the fund;  
2150           (c) Any property or securities acquired through the use  
2151 of monies belonging to the fund;  
2152           (d) All earnings of such property or securities;  
2153           (e) All monies credited to this state's account in the  
2154 Unemployment Trust Fund pursuant to the Social Security Act, 42  
2155 USCS, Section 1104; and  
2156           (f) By way of reimbursement in accordance with Section  
2157 204 of the Federal-State Extended Unemployment Compensation Act of  
2158 1970 (84 Stat. 711). All monies in the fund shall be mingled and  
2159 undivided.

2160           **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is  
2161 amended as follows:

2162           71-5-457. (1) Except as otherwise provided in subsection  
2163 (5), money credited to the account of this state in the  
2164 Unemployment Trust Fund by the Secretary of the Treasury of the  
2165 United States of America pursuant to the Social Security Act, 42  
2166 USCS Section 1103, may be requisitioned and used for the payment  
2167 of expenses incurred for the administration of this law pursuant  
2168 to a specific appropriation by the Legislature, provided that the  
2169 expenses are incurred and the money is requisitioned after the  
2170 enactment of an appropriation law which:

2171           (a) Specifies the purposes for which such money is  
2172 appropriated and the amounts appropriated therefor;

2173           (b) Limits the period within which such money may be  
2174 obligated to a period ending not more than two (2) years after the  
2175 date of the enactment of the appropriation law; and

2176           (c) Limits the amount which may be obligated during a  
2177 twelve-month period beginning on July 1 and ending on the next  
2178 June 30 to an amount which does not exceed the amount by which:

2179           (i) The aggregate of the amounts credited to the  
2180 account of this state pursuant to the Social Security Act, 42 USCS

2181 Section 1103, during the same twelve-month period and the  
2182 thirty-four (34) preceding twelve-month periods exceeds.

2183 (ii) The aggregate of the amounts obligated  
2184 pursuant to this section and charged against the amounts credited  
2185 to the account of this state during such thirty-five (35)  
2186 twelve-month periods.

2187 For the purposes of this section, amounts obligated during  
2188 any such twelve-month period shall be charged against equivalent  
2189 amounts which were first credited and which are not already so  
2190 charged; except that no amount obligated for administration during  
2191 any such twelve-month period may be charged against any amount  
2192 credited during such a twelve-month period earlier than the  
2193 thirty-fourth preceding such period.

2194 (2) Money credited to the account of this state pursuant to  
2195 the Social Security Act, 42 USCS Section 1103, may not be  
2196 withdrawn or used except for the payment of benefits and for the  
2197 payment of expenses for the administration of this law and of  
2198 public employment offices pursuant to this section.

2199 (3) Money appropriated as provided herein for the payment of  
2200 expenses of administration shall be requisitioned as needed for  
2201 the payment of obligations incurred under such appropriation and,  
2202 upon requisition, shall be deposited in the Employment Security  
2203 Administration Fund, from which such payments shall be made.  
2204 Money so deposited shall, until expended, remain a part of the  
2205 Unemployment Compensation Fund and, if it will not be expended,  
2206 shall be returned promptly to the account of this state in the  
2207 Unemployment Trust Fund.

2208 (4) The thirty-five-year limitation provided in this section  
2209 is no longer in force, effective October 1, 1991.

2210 (5) Notwithstanding subsection (1), monies credited with  
2211 respect to federal fiscal years 1999, 2000 and 2001 shall be used

2212 by the department solely for the administration of the  
2213 unemployment compensation program.

2214 **SECTION 38.** Section 71-5-511, Mississippi Code of 1972, is  
2215 amended as follows:

2216 71-5-511. An unemployed individual shall be eligible to  
2217 receive benefits with respect to any week only if the department  
2218 finds that:

2219 (a) (i) He has registered for work at and thereafter  
2220 has continued to report to an employment office in accordance with  
2221 such regulations as the department may prescribe; except that the  
2222 department may, by regulation, waive or alter either or both of  
2223 the requirements of this subparagraph as to such types of cases or  
2224 situations with respect to which it finds that compliance with  
2225 such requirements would be oppressive or would be inconsistent  
2226 with the purposes of this chapter; and

2227 (ii) He participates in reemployment services,  
2228 such as job search assistance services, if, in accordance with a  
2229 profiling system established by the department, it has been  
2230 determined that he is likely to exhaust regular benefits and needs  
2231 reemployment services, unless the department determines that:

2232 1. The individual has completed such  
2233 services; or

2234 2. There is justifiable cause for the  
2235 claimant's failure to participate in such services.

2236 (b) He has made a claim for benefits in accordance with  
2237 the provisions of Section 71-5-515 and in accordance with such  
2238 regulations as the department may prescribe thereunder.

2239 (c) He is able to work and is available for work.

2240 (d) He has been unemployed for a waiting period of one  
2241 (1) week. No week shall be counted as a week of unemployment for  
2242 the purposes of this subsection:

2243 (i) Unless it occurs within the benefit year which  
2244 includes the week with respect to which he claims payment of  
2245 benefits;

2246 (ii) If benefits have been paid with respect  
2247 thereto;

2248 (iii) Unless the individual was eligible for  
2249 benefits with respect thereto, as provided in Sections 71-5-511  
2250 and 71-5-513, except for the requirements of this subsection.

2251 (e) For weeks beginning on or before July 1, 1982, he  
2252 has, during his base period, been paid wages for insured work  
2253 equal to not less than thirty-six (36) times his weekly benefit  
2254 amount; he has been paid wages for insured work during at least  
2255 two (2) quarters of his base period; and he has, during that  
2256 quarter of his base period in which his total wages were highest,  
2257 been paid wages for insured work equal to not less than sixteen  
2258 (16) times the minimum weekly benefit amount. For benefit years  
2259 beginning after July 1, 1982, he has, during his base period, been  
2260 paid wages for insured work equal to not less than forty (40)  
2261 times his weekly benefit amount; he has been paid wages for  
2262 insured work during at least two (2) quarters of his base period,  
2263 and he has, during that quarter of his base period in which his  
2264 total wages were highest, been paid wages for insured work equal  
2265 to not less than twenty-six (26) times the minimum weekly benefit  
2266 amount. For purposes of this subsection, wages shall be counted  
2267 as "wages for insured work" for benefit purposes with respect to  
2268 any benefit year only if such benefit year begins subsequent to  
2269 the date on which the employing unit by which such wages were paid  
2270 has satisfied the conditions of Section 71-5-11, subsection H, or  
2271 Section 71-5-361, subsection (3), with respect to becoming an  
2272 employer.

2273 (f) No individual may receive benefits in a benefit  
2274 year unless, subsequent to the beginning of the next preceding

2275 benefit year during which he received benefits, he performed  
2276 service in "employment" as defined in Section 71-5-11, subsection  
2277 I, and earned remuneration for such service in an amount equal to  
2278 not less than eight (8) times his weekly benefit amount applicable  
2279 to his said next preceding benefit year.

2280 (g) Benefits based on service in employment defined in  
2281 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,  
2282 subsection (4) shall be payable in the same amount, on the same  
2283 terms, and subject to the same conditions as compensation payable  
2284 on the basis of other service subject to this chapter, except that  
2285 benefits based on service in an instructional, research or  
2286 principal administrative capacity in an institution of higher  
2287 learning (as defined in Section 71-5-11, subsection M) with  
2288 respect to service performed prior to January 1, 1978, shall not  
2289 be paid to an individual for any week of unemployment which begins  
2290 during the period between two (2) successive academic years, or  
2291 during a similar period between two (2) regular terms, whether or  
2292 not successive, or during a period of paid sabbatical leave  
2293 provided for in the individual's contract, if the individual has a  
2294 contract or contracts to perform services in any such capacity for  
2295 any institution or institutions of higher learning for both such  
2296 academic years or both such terms.

2297 (h) Benefits based on service in employment defined in  
2298 Section 71-5-11, subsection I(3) and (4), shall be payable in the  
2299 same amount, on the same terms and subject to the same conditions  
2300 as compensation payable on the basis of other service subject to  
2301 this chapter; except that:

2302 (i) With respect to service performed in an  
2303 instructional, research or principal administrative capacity for  
2304 an educational institution, benefits shall not be paid based on  
2305 such services for any week of unemployment commencing during the  
2306 period between two (2) successive academic years, or during a



2307 similar period between two (2) regular but not successive terms,  
2308 or during a period of paid sabbatical leave provided for in the  
2309 individual's contract, to any individual, if such individual  
2310 performs such services in the first of such academic years or  
2311 terms and if there is a contract or a reasonable assurance that  
2312 such individual will perform services in any such capacity for any  
2313 educational institution in the second of such academic years or  
2314 terms, and provided that Section 71-5-511, subsection (g), shall  
2315 apply with respect to such services prior to January 1, 1978. In  
2316 no event shall benefits be paid unless the individual employee was  
2317 terminated by the employer.

2318 (ii) With respect to services performed in any  
2319 other capacity for an educational institution, benefits shall not  
2320 be paid on the basis of such services to any individual for any  
2321 week which commences during a period between two (2) successive  
2322 academic years or terms, if such individual performs such services  
2323 in the first of such academic years or terms and there is a  
2324 reasonable assurance that such individual will perform such  
2325 services in the second of such academic years or terms, except  
2326 that if compensation is denied to any individual under this  
2327 subparagraph and such individual was not offered an opportunity to  
2328 perform such services for the educational institution for the  
2329 second of such academic years or terms, such individual shall be  
2330 entitled to a retroactive payment of compensation for each week  
2331 for which the individual filed a timely claim for compensation and  
2332 for which compensation was denied solely by reason of this clause.  
2333 In no event shall benefits be paid unless the individual employee  
2334 was terminated by the employer.

2335 (iii) With respect to services described in  
2336 subsection (h)(i) and (ii), benefits shall not be payable on the  
2337 basis of services in any such capacities to any individual for any  
2338 week which commences during an established and customary vacation

2339 period or holiday recess if such individual performs such services  
2340 in the first of such academic years or terms, or in the period  
2341 immediately before such vacation period or holiday recess, and  
2342 there is a reasonable assurance that such individual will perform  
2343 such services in the period immediately following such vacation  
2344 period or holiday recess.

2345 (iv) With respect to any services described in  
2346 subsection (h)(i) and (ii), benefits shall not be payable on the  
2347 basis of services in any such capacities as specified in  
2348 subsection (h)(i), (ii) and (iii) to any individual who performed  
2349 such services in an educational institution while in the employ of  
2350 an educational service agency. For purposes of this subsection,  
2351 the term "educational service agency" means a governmental agency  
2352 or governmental entity which is established and operated  
2353 exclusively for the purpose of providing such services to one or  
2354 more educational institutions.

2355 (v) With respect to services to which Sections  
2356 71-5-357 and 71-5-359 apply, if such services are provided to or  
2357 on behalf of an educational institution, benefits shall not be  
2358 payable under the same circumstances and subject to the same terms  
2359 and conditions as described in subsection (h)(i), (ii), (iii) and  
2360 (iv).

2361 (i) Subsequent to December 31, 1977, benefits shall not  
2362 be paid to any individual on the basis of any services  
2363 substantially all of which consist of participating in sports or  
2364 athletic events or training or preparing to so participate, for  
2365 any week which commences during the period between two (2)  
2366 successive sports seasons (or similar periods) if such individual  
2367 performs such services in the first of such seasons (or similar  
2368 periods) and there is a reasonable assurance that such individual  
2369 will perform such services in the later of such seasons (or  
2370 similar periods).

2371           (j) (i) Subsequent to December 31, 1977, benefits  
2372 shall not be payable on the basis of services performed by an  
2373 alien, unless such alien is an individual who was lawfully  
2374 admitted for permanent residence at the time such services were  
2375 performed, was lawfully present for purposes of performing such  
2376 services, or was permanently residing in the United States under  
2377 color of law at the time such services were performed (including  
2378 an alien who was lawfully present in the United States as a result  
2379 of the application of the provisions of Section 203(a)(7) or  
2380 Section 212(d)(5) of the Immigration and Nationality Act).

2381           (ii) Any data or information required of  
2382 individuals applying for benefits to determine whether benefits  
2383 are not payable to them because of their alien status shall be  
2384 uniformly required from all applicants for benefits.

2385           (iii) In the case of an individual whose  
2386 application for benefits would otherwise be approved, no  
2387 determination that benefits to such individual are not payable  
2388 because of his alien status shall be made, except upon a  
2389 preponderance of the evidence.

2390           (k) An individual shall be deemed prima facie  
2391 unavailable for work, and therefore ineligible to receive  
2392 benefits, during any period which, with respect to his employment  
2393 status, is found by the department to be a holiday or vacation  
2394 period.

2395           **SECTION 39.** Section 71-5-513, Mississippi Code of 1972, is  
2396 amended as follows:

2397           71-5-513. A. An individual shall be disqualified for  
2398 benefits:

2399           (1) (a) For the week, or fraction thereof, which  
2400 immediately follows the day on which he left work voluntarily  
2401 without good cause, if so found by the department, and for each  
2402 week thereafter until he has earned remuneration for personal

2403 services performed for an employer, as in this chapter defined,  
2404 equal to not less than eight (8) times his weekly benefit amount,  
2405 as determined in each case, provided that marital, filial and  
2406 domestic circumstances and obligations shall not be deemed good  
2407 cause within the meaning of this subsection. Pregnancy shall not  
2408 be deemed to be a marital, filial or domestic circumstance for the  
2409 purpose of this subsection.

2410 (b) For the week, or fraction thereof, which  
2411 immediately follows the day on which he was discharged for  
2412 misconduct connected with his work, if so found by the department,  
2413 and for each week thereafter until he has earned remuneration for  
2414 personal services performed for an employer, as in this chapter  
2415 defined, equal to not less than eight (8) times his weekly benefit  
2416 amount, as determined in each case.

2417 (c) The burden of proof of good cause for leaving  
2418 work shall be on the claimant, and the burden of proof of  
2419 misconduct shall be on the employer.

2420 (2) For the week, or fraction thereof, with respect to  
2421 which he willfully makes a false statement, a false representation  
2422 of fact, or willfully fails to disclose a material fact for the  
2423 purpose of obtaining or increasing benefits under the provisions  
2424 of this law, if so found by the department, and such individual's  
2425 maximum benefit allowance shall be reduced by the amount of  
2426 benefits so paid to him during any such week of disqualification;  
2427 and additional disqualification shall be imposed for a period not  
2428 exceeding fifty-two (52) weeks, the length of such period of  
2429 disqualification and the time when such period begins to be  
2430 determined by the department, in its discretion, according to the  
2431 circumstances in each case.

2432 (3) If the department finds that he has failed, without  
2433 good cause, either to apply for available suitable work when so  
2434 directed by the employment office or the department, to accept

2435 suitable work when offered him, or to return to his customary  
2436 self-employment (if any) when so directed by the department, such  
2437 disqualification shall continue for the week in which such failure  
2438 occurred and for not more than the twelve (12) weeks which  
2439 immediately follow such week, as determined by the department  
2440 according to the circumstances in each case.

2441 (a) In determining whether or not any work is  
2442 suitable for an individual, the department shall consider among  
2443 other factors the degree of risk involved to his health, safety  
2444 and morals, his physical fitness and prior training, his  
2445 experience and prior earnings, his length of unemployment and  
2446 prospects for securing local work in his customary occupation, and  
2447 the distance of the available work from his residence; provided,  
2448 however, that offered employment paying the minimum wage or  
2449 higher, if such minimum or higher wage is that prevailing for his  
2450 customary occupation or similar work in the locality, shall be  
2451 deemed to be suitable employment after benefits have been paid to  
2452 the individual for a period of eight (8) weeks.

2453 (b) Notwithstanding any other provisions of this  
2454 chapter, no work shall be deemed suitable and benefits shall not  
2455 be denied under this chapter to any otherwise eligible individual  
2456 for refusing to accept new work under any of the following  
2457 conditions:

2458 (i) If the position offered is vacant due  
2459 directly to a strike, lockout or other labor dispute;

2460 (ii) If the wages, hours or other conditions  
2461 of the work offered are substantially less favorable to the  
2462 individual than those prevailing for similar work in the locality;

2463 (iii) If as a condition of being employed the  
2464 individual would be required to join a company union or to resign  
2465 from or refrain from joining any bona fide labor organization.

2466           (4) For any week with respect to which the department  
2467 finds that his total unemployment is due to a stoppage of work  
2468 which exists because of a labor dispute at a factory,  
2469 establishment or other premises at which he is or was last  
2470 employed; provided, that this subsection shall not apply if it is  
2471 shown to the satisfaction of the department:

2472                   (a) He is unemployed due to a stoppage of work  
2473 occasioned by an unjustified lockout, provided such lockout was  
2474 not occasioned or brought about by such individual acting alone or  
2475 with other workers in concert; or

2476                   (b) He is not participating in or directly  
2477 interested in the labor dispute which caused the stoppage of work;  
2478 and

2479                   (c) He does not belong to a grade or class of  
2480 workers of which, immediately before the commencement of stoppage,  
2481 there were members employed at the premises at which the stoppage  
2482 occurs, any of whom are participating in or directly interested in  
2483 the dispute.

2484           Provided, that if in any case separate branches of work which  
2485 are commonly conducted as separate businesses in separate premises  
2486 are conducted in separate departments of the same premises, each  
2487 such department shall, for the purposes of this subsection, be  
2488 deemed to be a separate factory, establishment or other premises.

2489           (5) For any week with respect to which he has received  
2490 or is seeking unemployment compensation under an unemployment  
2491 compensation law of another state or of the United States.

2492           Provided, that if the appropriate agency of such other state or of  
2493 the United States finally determines that he is not entitled to  
2494 such unemployment compensation benefits, this disqualification  
2495 shall not apply. Nothing in this subsection contained shall be  
2496 construed to include within its terms any law of the United States

2497 providing unemployment compensation or allowances for honorably  
2498 discharged members of the Armed Forces.

2499           (6) For any week with respect to which he is receiving  
2500 or has received remuneration in the form of payments under any  
2501 governmental or private retirement or pension plan, system or  
2502 policy which a base-period employer is maintaining or contributing  
2503 to or has maintained or contributed to on behalf of the  
2504 individual; provided, that if the amount payable with respect to  
2505 any week is less than the benefits which would otherwise be due  
2506 under Section 71-5-501, he shall be entitled to receive for such  
2507 week, if otherwise eligible, benefits reduced by the amount of  
2508 such remuneration. However, on or after the first Sunday  
2509 immediately following July 1, 2001, no social security payments,  
2510 to which the employee has made contributions, shall be deducted  
2511 from unemployment benefits paid for any period of unemployment  
2512 beginning on or after the first Sunday following July 1, 2001.  
2513 This one hundred percent (100%) exclusion shall not apply to any  
2514 other governmental or private retirement or pension plan, system  
2515 or policy. If benefits payable under this section, after being  
2516 reduced by the amount of such remuneration, are not a multiple of  
2517 One Dollar (\$1.00), they shall be adjusted to the next lower  
2518 multiple of One Dollar (\$1.00).

2519           (7) For any week with respect to which he is receiving  
2520 or has received remuneration in the form of a back pay award, or  
2521 other compensation allocable to any week, whether by settlement or  
2522 otherwise. Any benefits previously paid for weeks of unemployment  
2523 with respect to which back pay awards, or other such compensation,  
2524 are made shall constitute an overpayment and such amounts shall be  
2525 deducted from the award by the employer prior to payment to the  
2526 employee, and shall be transmitted promptly to the department by  
2527 the employer for application against the overpayment and credit to  
2528 the claimant's maximum benefit amount and prompt deposit into the

2529 fund; provided, however, the removal of any charges made against  
2530 the employer as a result of such previously paid benefits shall be  
2531 applied to the calendar year and the calendar quarter in which the  
2532 overpayment is transmitted to the department, and no attempt shall  
2533 be made to relate such a credit to the period to which the award  
2534 applies. Any amount of overpayment so deducted by the employer  
2535 and not transmitted to the department shall be subject to the same  
2536 procedures for collection as is provided for contributions by  
2537 Sections 71-5-363 through 71-5-381. Any amount of overpayment not  
2538 deducted by the employer shall be established as an overpayment  
2539 against the claimant and collected as provided above. It is the  
2540 purpose of this paragraph to assure equity in the situations to  
2541 which it applies, and it shall be construed accordingly.

2542 B. Notwithstanding any other provision in this chapter, no  
2543 otherwise eligible individual shall be denied benefits for any  
2544 week because he is in training with the approval of the  
2545 department; nor shall such individual be denied benefits with  
2546 respect to any week in which he is in training with the approval  
2547 of the department by reason of the application of provisions in  
2548 Section 71-5-511, subsection (c), relating to availability for  
2549 work, or the provisions of subsection A(3) of this section,  
2550 relating to failure to apply for, or a refusal to accept, suitable  
2551 work.

2552 C. Notwithstanding any other provisions of this chapter, no  
2553 otherwise eligible individual shall be denied benefits for any  
2554 week because he or she is in training approved under Section  
2555 236(a)(1) of the Trade Act of 1974, nor shall such individual be  
2556 denied benefits by reason of leaving work to enter such training,  
2557 provided the work left is not suitable employment, or because of  
2558 the application to any such week in training of provisions in this  
2559 law (or any applicable federal unemployment compensation law),



2560 relating to availability for work, active search for work or  
2561 refusal to accept work.

2562 For purposes of this section, the term "suitable employment"  
2563 means with respect to an individual, work of a substantially equal  
2564 or higher skill level than the individual's past adversely  
2565 affected employment (as defined for purposes of the Trade Act of  
2566 1974), and wages for such work at not less than eighty percent  
2567 (80%) of the individual's average weekly wage as determined for  
2568 the purposes of the Trade Act of 1974.

2569 **SECTION 40.** Section 71-5-517, Mississippi Code of 1972, is  
2570 amended as follows:

2571 71-5-517. An examiner designated by the department shall  
2572 take the claim. An initial determination thereon shall be made  
2573 promptly and shall include a determination with respect to whether  
2574 or not benefits are payable, the week with respect to which  
2575 benefits shall commence, the weekly benefit amount payable and the  
2576 maximum duration of benefits. In any case in which the payment or  
2577 denial of benefits will be determined by the provisions of  
2578 subsection A(4) of Section 71-5-513, the examiner shall promptly  
2579 transmit all the evidence with respect to that subsection to the  
2580 department, which, on the basis of evidence so submitted and such  
2581 additional evidence as it may require, shall make an initial  
2582 determination with respect thereto. An initial determination may  
2583 for good cause be reconsidered. The claimant, his most recent  
2584 employing unit and all employers whose experience-rating record  
2585 would be charged with benefits pursuant to such determination  
2586 shall be promptly notified of such initial determination or any  
2587 amended initial determination and the reason therefor. Benefits  
2588 shall be denied or, if the claimant is otherwise eligible,  
2589 promptly paid in accordance with the initial determination or  
2590 amended initial determination. The jurisdiction of the department  
2591 over benefit claims which have not been appealed shall be

2592 continuous. The claimant or any party to the initial  
2593 determination or amended initial determination may file an appeal  
2594 from such initial determination or amended initial determination  
2595 within fourteen (14) days after notification thereof, or after the  
2596 date such notification was mailed to his last known address.

2597 Notwithstanding any other provision of this section, benefits  
2598 shall be paid promptly in accordance with a determination or  
2599 redetermination, or the decision of an appeal tribunal, the board  
2600 of review or a reviewing court upon the issuance of such  
2601 determination, redetermination or decision in favor of the  
2602 claimant (regardless of the pendency of the period to apply for  
2603 reconsideration, file an appeal, or petition for judicial review,  
2604 as the case may be, or the pendency of any such application,  
2605 filing or petition), unless and until such determination,  
2606 redetermination or decision has been modified or reversed by a  
2607 subsequent redetermination or decision, in which event benefits  
2608 shall be paid or denied in accordance with such modifying or  
2609 reversing redetermination or decision. Any benefits finally  
2610 determined to have been erroneously paid shall be set up as an  
2611 overpayment to the claimant and must be liquidated before any  
2612 future benefits can be paid to the claimant. If, subsequent to  
2613 such initial determination or amended initial determination,  
2614 benefits with respect to any week for which a claim has been filed  
2615 are denied for reasons other than matters included in the initial  
2616 determination or amended initial determination, the claimant shall  
2617 be promptly notified of the denial and the reason therefor and may  
2618 appeal therefrom in accordance with the procedure herein described  
2619 for appeals from initial determination or amended initial  
2620 determination.

2621 **SECTION 41.** Section 71-5-519, Mississippi Code of 1972, is  
2622 amended as follows:

2623           71-5-519. Unless such appeal is withdrawn, an appeal  
2624 tribunal appointed by the director, after affording the parties  
2625 reasonable opportunity for fair hearing, shall affirm, modify or  
2626 reverse the findings of fact and initial determination or amended  
2627 initial determination. The parties shall be duly notified of such  
2628 tribunal's decision, together with its reasons therefor, which  
2629 shall be deemed to be the final decision of the Executive Director  
2630 of the Department of Employment Security unless, within fourteen  
2631 (14) days after the date of notification or mailing of such  
2632 decision, further appeal is initiated pursuant to Section  
2633 71-5-523.

2634           **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is  
2635 amended as follows:

2636           71-5-523. The executive director may on his own motion  
2637 affirm, modify or set aside any decision of an appeal tribunal on  
2638 the basis of the evidence previously submitted in such case, or  
2639 direct the taking of additional evidence, or may permit any of the  
2640 parties to such decision to initiate further appeals before it.  
2641 The executive director shall permit such further appeal by any of  
2642 the parties to a decision of an appeal tribunal which is not  
2643 unanimous, and by the examiner whose decision has been overruled  
2644 or modified by an appeal tribunal. The executive director may  
2645 remove to himself or transfer to another appeal tribunal the  
2646 proceedings on any claim pending before an appeal tribunal. Any  
2647 proceedings so removed to the executive director shall be  
2648 heard \* \* \* in accordance with the requirements of Section  
2649 71-5-519 and within fifteen (15) days after notice of appeal has  
2650 been received by the director. No notice of appeal shall be  
2651 deemed to be received by the said director, within the meaning of  
2652 this section, until all prior appeals pending before the board of  
2653 review have been heard. The director shall, within four (4) days

2654 after his decision, so notify the parties to any proceeding of his  
2655 findings and decision. \* \* \*

2656 **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is  
2657 amended as follows:

2658 71-5-525. The manner in which appealed claims shall be  
2659 presented and the conduct of hearings and appeals shall be in  
2660 accordance with regulations prescribed by the Executive Director  
2661 of the Department of Employment Security for determining the  
2662 rights of the parties, whether or not such regulations conform to  
2663 common law or statutory rules of evidence and other technical  
2664 rules of procedure. A full and complete record shall be kept of  
2665 all proceedings in connection with an appealed claim. The  
2666 department's entire file relative to the appealed claim shall be a  
2667 part of such record and shall be considered as evidence. All  
2668 testimony at any hearing upon an appealed claim shall be recorded,  
2669 but need not be transcribed unless the claim is further appealed.

2670 **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is  
2671 amended as follows:

2672 71-5-529. Any decision of the Executive Director of the  
2673 Department of Employment Security, in the absence of an appeal  
2674 therefrom as herein provided, shall become final ten (10) days  
2675 after the date of notification or mailing thereof; and judicial  
2676 review thereof shall be permitted only after any party claiming to  
2677 be aggrieved thereby has exhausted his administrative remedies as  
2678 provided by this chapter. The department shall be deemed to be a  
2679 party to any judicial action involving any such decision, and may  
2680 be represented in any such judicial action by any qualified  
2681 attorney employed by the department and designated by it for that  
2682 purpose or, at the department's request, by the Attorney General.

2683 **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is  
2684 amended as follows:

2685           71-5-531. Within ten (10) days after the decision of the  
2686 Executive Director of the Department of Employment Security has  
2687 become final, any party aggrieved thereby may secure judicial  
2688 review thereof by commencing an action, in the circuit court of  
2689 the county in which the plaintiff resides, against the department  
2690 for the review of such decision, in which action any other party  
2691 to the proceeding before the executive director shall be made a  
2692 defendant. In cases wherein the plaintiff is not a resident of  
2693 the State of Mississippi, such action may be filed in the circuit  
2694 court of the county in which the employer resides, the county in  
2695 which the cause of action arose, or in the county of employment.  
2696 In such action, a petition which need not be verified, but which  
2697 shall state the grounds upon which a review is sought, shall be  
2698 served upon the department or upon such person as the department  
2699 may designate, and such service shall be deemed completed service  
2700 on all parties; but there shall be left with the party so served  
2701 as many copies of the petition as there are defendants, and the  
2702 department shall forthwith mail one (1) such copy to each such  
2703 defendant. With its answer, the department shall certify and file  
2704 with said court all documents and papers and a transcript of all  
2705 testimony taken in the matter, together with the executive  
2706 director's findings of fact and decision therein. The department  
2707 may also, in its discretion, certify to such court questions of  
2708 law involved in any decision. In any judicial proceedings under  
2709 this section, the findings of the executive director as to the  
2710 facts, if supported by evidence and in the absence of fraud, shall  
2711 be conclusive, and the jurisdiction of said court shall be  
2712 confined to questions of law. Such actions, and the questions so  
2713 certified, shall be heard in a summary manner and shall be given  
2714 precedence over all other civil cases. An appeal may be taken  
2715 from the decision of the circuit court of the county in which the  
2716 plaintiff resides to the Supreme Court of Mississippi, in the same

2717 manner, but not inconsistent with the provisions of this chapter,  
2718 as is provided in civil cases. It shall not be necessary, in any  
2719 judicial proceeding under this section, to enter exceptions to the  
2720 rulings of the Board of Review, and no bond shall be required for  
2721 entering such appeal. Upon the final determination of such  
2722 judicial proceeding, the executive director shall enter an order  
2723 in accordance with such determination. A petition for judicial  
2724 review shall not act as a supersedeas or stay unless the executive  
2725 director shall so order.

2726         **SECTION 46.** Section 71-5-541, Mississippi Code of 1972, is  
2727 amended as follows:

2728         71-5-541. A. (1) In the administration of this chapter,  
2729 the department shall cooperate with the Department of Labor to the  
2730 fullest extent consistent with the provisions of this chapter and  
2731 shall take such action, through the adoption of appropriate rules,  
2732 regulations, administrative methods and standards, as may be  
2733 necessary to secure to this state and its citizens all advantages  
2734 available under the provisions of the Social Security Act that  
2735 relate to unemployment compensation, the Federal Unemployment Tax  
2736 Act, the Wagner-Peyser Act and the Federal-State Extended  
2737 Unemployment Compensation Act of 1970, all as amended.

2738         (2) In the administration of the provisions of this  
2739 section, which are enacted to conform with the requirements of the  
2740 Federal-State Extended Unemployment Compensation Act of 1970, as  
2741 amended, the department shall take such actions as may be  
2742 necessary:

2743                 (a) To ensure that the provisions are so  
2744 interpreted and applied as to meet the requirements of such  
2745 federal act as interpreted by the U.S. Department of Labor; and

2746                 (b) To secure to this state the full reimbursement  
2747 of the federal share of extended benefits paid under this chapter  
2748 that are reimbursable under the federal act; and also

2749                   (c) To limit the amount of extended benefits paid  
2750 as may be necessary so that the reimbursement of the federal share  
2751 of extended benefits paid shall remain at one-half (1/2) of the  
2752 total extended benefits paid.

2753           B. As used in this section, unless the context clearly  
2754 requires otherwise:

2755                   (1) "Extended benefit period" means a period which:

2756                           (a) Begins with the third week after a week for  
2757 which there is a state "on" indicator; and

2758                           (b) Ends with either of the following weeks,  
2759 whichever occurs later:

2760                                   (i) The third week after the first week for  
2761 which there is a state "off" indicator; or

2762                                   (ii) The thirteenth consecutive week of such  
2763 period.

2764           No extended benefit period may begin by reason of a state  
2765 "on" indicator before the fourteenth week following the end of a  
2766 prior extended benefit period which was in effect with respect to  
2767 this state.

2768                   (2) For weeks beginning after September 25, 1982, there  
2769 is a "state 'on' indicator" for a week if the rate of insured  
2770 unemployment under this chapter for the period consisting of such  
2771 week and the immediately preceding twelve (12) weeks:

2772                           (a) Equalled or exceeded one hundred twenty percent  
2773 (120%) of the average of such rates for the corresponding period  
2774 of thirteen (13) weeks ending in each of the preceding two (2)  
2775 calendar years; and

2776                           (b) Equalled or exceeded five percent (5%).

2777           Provided that the determination of whether there has been a  
2778 state "on" or "off" indicator beginning or ending any extended  
2779 benefit period shall be made under this subsection as if (i)  
2780 paragraph (2) did not contain subparagraph (a) thereof, and (ii)

2781 the figure "5" contained in subparagraph (b) thereof were "6";  
2782 except that, notwithstanding any such provision of this  
2783 subsection, any week for which there would otherwise be a "state  
2784 'on' indicator" shall continue to be such week and shall not be  
2785 determined to be a week for which there is a "state 'off'  
2786 indicator."

2787 (3) There is a "state 'off' indicator" for a week if,  
2788 for the period consisting of such week and the immediately  
2789 preceding twelve (12) weeks, either subparagraph (a) or (b) of  
2790 paragraph (2) was not satisfied.

2791 (4) "Rate of insured unemployment," for purposes of  
2792 paragraphs (2) and (3) of this subsection, means the percentage  
2793 derived by dividing:

2794 (a) The average number of continued weeks claimed  
2795 for regular state compensation in this state for weeks of  
2796 unemployment with respect to the most recent period of thirteen  
2797 (13) consecutive weeks, as determined by the department on the  
2798 basis of its reports to the U.S. Secretary of Labor; by

2799 (b) The average monthly employment covered under  
2800 this chapter for the first four (4) of the most recent six (6)  
2801 completed calendar quarters ending before the end of such period  
2802 of thirteen (13) weeks.

2803 (5) "Regular benefits" means benefits payable to an  
2804 individual under this chapter or under any other state law  
2805 (including benefits payable to federal civilian employees and to  
2806 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than  
2807 extended benefits.

2808 (6) "Extended benefits" means benefits (including  
2809 benefits payable to federal civilian employees and to  
2810 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an  
2811 individual under the provisions of this section for weeks of  
2812 unemployment in his eligibility period.



2813           (7) "Eligibility period" of an individual means the  
2814 period consisting of the weeks in his benefit year which begin in  
2815 an extended benefit period and, if his benefit year ends within  
2816 such extended benefit period, any weeks thereafter which begin in  
2817 such period.

2818           (8) "Exhaustee" means an individual who, with respect  
2819 to any week of unemployment in his eligibility period:

2820                   (a) Has received, prior to such week, all of the  
2821 regular benefits that were available to him under this chapter or  
2822 any other state law (including dependents' allowances and benefits  
2823 payable to federal civilian employees and ex-servicemen under 5  
2824 USCS Section 8501-8525) in his current benefit year that includes  
2825 such week;

2826           For the purposes of this subparagraph, an individual shall be  
2827 deemed to have received all of the regular benefits that were  
2828 available to him although, as a result of a pending appeal with  
2829 respect to wages that were not considered in the original monetary  
2830 determination in his benefit year, he may subsequently be  
2831 determined to be entitled to added regular benefits; or

2832                   (b) Has no, or insufficient, wages on the basis of  
2833 which he could establish a new benefit year that would include  
2834 such week, his benefit year having expired prior to such week; and

2835                   (c) (i) Has no right to unemployment benefits or  
2836 allowances, as the case may be, under the Railroad Unemployment  
2837 Insurance Act, the Trade Expansion Act of 1962, the Automotive  
2838 Products Trade Act of 1965, and such other federal laws as are  
2839 specified in regulations issued by the U.S. Secretary of Labor;  
2840 and

2841                           (ii) Has not received and is not seeking  
2842 unemployment benefits under the Unemployment Compensation Law of  
2843 the Virgin Islands or of Canada; but if he is seeking such  
2844 benefits and the appropriate agency finally determines that he is

2845 not entitled to benefits under such law, he is considered an  
2846 exhaustee; provided, that the reference in this subsection to the  
2847 Virgin Islands shall be inapplicable effective on the day on which  
2848 the United States Secretary of Labor approves under Section  
2849 3304(a) of the Internal Revenue Code of 1954, an unemployment  
2850 compensation law submitted to the Secretary by the Virgin Islands  
2851 for approval.

2852 (9) "State law" means the unemployment insurance law of  
2853 any state, approved by the U.S. Secretary of Labor under Section  
2854 3304 of the Internal Revenue Code of 1954 (26 USCS Section 3304).

2855 C. Except when the result would be inconsistent with the  
2856 other provisions of this section, as provided in the regulations  
2857 of the department, the provisions of this chapter which apply to  
2858 claims for, or the payment of, regular benefits shall apply to  
2859 claims for, and the payment of, extended benefits.

2860 D. An individual shall be eligible to receive extended  
2861 benefits with respect to any week of unemployment in his  
2862 eligibility period only if the department finds that with respect  
2863 to such week:

2864 (1) He is an "exhaustee" as defined in subsection B(8)  
2865 of this section.

2866 (2) He has satisfied the requirements of this chapter  
2867 for the receipt of regular benefits that are applicable to  
2868 individuals claiming extended benefits, including not being  
2869 subject to a disqualification for the receipt of benefits.

2870 (3) For a week beginning after September 25, 1982, he  
2871 has, during his base period, been paid wages for insured work  
2872 equal to not less than forty (40) times his weekly benefit amount;  
2873 he has been paid wages for insured work during at least two (2)  
2874 quarters of his base period, and he has, during that quarter of  
2875 his base period in which his total wages were highest, been paid

2876 wages for insured work equal to not less than twenty-six (26)  
2877 times the minimum weekly benefit amount.

2878         E. The weekly extended benefit amount payable to an  
2879 individual for a week of total unemployment in his eligibility  
2880 period shall be an amount equal to the weekly benefit amount  
2881 payable to him during his applicable benefit year; provided,  
2882 however, that benefits paid to individuals during eligibility  
2883 periods beginning before October 1, 1983, shall be computed to the  
2884 next higher multiple of One Dollar (\$1.00), if not a multiple of  
2885 One Dollar (\$1.00); and benefits paid to individuals during  
2886 eligibility periods beginning on or after October 1, 1983, shall  
2887 be computed to the next lower multiple of One Dollar (\$1.00), if  
2888 not a multiple of One Dollar (\$1.00). Provided further, that in  
2889 no event shall the weekly extended benefit amount payable to an  
2890 individual be more than two (2) times the amount of the  
2891 reimbursement of the federal share of extended benefits paid.

2892         F. (1) The total extended benefit amount payable to any  
2893 eligible individual with respect to his applicable benefit year  
2894 shall be the least of the following amounts:

2895                 (a) Fifty percent (50%) of the total amount of  
2896 regular benefits which were payable to him under this chapter in  
2897 his applicable benefit year; provided, however, that benefits paid  
2898 to individuals during eligibility periods beginning before October  
2899 1, 1983, shall be computed to the next higher multiple of One  
2900 Dollar (\$1.00), if not a multiple of One Dollar (\$1.00), and  
2901 benefits paid to individuals during eligibility periods beginning  
2902 on or after October 1, 1983, shall be computed to the next lower  
2903 multiple of One Dollar (\$1.00), if not a multiple of One Dollar  
2904 (\$1.00); or

2905                 (b) Thirteen (13) times his weekly benefit amount  
2906 which was payable to him under this chapter for a week of total  
2907 unemployment in the applicable benefit year.

2908           (2) The total extended benefits otherwise payable to an  
2909 individual who is filing an interstate claim under the interstate  
2910 benefit payment plan shall not exceed two (2) weeks whenever an  
2911 extended benefit period is not in effect for such week in the  
2912 state where the claim is filed.

2913           (3) Provided further, that in no event shall the total  
2914 extended benefit amount payable to any eligible individual with  
2915 respect to his applicable benefit year be more than two (2) times  
2916 the amount of the reimbursement of the federal share of extended  
2917 benefits paid.

2918           G. (1) Whenever an extended benefit period is to become  
2919 effective in this state as a result of a state "on" indicator, or  
2920 an extended benefit period is to be terminated in this state as a  
2921 result of state "off" indicators, the department shall make an  
2922 appropriate public announcement.

2923           (2) Computations required by the provisions of  
2924 subsection B(4) shall be made by the department, in accordance  
2925 with regulations prescribed by the U.S. Secretary of Labor.

2926           H. Extended benefits paid under the provisions of this  
2927 section which are not reimbursable from federal funds shall be  
2928 charged to the experience-rating record of base period employers.

2929           I. (1) Notwithstanding the provisions of subsections C and  
2930 D of this section, an individual shall be disqualified for receipt  
2931 of extended benefits if the department finds that during any week  
2932 of his eligibility period:

2933                   (a) He has failed either to apply for or to accept  
2934 an offer of suitable work (as defined under paragraph (3)) to  
2935 which he was referred by the department; or

2936                   (b) He has failed to furnish tangible evidence  
2937 that he has actively engaged in a systematic and sustained effort  
2938 to find work, unless such individual is not actively engaged in  
2939 seeking work because such individual is:

2940 (i) Before any court of the United States or  
2941 any state pursuant to a lawfully issued summons to appear for jury  
2942 duty;

2943 (ii) Hospitalized for treatment of an  
2944 emergency or a life-threatening condition.

2945 The entitlement to benefits of any individual who is  
2946 determined not to be actively engaged in seeking work in any week  
2947 for the foregoing reasons shall be decided pursuant to the able  
2948 and available requirements in Section 71-5-511 without regard to  
2949 the disqualification provisions otherwise applicable under Section  
2950 71-5-541. The conditions prescribed in clauses (i) and (ii) of  
2951 this subparagraph (b) must be applied in the same manner to  
2952 individuals filing claims for regular benefits.

2953 (2) Such disqualification shall begin with the week in  
2954 which such failure occurred and shall continue until he has been  
2955 employed in each of eight (8) subsequent weeks (whether or not  
2956 consecutive) and has earned remuneration for personal services  
2957 performed for an employer, as in this chapter defined, equal to  
2958 not less than eight (8) times his weekly extended benefit amount.

2959 (3) For the purpose of subparagraph (a) of paragraph  
2960 (1) the term "suitable work" means any work which is within the  
2961 individual's capabilities to perform, if:

2962 (a) The gross average weekly remuneration payable  
2963 for the work exceeds the sum of the individual's weekly extended  
2964 benefit amount plus the amount, if any, of supplemental  
2965 unemployment benefits (as defined in Section 501(c)(17)(D) of the  
2966 Internal Revenue Code of 1954) payable to such individual for such  
2967 week;

2968 (b) The wages payable for the work equal the  
2969 higher of the minimum wages provided by Section 6(a)(1) of the  
2970 Fair Labor Standards Act of 1938 (without regard to any  
2971 exemption), or the state or local minimum wage; and

2972 (c) The position was offered to the individual in  
2973 writing or was listed with the state employment service; and

2974 (d) Such work otherwise meets the definition of  
2975 "suitable work" for regular benefits contained in Section  
2976 71-5-513A(4) to the extent that such criteria of suitability are  
2977 not inconsistent with the provisions of this paragraph (3); and

2978 (e) The individual cannot furnish satisfactory  
2979 evidence to the department that his prospects for obtaining work  
2980 in his customary occupation within a reasonably short period are  
2981 good. If such evidence is deemed satisfactory for this purpose,  
2982 the determination of whether any work is suitable with respect to  
2983 such individual shall be made in accordance with the definition of  
2984 suitable work contained in Section 71-5-513A(4) without regard to  
2985 the definition specified by this paragraph (3).

2986 (4) Notwithstanding any provisions of subsection I to  
2987 the contrary, no work shall be deemed to be suitable work for an  
2988 individual which does not accord with the labor standard  
2989 provisions set forth herein under Section 71-5-513A(4).

2990 (5) The employment service shall refer any claimant  
2991 entitled to extended benefits under this section to any suitable  
2992 work which meets the criteria prescribed in paragraph (3).

2993 (6) An individual shall be disqualified for extended  
2994 benefits for the week, or fraction thereof, which immediately  
2995 follows the day on which he left work voluntarily without good  
2996 cause (as defined in Section 71-5-513A(1)), was discharged for  
2997 misconduct connected with his work, or refused suitable work  
2998 (except as provided in subsection I of this section), and for each  
2999 week thereafter until he has earned remuneration for personal  
3000 services performed for an employer, as in this chapter defined,  
3001 equal to not less than eight (8) times his weekly benefit amount,  
3002 as determined in each case.

3003           (7) The provisions of paragraphs I(1) through (6) of  
3004 this section shall not apply to claims for weeks of unemployment  
3005 beginning after March 6, 1993, and before January 1, 1995, and  
3006 during that period the provisions of this chapter applicable to  
3007 claims for regular compensation shall apply.

3008           J. Notwithstanding any other provisions of this chapter, if  
3009 the benefit year of any individual ends within an extended benefit  
3010 period, the remaining balance of extended benefits that such  
3011 individual would, but for this section, be entitled to receive in  
3012 that extended benefit period, with respect to weeks of  
3013 unemployment beginning after the end of the benefit year, shall be  
3014 reduced (but not below zero) by the product of the number of weeks  
3015 for which the individual received any amounts as trade  
3016 readjustment allowances within that benefit year, multiplied by  
3017 the individual's weekly benefit amount for extended benefits.

3018           **SECTION 47.** Section 73-30-25, Mississippi Code of 1972, is  
3019 amended as follows:

3020           73-30-25. It is not the intent of this chapter to regulate  
3021 against members of other duly regulated professions in this state  
3022 who do counseling in the normal course of the practice of their  
3023 own profession. This chapter does not apply to:

3024           (a) Any person registered, certified or licensed by the  
3025 state to practice any other occupation or profession while  
3026 rendering counseling services in the performance of the occupation  
3027 or profession for which he is registered, certified or licensed;

3028           (b) Certified school counselors when they are  
3029 practicing counseling within the scope of their employment;

3030           (c) Certified vocational counselors when they are  
3031 practicing vocational counseling within the scope of their  
3032 employment;

3033           (d) Counselors in post-secondary institutions when they  
3034 are practicing within the scope of their employment;

3035           (e) Student interns or trainees in counseling pursuing  
3036 a course of study in counseling in a regionally or nationally  
3037 accredited institution of higher learning or training institution  
3038 if activities and services constitute a part of the supervised  
3039 course of study, provided that such persons be designated a  
3040 counselor intern;

3041           (f) Professionals employed by regionally or nationally  
3042 accredited post-secondary institutions as counselor educators when  
3043 they are practicing counseling within the scope of their  
3044 employment;

3045           (g) Professionals registered, certified or licensed by  
3046 a recognized state or national professional association that has a  
3047 published code of ethics and requires adherence to same;

3048           (h) Duly ordained ministers or clergy while functioning  
3049 in their ministerial capacity and duly accredited Christian  
3050 Science practitioners;

3051           (i) Professional employees of regional mental health  
3052 centers, state mental hospitals, vocational rehabilitation  
3053 institutions, youth court counselors and employees of the  
3054 Mississippi Department of Employment Security or other  
3055 governmental agency so long as they practice within the scope of  
3056 their employment;

3057           (j) Professional employees of alcohol or drug abuse  
3058 centers or treatment facilities, whether privately or publicly  
3059 funded, so long as they practice within the scope of their  
3060 employment;

3061           (k) Private employment counselors;

3062           (l) Any nonresident temporarily employed in this state  
3063 to render counseling services for not more than thirty (30) days  
3064 in any year, if in the opinion of the board the person would  
3065 qualify for a license under this chapter and if the person holds



3066 any license required for counselors in his home state or country;  
3067 and

3068 (m) Any social workers holding a master's degree in  
3069 social work from a school accredited by the Council on Social Work  
3070 Education and who do counseling in the normal course of the  
3071 practice of their own profession.

3072 **SECTION 48.** Section 43-1-30, Mississippi Code of 1972, is  
3073 amended as follows:

3074 43-1-30. (1) There is hereby created the Mississippi TANF  
3075 Implementation Council. It shall serve as the independent, single  
3076 state advisory and review council for assuring Mississippi's  
3077 compliance with the federal Personal Responsibility and Work  
3078 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as  
3079 amended. The council shall further cooperation between  
3080 government, education and the private sector in meeting the needs  
3081 of the TANF program. It shall also further cooperation between  
3082 the business and labor communities, education and training  
3083 delivery systems, and between businesses in developing highly  
3084 skilled workers for high skill, high paying jobs in Mississippi.

3085 (2) The council shall be comprised of thirteen (13) public  
3086 members and certain ex officio nonvoting members. All public  
3087 members of the council shall be appointed as follows by the  
3088 Governor:

3089 Ten (10) members shall be representatives from business and  
3090 industry, provided that no fewer than five (5) members are from  
3091 the manufacturing and industry sector who are also serving as  
3092 members of private industry councils established within the state,  
3093 and one (1) member may be a representative of a nonprofit  
3094 organization. Three (3) members shall be recipients or former  
3095 recipients of TANF assistance appointed from the state at large.

3096 The ex officio nonvoting members of the council shall consist  
3097 of the following, or their designees:

3098                   (a) The Executive Director of the Mississippi  
3099 Department of Human Services;  
3100                   (b) The Executive Director of the Mississippi  
3101 Department of Employment Security;  
3102                   (c) The Executive Director of the Mississippi  
3103 Development Authority;  
3104                   (d) The State Superintendent of Education;  
3105                   (e) The Director of the State Board for Community and  
3106 Junior Colleges;  
3107                   (f) The Executive Director of the Division of Medicaid;  
3108                   (g) The Commissioner of the Mississippi Department of  
3109 Corrections; and  
3110                   (h) The Director of the Mississippi Cooperative  
3111 Extension Service.

3112           (3) The Governor shall designate one (1) public member to  
3113 serve as chairman of the council for a term of two (2) years and  
3114 until a successor as chairman is appointed and qualified.

3115           (4) The term of office for public members appointed by the  
3116 Governor shall be four (4) years and until their successors are  
3117 appointed and qualified.

3118           (5) Any vacancy shall be filled for the unexpired term by  
3119 the Governor in the manner of the original appointment, unless  
3120 otherwise specified in this section.

3121           (6) Public members shall receive a per diem as authorized in  
3122 Section 25-3-69, for each day actually engaged in meetings of the  
3123 council, and shall be reimbursed for mileage and necessary  
3124 expenses incurred in the performance of their duties, as provided  
3125 in Section 25-3-41.

3126           (7) The council shall:

3127                   (a) Annually review and recommend policies and programs  
3128 to the Governor and the Legislature that will implement and meet  
3129 federal requirements under the TANF program.

3130           (b) Annually review and recommend policies and programs  
3131 to the Governor and to the Legislature that will enable citizens  
3132 of Mississippi to acquire the skills necessary to maximize their  
3133 economic self-sufficiency.

3134           (c) Review the provision of services and the use of  
3135 funds and resources under the TANF program, and under all  
3136 state-financed job training and job retraining programs, and  
3137 advise the Governor and the Legislature on methods of coordinating  
3138 such provision of services and use of funds and resources  
3139 consistent with the laws and regulations governing such programs.

3140           (d) Assist in developing outcome and output measures to  
3141 measure the success of the Department of Human Services' efforts  
3142 in implementing the TANF program. These recommendations shall be  
3143 made to the Department of Human Services at such times as required  
3144 in the event that the department implements new programs to comply  
3145 with the TANF program requirements.

3146           (e) Collaborate with the Department of Economic and  
3147 Community development, local planning and development districts  
3148 and local industrial development boards, and shall develop an  
3149 economic development plan for the creation of manufacturing jobs  
3150 in each of the counties in the state that has an unemployment rate  
3151 of ten percent (10%) or more, which shall include, but not be  
3152 limited to, procedures for business development, entrepreneurship  
3153 and financial and technical assistance.

3154           (8) A majority of the members of the council shall  
3155 constitute a quorum for the conduct of meetings and all actions of  
3156 the council shall be by a majority of the members present at a  
3157 meeting.

3158           (9) The council shall adopt rules and regulations as it  
3159 deems necessary to carry out its responsibilities under this  
3160 section and under applicable federal human resources programs.

3161 (10) The council may make and enter into contracts and  
3162 interagency agreements as may be necessary and proper.

3163 (11) The council is authorized to commit and expend monies  
3164 appropriated to it by the Legislature for its authorized purposes.  
3165 The council is authorized to solicit, accept and expend public and  
3166 private gifts, grants, awards and contributions related to  
3167 furtherance of its statutory duties.

3168 (12) Funds for the operations of the council shall be  
3169 derived from federal funds for the operation of state councils  
3170 pursuant to applicable federal human resources programs and from  
3171 such other monies appropriated to it by the Legislature.

3172 **SECTION 49.** Section 43-17-5, Mississippi Code of 1972, is  
3173 amended as follows:

3174 43-17-5. (1) The amount of Temporary Assistance for Needy  
3175 Families (TANF) benefits which may be granted for any dependent  
3176 child and a needy caretaker relative shall be determined by the  
3177 county department with due regard to the resources and necessary  
3178 expenditures of the family and the conditions existing in each  
3179 case, and in accordance with the rules and regulations made by the  
3180 Department of Human Services which shall not be less than the  
3181 Standard of Need in effect for 1988, and shall be sufficient when  
3182 added to all other income (except that any income specified in the  
3183 federal Social Security Act, as amended, may be disregarded) and  
3184 support available to the child to provide such child with a  
3185 reasonable subsistence compatible with decency and health. The  
3186 first family member in the dependent child's budget may receive an  
3187 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;  
3188 the second family member in the dependent child's budget may  
3189 receive an amount not to exceed Thirty-six Dollars (\$36.00) per  
3190 month; and each additional family member in the dependent child's  
3191 budget an amount not to exceed Twenty-four Dollars (\$24.00) per  
3192 month. The maximum for any individual family member in the

3193 dependent child's budget may be exceeded for foster or medical  
3194 care or in cases of mentally retarded or physically handicapped  
3195 children. TANF benefits granted shall be specifically limited  
3196 only (a) to children existing or conceived at the time the  
3197 caretaker relative initially applies and qualifies for such  
3198 assistance, unless this limitation is specifically waived by the  
3199 department, or (b) to a child born following a twelve (12)  
3200 consecutive month period of discontinued benefits by the caretaker  
3201 relative.

3202 (2) TANF cash benefits in Mississippi shall be provided by  
3203 monthly checks mailed to the recipient family until such time as  
3204 an on-line electronic benefits transfer system for TANF benefit  
3205 payments is implemented pursuant to Section 43-1-28.

3206 (3) The Department of Human Services shall deny TANF  
3207 benefits to the following categories of individuals, except for  
3208 individuals and families specifically exempt or excluded for good  
3209 cause as allowed by federal statute or regulation:

3210 (a) Families without a minor child residing with the  
3211 custodial parent or other adult caretaker relative of the child;

3212 (b) Families which include an adult who has received  
3213 TANF assistance for sixty (60) months after the commencement of  
3214 the Mississippi TANF program, whether or not such period of time  
3215 is consecutive;

3216 (c) Families not assigning to the state any rights a  
3217 family member may have, on behalf of the family member or of any  
3218 other person for whom the family member has applied for or is  
3219 receiving such assistance, to support from any other person, as  
3220 required by law;

3221 (d) Families who fail to cooperate in establishing  
3222 paternity or obtaining child support, as required by law;

3223 (e) Any individual who has not attained eighteen (18)  
3224 years of age, is not married to the head of household, has a minor

3225 child at least twelve (12) weeks of age in his or her care, and  
3226 has not successfully completed a high school education or its  
3227 equivalent, if such individual does not participate in educational  
3228 activities directed toward the attainment of a high school diploma  
3229 or its equivalent, or an alternative educational or training  
3230 program approved by the department;

3231 (f) Any individual who has not attained eighteen (18)  
3232 years of age, is not married, has a minor child in his or her  
3233 care, and does not reside in a place or residence maintained by a  
3234 parent, legal guardian or other adult relative or the individual  
3235 as such parent's, guardian's or adult relative's own home;

3236 (g) Any minor child who has been, or is expected by a  
3237 parent or other caretaker relative of the child to be, absent from  
3238 the home for a period of more than thirty (30) days;

3239 (h) Any individual who is a parent or other caretaker  
3240 relative of a minor child who fails to notify the department of  
3241 the absence of the minor child from the home for the thirty-day  
3242 period specified in paragraph (g), by the end of the five-day  
3243 period that begins with the date that it becomes clear to the  
3244 individual that the minor child will be absent for the thirty-day  
3245 period;

3246 (i) Any individual who fails to comply with the  
3247 provisions of the Employability Development Plan signed by the  
3248 individual which prescribe those activities designed to help the  
3249 individual become and remain employed, or to participate  
3250 satisfactorily in the assigned work activity, as authorized under  
3251 subsections (6)(c) and (d);

3252 (j) A parent or caretaker relative who has not engaged  
3253 in an allowable work activity once the department determines the  
3254 parent or caretaker relative is ready to engage in work, or once  
3255 the parent or caretaker relative has received TANF assistance

3256 under the program for twenty-four (24) months, whether or not  
3257 consecutive, whichever is earlier;

3258 (k) Any individual who is fleeing to avoid prosecution,  
3259 or custody or confinement after conviction, under the laws of the  
3260 jurisdiction from which the individual flees, for a crime, or an  
3261 attempt to commit a crime, which is a felony under the laws of the  
3262 place from which the individual flees, or who is violating a  
3263 condition of probation or parole imposed under federal or state  
3264 law;

3265 (l) Aliens who are not qualified under federal law;

3266 (m) For a period of ten (10) years following  
3267 conviction, individuals convicted in federal or state court of  
3268 having made a fraudulent statement or representation with respect  
3269 to the individual's place of residence in order to receive TANF,  
3270 food stamps or Supplemental Security Income (SSI) assistance under  
3271 Title XVI or Title XIX simultaneously from two (2) or more states;  
3272 and

3273 (n) Individuals who are recipients of federal  
3274 Supplemental Security Income (SSI) assistance.

3275 (4) (a) Any person who is otherwise eligible for TANF  
3276 benefits, including custodial and noncustodial parents, shall be  
3277 required to attend school and meet the monthly attendance  
3278 requirement as provided in this subsection if all of the following  
3279 apply:

3280 (i) The person is under age twenty (20);

3281 (ii) The person has not graduated from a public or  
3282 private high school or obtained a GED equivalent;

3283 (iii) The person is physically able to attend  
3284 school and is not excused from attending school; and

3285 (iv) If the person is a parent or caretaker  
3286 relative with whom a dependent child is living, child care is  
3287 available for the child.

3288           The monthly attendance requirement under this subsection  
3289 shall be attendance at the school in which the person is enrolled  
3290 for each day during a month that the school conducts classes in  
3291 which the person is enrolled, with not more than two (2) absences  
3292 during the month for reasons other than the reasons listed in  
3293 paragraph (e)(iv) of this subsection. Persons who fail to meet  
3294 participation requirements in this subsection shall be subject to  
3295 sanctions as provided in paragraph (f) of this subsection.

3296           (b) As used in this subsection, "school" means any one  
3297 (1) of the following:

3298                       (i) A school as defined in Section 37-13-91(2);

3299                       (ii) A vocational, technical and adult education  
3300 program; or

3301                       (iii) A course of study meeting the standards  
3302 established by the State Department of Education for the granting  
3303 of a declaration of equivalency of high school graduation.

3304           (c) If any compulsory-school-age child, as defined in  
3305 Section 37-13-91(2), to which TANF eligibility requirements apply  
3306 is not in compliance with the compulsory school attendance  
3307 requirements of Section 37-13-91(6), the superintendent of schools  
3308 of the school district in which the child is enrolled or eligible  
3309 to attend shall notify the county department of human services of  
3310 the child's noncompliance. The Department of Human Services shall  
3311 review school attendance information as provided under this  
3312 paragraph at all initial eligibility determinations and upon  
3313 subsequent report of unsatisfactory attendance.

3314           (d) The signature of a person on an application for  
3315 TANF benefits constitutes permission for the release of school  
3316 attendance records for that person or for any child residing with  
3317 that person. The department shall request information from the  
3318 child's school district about the child's attendance in the school  
3319 district's most recently completed semester of attendance. If



3320 information about the child's previous school attendance is not  
3321 available or cannot be verified, the department shall require the  
3322 child to meet the monthly attendance requirement for one (1)  
3323 semester or until the information is obtained. The department  
3324 shall use the attendance information provided by a school district  
3325 to verify attendance for a child. The department shall review  
3326 with the parent or caretaker relative a child's claim that he or  
3327 she has a good cause for not attending school.

3328 A school district shall provide information to the department  
3329 about the attendance of a child who is enrolled in a public school  
3330 in the district within five (5) working days of the receipt of a  
3331 written request for such information from the department. The  
3332 school district shall define how many hours of attendance count as  
3333 a full day and shall provide that information, upon request, to  
3334 the department. In reporting attendance, the school district may  
3335 add partial days' absence together to constitute a full day's  
3336 absence.

3337 (e) A child who is required to attend school to meet  
3338 the requirements under this subsection shall comply except when  
3339 there is good cause, which shall be demonstrated by any of the  
3340 following circumstances:

3341 (i) The minor parent is the caretaker of a child  
3342 less than twelve (12) weeks old; or

3343 (ii) The department determines that child care  
3344 services are necessary for the minor parent to attend school and  
3345 there is no child care available; or

3346 (iii) The child is prohibited by the school  
3347 district from attending school and an expulsion is pending. This  
3348 exemption no longer applies once the teenager has been expelled;  
3349 however, a teenager who has been expelled and is making  
3350 satisfactory progress towards obtaining a GED equivalent shall be  
3351 eligible for TANF benefits; or

3352 (iv) The child failed to attend school for one or  
3353 more of the following reasons:

3354 1. Illness, injury or incapacity of the child  
3355 or the minor parent's child;

3356 2. Court-required appearances or temporary  
3357 incarceration;

3358 3. Medical or dental appointments for the  
3359 child or minor parent's child;

3360 4. Death of a close relative;

3361 5. Observance of a religious holiday;

3362 6. Family emergency;

3363 7. Breakdown in transportation;

3364 8. Suspension; or

3365 9. Any other circumstance beyond the control  
3366 of the child, as defined in regulations of the department.

3367 (f) Upon determination that a child has failed without  
3368 good cause to attend school as required, the department shall  
3369 provide written notice to the parent or caretaker relative  
3370 (whoever is the primary recipient of the TANF benefits) that  
3371 specifies:

3372 (i) That the family will be sanctioned in the next  
3373 possible payment month because the child who is required to attend  
3374 school has failed to meet the attendance requirement of this  
3375 subsection;

3376 (ii) The beginning date of the sanction, and the  
3377 child to whom the sanction applies;

3378 (iii) The right of the child's parents or  
3379 caretaker relative (whoever is the primary recipient of the TANF  
3380 benefits) to request a fair hearing under this subsection.

3381 The child's parent or caretaker relative (whoever is the  
3382 primary recipient of the TANF benefits) may request a fair hearing  
3383 on the department's determination that the child has not been

3384 attending school. If the child's parents or caretaker relative  
3385 does not request a fair hearing under this subsection, or if,  
3386 after a fair hearing has been held, the hearing officer finds that  
3387 the child without good cause has failed to meet the monthly  
3388 attendance requirement, the department shall discontinue or deny  
3389 TANF benefits to the child thirteen (13) years old, or older, in  
3390 the next possible payment month. The department shall discontinue  
3391 or deny twenty-five percent (25%) of the family grant when a child  
3392 six (6) through twelve (12) years of age without good cause has  
3393 failed to meet the monthly attendance requirement. Both the child  
3394 and family sanction may apply when children in both age groups  
3395 fail to meet the attendance requirement without good cause. A  
3396 sanction applied under this subsection shall be effective for one  
3397 (1) month for each month that the child failed to meet the monthly  
3398 attendance requirement. In the case of a dropout, the sanction  
3399 shall remain in force until the parent or caretaker relative  
3400 provides written proof from the school district that the child has  
3401 reenrolled and met the monthly attendance requirement for one (1)  
3402 calendar month. Any month in which school is in session for at  
3403 least ten (10) days during the month may be used to meet the  
3404 attendance requirement under this subsection. This includes  
3405 attendance at summer school. The sanction shall be removed the  
3406 next possible payment month.

3407 (5) All parents or caretaker relatives shall have their  
3408 dependent children receive vaccinations and booster vaccinations  
3409 against those diseases specified by the State Health Officer  
3410 pursuant to Section 41-23-37 in accordance with the vaccination  
3411 and booster vaccination schedule prescribed by the State Health  
3412 Officer for children of that age, in order for the parents or  
3413 caretaker relatives to be eligible or remain eligible to receive  
3414 TANF benefits. Proof of having received such vaccinations and  
3415 booster vaccinations shall be given by presenting the certificates

3416 of vaccination issued by any health care provider licensed to  
3417 administer vaccinations, and submitted on forms specified by the  
3418 State Board of Health. If the parents without good cause do not  
3419 have their dependent children receive the vaccinations and booster  
3420 vaccinations as required by this subsection and they fail to  
3421 comply after thirty (30) days' notice, the department shall  
3422 sanction the family's TANF benefits by twenty-five percent (25%)  
3423 for the next payment month and each subsequent payment month until  
3424 the requirements of this subsection are met.

3425 (6) (a) If the parent or caretaker relative applying for  
3426 TANF assistance is an employable person, as determined by the  
3427 Department of Human Services, the person shall be required to  
3428 engage in an allowable work activity once the department  
3429 determines the parent or caretaker relative is ready to engage in  
3430 work, or once the parent or caretaker relative has received TANF  
3431 assistance under the program for twenty-four (24) months, whether  
3432 or not consecutive, whichever is earlier. No TANF benefits shall  
3433 be given to any person to whom this section applies who fails  
3434 without good cause to comply with the Employability Development  
3435 Plan prepared by the department for the person, or who has refused  
3436 to accept a referral or offer of employment, training or education  
3437 in which he or she is able to engage, subject to the penalties  
3438 prescribed in subsection (6)(e). A person shall be deemed to have  
3439 refused to accept a referral or offer of employment, training or  
3440 education if he or she:

3441 (i) Willfully fails to report for an interview  
3442 with respect to employment when requested to do so by the  
3443 department; or

3444 (ii) Willfully fails to report to the department  
3445 the result of a referral to employment; or

3446 (iii) Willfully fails to report for allowable work  
3447 activities as prescribed in subsections (6)(c) and (d).

3448           (b) The Department of Human Services shall operate a  
3449 statewide work program for TANF recipients to provide work  
3450 activities and supportive services to enable families to become  
3451 self-sufficient and improve their competitive position in the work  
3452 force in accordance with the requirements of the federal Personal  
3453 Responsibility and Work Opportunity Reconciliation Act of 1996  
3454 (Public Law 104-193), as amended, and the regulations promulgated  
3455 thereunder. All adults who are not specifically exempt shall be  
3456 referred by the department for allowable work activities. An  
3457 adult may be exempt from the mandatory work activity requirement  
3458 for the following reasons:

3459                   (i) Incapacity;

3460                   (ii) Temporary illness or injury, verified by  
3461 physician's certificate;

3462                   (iii) Is in the third trimester of pregnancy,  
3463 verified by physician's certificate;

3464                   (iv) Caretaker of a child under twelve (12)  
3465 months, for not more than twelve (12) months of the sixty-month  
3466 maximum benefit period;

3467                   (v) Caretaker of an ill or incapacitated person,  
3468 as verified by physician's certificate;

3469                   (vi) Age, if over sixty (60) or under eighteen  
3470 (18) years of age;

3471                   (vii) Receiving treatment for substance abuse, if  
3472 the person is in compliance with the substance abuse treatment  
3473 plan;

3474                   (viii) In a two-parent family, the caretaker of a  
3475 severely disabled child, as verified by a physician's certificate;

3476 or

3477                   (ix) History of having been a victim of domestic  
3478 violence, which has been reported as required by state law and is  
3479 substantiated by police reports or court records, and being at

3480 risk of further domestic violence, shall be exempt for a period as  
3481 deemed necessary by the department but not to exceed a total of  
3482 twelve (12) months, which need not be consecutive, in the  
3483 sixty-month maximum benefit period. For the purposes of this  
3484 subparagraph (ix), "domestic violence" means that an individual  
3485 has been subjected to:

- 3486 1. Physical acts that resulted in, or  
3487 threatened to result in, physical injury to the individual;
- 3488 2. Sexual abuse;
- 3489 3. Sexual activity involving a dependent  
3490 child;
- 3491 4. Being forced as the caretaker relative of  
3492 a dependent child to engage in nonconsensual sexual acts or  
3493 activities;
- 3494 5. Threats of, or attempts at, physical or  
3495 sexual abuse;
- 3496 6. Mental abuse; or
- 3497 7. Neglect or deprivation of medical care.

3498 (c) For all families, all adults who are not  
3499 specifically exempt shall be required to participate in work  
3500 activities for at least the minimum average number of hours per  
3501 week specified by federal law or regulation, not fewer than twenty  
3502 (20) hours per week (thirty-five (35) hours per week for  
3503 two-parent families) of which are attributable to the following  
3504 allowable work activities:

- 3505 (i) Unsubsidized employment;
- 3506 (ii) Subsidized private employment;
- 3507 (iii) Subsidized public employment;
- 3508 (iv) Work experience (including work associated  
3509 with the refurbishing of publicly assisted housing), if sufficient  
3510 private employment is not available;
- 3511 (v) On-the-job training;

3512                   (vi) Job search and job readiness assistance  
3513 consistent with federal TANF regulations;  
3514                   (vii) Community service programs;  
3515                   (viii) Vocational educational training (not to  
3516 exceed twelve (12) months with respect to any individual);  
3517                   (ix) The provision of child care services to an  
3518 individual who is participating in a community service program;  
3519                   (x) Satisfactory attendance at high school or in a  
3520 course of study leading to a high school equivalency certificate,  
3521 for heads of household under age twenty (20) who have not  
3522 completed high school or received such certificate;  
3523                   (xi) Education directly related to employment, for  
3524 heads of household under age twenty (20) who have not completed  
3525 high school or received such equivalency certificate.  
3526                   (d) The following are allowable work activities which  
3527 may be attributable to hours in excess of the minimum specified in  
3528 subsection (6)(c):  
3529                   (i) Job skills training directly related to  
3530 employment;  
3531                   (ii) Education directly related to employment for  
3532 individuals who have not completed high school or received a high  
3533 school equivalency certificate;  
3534                   (iii) Satisfactory attendance at high school or in  
3535 a course of study leading to a high school equivalency, for  
3536 individuals who have not completed high school or received such  
3537 equivalency certificate;  
3538                   (iv) Job search and job readiness assistance  
3539 consistent with federal TANF regulations.  
3540                   (e) If any adult or caretaker relative refuses to  
3541 participate in allowable work activity as required under this  
3542 subsection (6), the following full family TANF benefit penalty

3543 will apply, subject to due process to include notification,  
3544 conciliation and a hearing if requested by the recipient:

3545 (i) For the first violation, the department shall  
3546 terminate the TANF assistance otherwise payable to the family for  
3547 a two-month period or until the person has complied with the  
3548 required work activity, whichever is longer;

3549 (ii) For the second violation, the department  
3550 shall terminate the TANF assistance otherwise payable to the  
3551 family for a six-month period or until the person has complied  
3552 with the required work activity, whichever is longer;

3553 (iii) For the third violation, the department  
3554 shall terminate the TANF assistance otherwise payable to the  
3555 family for a twelve-month period or until the person has complied  
3556 with the required work activity, whichever is longer;

3557 (iv) For the fourth violation, the person shall be  
3558 permanently disqualified.

3559 For a two-parent family, unless prohibited by state or  
3560 federal law, Medicaid assistance shall be terminated only for the  
3561 person whose failure to participate in allowable work activity  
3562 caused the family's TANF assistance to be sanctioned under this  
3563 subsection (6)(e), unless an individual is pregnant, but shall not  
3564 be terminated for any other person in the family who is meeting  
3565 that person's applicable work requirement or who is not required  
3566 to work. Minor children shall continue to be eligible for  
3567 Medicaid benefits regardless of the disqualification of their  
3568 parent or caretaker relative for TANF assistance under this  
3569 subsection (6), unless prohibited by state or federal law.

3570 (f) Any person enrolled in a two-year or four-year  
3571 college program who meets the eligibility requirements to receive  
3572 TANF benefits, and who is meeting the applicable work requirements  
3573 and all other applicable requirements of the TANF program, shall  
3574 continue to be eligible for TANF benefits while enrolled in the



3575 college program for as long as the person meets the requirements  
3576 of the TANF program, unless prohibited by federal law.

3577           (g) No adult in a work activity required under this  
3578 subsection (6) shall be employed or assigned (i) when any other  
3579 individual is on layoff from the same or any substantially  
3580 equivalent job within six (6) months before the date of the TANF  
3581 recipient's employment or assignment; or (ii) if the employer has  
3582 terminated the employment of any regular employee or otherwise  
3583 caused an involuntary reduction of its work force in order to fill  
3584 the vacancy so created with an adult receiving TANF assistance.  
3585 The Mississippi Department of Employment Security, established  
3586 under Section 71-5-101, shall appoint one or more impartial  
3587 hearing officers to hear and decide claims by employees of  
3588 violations of this paragraph (f). The hearing officer shall hear  
3589 all the evidence with respect to any claim made hereunder and such  
3590 additional evidence as he may require and shall make a  
3591 determination and the reason therefor. The claimant shall be  
3592 promptly notified of the decision of the hearing officer and the  
3593 reason therefor. Within ten (10) days after the decision of the  
3594 hearing officer has become final, any party aggrieved thereby may  
3595 secure judicial review thereof by commencing an action, in the  
3596 circuit court of the county in which the claimant resides, against  
3597 the department for the review of such decision, in which action  
3598 any other party to the proceeding before the hearing officer shall  
3599 be made a defendant. Any such appeal shall be on the record which  
3600 shall be certified to the court by the department in the manner  
3601 provided in Section 71-5-531, and the jurisdiction of the court  
3602 shall be confined to questions of law which shall render its  
3603 decision as provided in that section.

3604           (7) The Department of Human Services may provide child care  
3605 for eligible participants who require such care so that they may  
3606 accept employment or remain employed. The department may also

3607 provide child care for those participating in the TANF program  
3608 when it is determined that they are satisfactorily involved in  
3609 education, training or other allowable work activities. The  
3610 department may contract with Head Start agencies to provide child  
3611 care services to TANF recipients. The department may also arrange  
3612 for child care by use of contract or vouchers, provide vouchers in  
3613 advance to a caretaker relative, reimburse a child care provider,  
3614 or use any other arrangement deemed appropriate by the department,  
3615 and may establish different reimbursement rates for child care  
3616 services depending on the category of the facility or home. Any  
3617 center-based or group home child care facility under this  
3618 subsection shall be licensed by the State Department of Health  
3619 pursuant to law. When child care is being provided in the child's  
3620 own home, in the home of a relative of the child, or in any other  
3621 unlicensed setting, the provision of such child care may be  
3622 monitored on a random basis by the Department of Human Services or  
3623 the State Department of Health. Transitional child care  
3624 assistance may be continued if it is necessary for parents to  
3625 maintain employment once support has ended, unless prohibited  
3626 under state or federal law. Transitional child care assistance  
3627 may be provided for up to twenty-four (24) months after the last  
3628 month during which the family was eligible for TANF assistance, if  
3629 federal funds are available for such child care assistance.

3630 (8) The Department of Human Services may provide  
3631 transportation or provide reasonable reimbursement for  
3632 transportation expenses that are necessary for individuals to be  
3633 able to participate in allowable work activity under the TANF  
3634 program.

3635 (9) Medicaid assistance shall be provided to a family of  
3636 TANF program participants for up to twenty-four (24) consecutive  
3637 calendar months following the month in which the participating  
3638 family would be ineligible for TANF benefits because of increased

3639 income, expiration of earned income disregards, or increased hours  
3640 of employment of the caretaker relative; however, Medicaid  
3641 assistance for more than twelve (12) months may be provided only  
3642 if a federal waiver is obtained to provide such assistance for  
3643 more than twelve (12) months and federal and state funds are  
3644 available to provide such assistance.

3645 (10) The department shall require applicants for and  
3646 recipients of public assistance from the department to sign a  
3647 personal responsibility contract that will require the applicant  
3648 or recipient to acknowledge his or her responsibilities to the  
3649 state.

3650 (11) The department shall enter into an agreement with the  
3651 State Personnel Board and other state agencies that will allow  
3652 those TANF participants who qualify for vacant jobs within state  
3653 agencies to be placed in state jobs. State agencies participating  
3654 in the TANF work program shall receive any and all benefits  
3655 received by employers in the private sector for hiring TANF  
3656 recipients. This subsection (11) shall be effective only if the  
3657 state obtains any necessary federal waiver or approval and if  
3658 federal funds are available therefor.

3659 (12) No new TANF program requirement or restriction  
3660 affecting a person's eligibility for TANF assistance, or allowable  
3661 work activity, which is not mandated by federal law or regulation  
3662 may be implemented by the Department of Human Services after the  
3663 effective date of this act, unless such is specifically authorized  
3664 by an amendment to this section by the Legislature.

3665 **SECTION 50.** Section 43-19-45, Mississippi Code of 1972, is  
3666 amended as follows:

3667 43-19-45. (1) The Child Support Unit shall establish a  
3668 state parent locator service for the purpose of locating absent  
3669 and nonsupporting parents and alleged parents, which will utilize  
3670 all appropriate public and private locator sources. In order to

3671 carry out the responsibilities imposed under Sections 43-19-31  
3672 through 43-19-53, the Child Support Unit may secure by  
3673 administrative subpoena from the customer records of public  
3674 utilities and cable television companies the names and addresses  
3675 of individuals and the names and addresses of employers of such  
3676 individuals that would enable the location of parents or alleged  
3677 parents who have a duty to provide support and maintenance for  
3678 their children. The Child Support Unit may also administratively  
3679 subpoena any and all financial information, including account  
3680 numbers, names and social security numbers of record for assets,  
3681 accounts, and account balances from any individual, financial  
3682 institution, business or other entity, public or private, needed  
3683 to establish, modify or enforce a support order. No entity  
3684 complying with an administrative subpoena to supply the requested  
3685 information of whatever nature shall be liable in any civil action  
3686 or proceeding on account of such compliance. Full faith and  
3687 credit shall be given to all uniform administrative subpoenas  
3688 issued by other state child support units. The recipient of an  
3689 administrative subpoena shall supply said Child Support Unit,  
3690 other state and federal IV-D agencies, its attorneys,  
3691 investigators, probation officers, county or district attorneys in  
3692 this state, all information relative to the location, employment,  
3693 employment related benefits including, but not limited to,  
3694 availability of medical insurance, income and property of such  
3695 parents and alleged parents and with all information on hand  
3696 relative to the location and prosecution of any person who has, by  
3697 means of a false statement or misrepresentation or by  
3698 impersonation or other fraudulent device, obtained Temporary  
3699 Assistance for Needy Families (TANF) to which he or she was not  
3700 entitled, notwithstanding any provision of law making such  
3701 information confidential. The Mississippi Department of  
3702 Information Technology Services and any other agency in this state

3703 using the facilities of the Mississippi Department of Information  
3704 Technology Services are directed to permit the Child Support Unit  
3705 access to their files, inclusive of those maintained for other  
3706 state agencies, for the purpose of locating absent and  
3707 nonsupporting parents and alleged parents, except to the extent  
3708 that any such access would violate any valid federal statute or  
3709 regulation issued pursuant thereto. The Child Support Unit, other  
3710 state and federal IV-D agencies, its attorneys, investigators,  
3711 probation officers, or county or district attorneys, shall use  
3712 such information only for the purpose of investigating or  
3713 enforcing the support liability of such absent parents or alleged  
3714 parents or for the prosecution of other persons mentioned herein.  
3715 Neither the Child Support Unit nor said authorities shall use the  
3716 information, or disclose it, for any other purpose. All records  
3717 maintained pursuant to the provisions of Sections 43-19-31 through  
3718 43-19-53 shall be confidential and shall be available only to the  
3719 Child Support Unit, other state and federal IV-D agencies, the  
3720 attorneys, investigators and other staff employed or under  
3721 contract under Sections 43-19-31 through 43-19-53, district or  
3722 county attorneys, probation departments, child support units in  
3723 other states, and courts having jurisdiction in paternity, support  
3724 or abandonment proceedings. The Child Support Unit may release to  
3725 the public the name, photo, last known address, arrearage amount  
3726 and other necessary information of a parent who has a judgment  
3727 against him for child support and is currently in arrears in the  
3728 payment of this support. Such release may be included in a "Most  
3729 Wanted List" or other media in order to solicit assistance.

3730 (2) The Child Support Unit shall have the authority to  
3731 secure information from the records of the Mississippi Department  
3732 of Employment Security that may be necessary to locate absent and  
3733 nonsupporting parents and alleged parents under the provisions of  
3734 Sections 43-19-31 through 43-19-53. Upon request of the Child

3735 Support Unit, all departments, boards, bureaus and agencies of the  
3736 state shall provide to the Child Support Unit verification of  
3737 employment or payment and the address and social security number  
3738 of any person designated as an absent or nonsupporting parent or  
3739 alleged parent. In addition, upon request of the Child Support  
3740 Unit, the Mississippi Department of Employment Security, or any  
3741 private employer or payor of any income to a person designated as  
3742 an absent or nonsupporting parent or alleged parent, shall provide  
3743 to the Child Support Unit verification of employment or payment  
3744 and the address and social security number of the person so  
3745 designated. Full faith and credit shall be given to such notices  
3746 issued by child support units in other states. All such records  
3747 and information shall be confidential and shall not be used for  
3748 any purposes other than those specified by Sections 43-19-31  
3749 through 43-19-53. The violation of the provisions of this  
3750 subsection shall be unlawful and any person convicted of violating  
3751 the provisions of this subsection shall be guilty of a misdemeanor  
3752 and shall pay a fine of not more than Two Hundred Dollars  
3753 (\$200.00).

3754 (3) Federal and state IV-D agencies shall have access to the  
3755 state parent locator service and any system used by the Child  
3756 Support Unit to locate an individual for purposes relating to  
3757 motor vehicles or law enforcement. No employer or other source of  
3758 income who complies with this section shall be liable in any civil  
3759 action or proceeding brought by the obligor or obligee on account  
3760 of such compliance.

3761 **SECTION 51.** Section 43-19-46, Mississippi Code of 1972, is  
3762 amended as follows:

3763 43-19-46. (1) Each employer, as defined in Section  
3764 93-11-101, Mississippi Code of 1972, doing business in Mississippi  
3765 shall report to the Directory of New Hires within the Mississippi  
3766 Department of Human Services:

3767 (a) The hiring of any person who resides or works in  
3768 this state to whom the employer anticipates paying wages; and

3769 (b) The hiring or return to work of any employee who  
3770 was laid off, furloughed, separated, granted leave without pay or  
3771 was terminated from employment.

3772 (2) Employers shall report, by mailing or by other means  
3773 authorized by the Department of Human Services, a copy of the  
3774 employee's W-4 form or its equivalent which will result in timely  
3775 reporting. Each employer shall submit reports within fifteen (15)  
3776 days of the hiring, rehiring or return to work of the employee.

3777 The report shall contain:

3778 (a) The employee's name, address, Social Security  
3779 number and the date of birth;

3780 (b) The employer's name, address, and federal and state  
3781 withholding tax identification numbers; and

3782 (c) The date upon which the employee began or resumed  
3783 employment, or is scheduled to begin or otherwise resume  
3784 employment.

3785 (3) The department shall retain the information, which shall  
3786 be forwarded to the federal registry of new hires.

3787 (4) The Department of Human Services may operate the  
3788 program, may enter into a mutual agreement with the Mississippi  
3789 Department of Employment Security or the State Tax Commission, or  
3790 both, for the operation of the Directory of New Hires Program, or  
3791 the Department of Human Services may contract for such service, in  
3792 which case the department shall maintain administrative control of  
3793 the program.

3794 (5) In cases in which an employer fails to report  
3795 information, as required by this section, an administratively  
3796 levied civil penalty in an amount not to exceed Five Hundred  
3797 Dollars (\$500.00) shall apply if the failure is the result of a  
3798 conspiracy between the employer and employee to not supply the

3799 required report or to supply a false or incomplete report. The  
3800 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).  
3801 Appeal shall be as provided in Section 43-19-58.

3802         **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is  
3803 amended as follows:

3804         57-62-5. As used in this chapter, the following words and  
3805 phrases shall have the meanings ascribed in this section unless  
3806 the context clearly indicates otherwise:

3807             (a) "Qualified business or industry" means any  
3808 corporation, limited liability company, partnership, sole  
3809 proprietorship, business trust or other legal entity and subunits  
3810 or affiliates thereof, pursuant to rules and regulations of the  
3811 MDA, which provides an average annual salary, excluding benefits  
3812 which are not subject to Mississippi income taxes, of at least one  
3813 hundred twenty-five percent (125%) of the most recently published  
3814 state average annual wage or the most recently published average  
3815 annual wage of the county in which the qualified business or  
3816 industry is located as determined by the Mississippi Department of  
3817 Employment Security, whichever is the lesser. An establishment  
3818 shall not be considered to be a qualified business or industry  
3819 unless it offers, or will offer within one hundred eighty (180)  
3820 days of the date it receives the first incentive payment pursuant  
3821 to the provisions of this chapter, a basic health benefits plan to  
3822 the individuals it employs in new direct jobs in this state which  
3823 is approved by the MDA. Qualified business or industry does not  
3824 include retail business or gaming business;

3825             (b) "New direct job" means full-time employment in this  
3826 state in a qualified business or industry that has qualified to  
3827 receive an incentive payment pursuant to this chapter, which  
3828 employment did not exist in this state before the date of approval  
3829 by the MDA of the application of the qualified business or  
3830 industry pursuant to the provisions of this chapter. "New direct



3831 job" shall include full-time employment in this state of employees  
3832 who are employed by an entity other than the establishment that  
3833 has qualified to receive an incentive payment and who are leased  
3834 to the qualified business or industry, if such employment did not  
3835 exist in this state before the date of approval by the MDA of the  
3836 application of the establishment;

3837 (c) "Full-time job" means a job of at least thirty-five  
3838 (35) hours per week;

3839 (d) "Estimated direct state benefits" means the tax  
3840 revenues projected by the MDA to accrue to the state as a result  
3841 of the qualified business or industry;

3842 (e) "Estimated direct state costs" means the costs  
3843 projected by the MDA to accrue to the state as a result of the  
3844 qualified business or industry;

3845 (f) "Estimated net direct state benefits" means the  
3846 estimated direct state benefits less the estimated direct state  
3847 costs;

3848 (g) "Net benefit rate" means the estimated net direct  
3849 state benefits computed as a percentage of gross payroll, provided  
3850 that:

3851 (i) Except as otherwise provided in this paragraph  
3852 (g), the net benefit rate may be variable and shall not exceed  
3853 four percent (4%) of the gross payroll; and shall be set in the  
3854 sole discretion of the MDA;

3855 (ii) In no event shall incentive payments,  
3856 cumulatively, exceed the estimated net direct state benefits;

3857 (h) "Gross payroll" means wages for new direct jobs of  
3858 the qualified business or industry; and

3859 (i) "MDA" means the Mississippi Development Authority.

3860 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is  
3861 amended as follows:

3862           57-62-9. (1) Except as otherwise provided in this section,  
3863 a qualified business or industry that meets the qualifications  
3864 specified in the Mississippi Advantage Jobs Act may receive  
3865 quarterly incentive payments for a period not to exceed ten (10)  
3866 years from the State Tax Commission pursuant to the provisions of  
3867 the Mississippi Advantage Jobs Act in an amount which shall be  
3868 equal to the net benefit rate multiplied by the actual gross  
3869 payroll of new direct jobs for a calendar quarter as verified by  
3870 the Mississippi Department of Employment Security, but not to  
3871 exceed the amount of money previously paid into the fund by the  
3872 employer. A qualified business or industry that is a project as  
3873 defined in Section 57-75-5(f)(iv)1 may elect the date upon which  
3874 the ten-year period will begin. Such date may not be later than  
3875 sixty (60) months after the date the business or industry applied  
3876 for incentive payments.

3877           (2) (a) A qualified business or industry that is a project  
3878 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
3879 receive incentive payments for an additional period not to exceed  
3880 five (5) years beyond the expiration date of the initial ten-year  
3881 period if:

3882                       (i) The qualified business or industry creates at  
3883 least three thousand (3,000) new direct jobs within five (5) years  
3884 after the date the business or industry commences commercial  
3885 production;

3886                       (ii) Within five (5) years after the date the  
3887 business or industry commences commercial production, the average  
3888 annual wage of the jobs is at least one hundred fifty percent  
3889 (150%) of the most recently published state average annual wage or  
3890 the most recently published average annual wage of the county in  
3891 which the qualified business or industry is located as determined  
3892 by the Mississippi Department of Employment Security, whichever is  
3893 the lesser. The criteria for the average annual wage requirement

3894 shall be based upon the state average annual wage or the average  
3895 annual wage of the county whichever is appropriate, at the time of  
3896 creation of the minimum number of jobs, and the threshold  
3897 established at that time will remain constant for the duration of  
3898 the additional period; and

3899 (iii) The qualified business or industry meets and  
3900 maintains the job and wage requirements of subparagraphs (i) and  
3901 (ii) of this paragraph (a) for four (4) consecutive calendar  
3902 quarters.

3903 (b) A qualified business or industry that is a project  
3904 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
3905 incentive payments for the additional period provided in paragraph  
3906 (a) of this subsection (2) may apply to the MDA to receive  
3907 incentive payments for an additional period not to exceed ten (10)  
3908 years beyond the expiration date of the additional period provided  
3909 in paragraph (a) of this subsection (2) if:

3910 (i) The qualified business or industry creates at  
3911 least four thousand (4,000) new direct jobs after qualifying for  
3912 the additional incentive period provided in paragraph (a) of this  
3913 subsection (2) but before the expiration of the additional period.  
3914 For purposes of determining whether the business or industry meets  
3915 the minimum jobs requirement of this subparagraph (i), the number  
3916 of jobs the business or industry created in order to meet the  
3917 minimum jobs requirement of paragraph (a) of this subsection (2)  
3918 shall be subtracted from the minimum jobs requirement of this  
3919 subparagraph (i);

3920 (ii) The average annual wage of the jobs is at  
3921 least one hundred fifty percent (150%) of the most recently  
3922 published state average annual wage or the most recently published  
3923 average annual wage of the county in which the qualified business  
3924 or industry is located as determined by the Mississippi Department  
3925 of Employment Security, whichever is the lesser. The criteria for

3926 the average annual wage requirement shall be based upon the state  
3927 average annual wage or the average annual wage of the county  
3928 whichever is appropriate, at the time of creation of the minimum  
3929 number of jobs, and the threshold established at that time will  
3930 remain constant for the duration of the additional period; and

3931 (iii) The qualified business or industry meets and  
3932 maintains the job and wage requirements of subparagraphs (i) and  
3933 (ii) of this paragraph (b) for four (4) consecutive calendar  
3934 quarters.

3935 (3) In order to receive incentive payments, an establishment  
3936 shall apply to the MDA. The application shall be on a form  
3937 prescribed by the MDA and shall contain such information as may be  
3938 required by the MDA to determine if the applicant is qualified.

3939 (4) In order to qualify to receive such payments, the  
3940 establishment applying shall be required to:

3941 (a) Be engaged in a qualified business or industry;

3942 (b) Provide an average salary, excluding benefits which  
3943 are not subject to Mississippi income taxes, of at least one  
3944 hundred twenty-five percent (125%) of the most recently published  
3945 state average annual wage or the most recently published average  
3946 annual wage of the county in which the qualified business or  
3947 industry is located as determined by the Mississippi Department of  
3948 Employment Security, whichever is the lesser. The criteria for  
3949 this requirement shall be based upon the state average annual wage  
3950 or the average annual wage of the county whichever is appropriate,  
3951 at the time of application, and the threshold established upon  
3952 application will remain constant for the duration of the project;

3953 (c) The business or industry must create and maintain a  
3954 minimum of ten (10) full-time jobs in counties that have an  
3955 average unemployment rate over the previous twelve-month period  
3956 which is at least one hundred fifty percent (150%) of the most  
3957 recently published state unemployment rate, as determined by the

3958 Mississippi Department of Employment Security or in Tier Three  
3959 counties as determined under Section 57-73-21. In all other  
3960 counties, the business or industry must create and maintain a  
3961 minimum of twenty-five (25) full-time jobs. The criteria for this  
3962 requirement shall be based on the designation of the county at the  
3963 time of the application. The threshold established upon the  
3964 application will remain constant for the duration of the project.  
3965 The business or industry must meet its job creation commitment  
3966 within twenty-four (24) months of the application approval.  
3967 However, if the qualified business or industry is applying for  
3968 incentive payments for an additional period under subsection (2)  
3969 of this section, the business or industry must comply with the  
3970 applicable job and wage requirements of subsection (2) of this  
3971 section.

3972 (5) The MDA shall determine if the applicant is qualified to  
3973 receive incentive payments. If the applicant is determined to be  
3974 qualified by the MDA, the MDA shall conduct a cost/benefit  
3975 analysis to determine the estimated net direct state benefits and  
3976 the net benefit rate applicable for a period not to exceed ten  
3977 (10) years and to estimate the amount of gross payroll for the  
3978 period. If the applicant is determined to be qualified to receive  
3979 incentive payments for an additional period under subsection (2)  
3980 of this section, the MDA shall conduct a cost/benefit analysis to  
3981 determine the estimated net direct state benefits and the net  
3982 benefit rate applicable for the appropriate additional period and  
3983 to estimate the amount of gross payroll for the additional period.  
3984 In conducting such cost/benefit analysis, the MDA shall consider  
3985 quantitative factors, such as the anticipated level of new tax  
3986 revenues to the state along with the cost to the state of the  
3987 qualified business or industry, and such other criteria as deemed  
3988 appropriate by the MDA, including the adequacy of retirement  
3989 benefits that the business or industry provides to individuals it

3990 employs in new direct jobs in this state. In no event shall  
3991 incentive payments, cumulatively, exceed the estimated net direct  
3992 state benefits. Once the qualified business or industry is  
3993 approved by the MDA, an agreement shall be deemed to exist between  
3994 the qualified business or industry and the State of Mississippi,  
3995 requiring the continued incentive payment to be made as long as  
3996 the qualified business or industry retains its eligibility.

3997 (6) Upon approval of such an application, the MDA shall  
3998 notify the State Tax Commission and shall provide it with a copy  
3999 of the approved application and the estimated net direct state  
4000 benefits. The State Tax Commission may require the qualified  
4001 business or industry to submit such additional information as may  
4002 be necessary to administer the provisions of this chapter. The  
4003 qualified business or industry shall report to the State Tax  
4004 Commission periodically to show its continued eligibility for  
4005 incentive payments. The qualified business or industry may be  
4006 audited by the State Tax Commission to verify such eligibility.

4007 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is  
4008 amended as follows:

4009 57-75-5. Words and phrases used in this chapter shall have  
4010 meanings as follows, unless the context clearly indicates a  
4011 different meaning:

4012 (a) "Act" means the Mississippi Major Economic Impact  
4013 Act as originally enacted or as hereafter amended.

4014 (b) "Authority" means the Mississippi Major Economic  
4015 Impact Authority created pursuant to the act.

4016 (c) "Bonds" means general obligation bonds, interim  
4017 notes and other evidences of debt of the State of Mississippi  
4018 issued pursuant to this chapter.

4019 (d) "Facility related to the project" means and  
4020 includes any of the following, as the same may pertain to the  
4021 project within the project area: (i) facilities to provide

4022 potable and industrial water supply systems, sewage and waste  
4023 disposal systems and water, natural gas and electric transmission  
4024 systems to the site of the project; (ii) airports, airfields and  
4025 air terminals; (iii) rail lines; (iv) port facilities; (v)  
4026 highways, streets and other roadways; (vi) public school  
4027 buildings, classrooms and instructional facilities, training  
4028 facilities and equipment, including any functionally related  
4029 facilities; (vii) parks, outdoor recreation facilities and  
4030 athletic facilities; (viii) auditoriums, pavilions, campgrounds,  
4031 art centers, cultural centers, folklore centers and other public  
4032 facilities; (ix) health care facilities, public or private; and  
4033 (x) fire protection facilities, equipment and elevated water  
4034 tanks.

4035           (e) "Person" means any natural person, corporation,  
4036 association, partnership, receiver, trustee, guardian, executor,  
4037 administrator, fiduciary, governmental unit, public agency,  
4038 political subdivision, or any other group acting as a unit, and  
4039 the plural as well as the singular.

4040           (f) "Project" means:

4041           (i) Any industrial, commercial, research and  
4042 development, warehousing, distribution, transportation,  
4043 processing, mining, United States government or tourism enterprise  
4044 together with all real property required for construction,  
4045 maintenance and operation of the enterprise with an initial  
4046 capital investment of not less than Three Hundred Million Dollars  
4047 (\$300,000,000.00) from private or United States government sources  
4048 together with all buildings, and other supporting land and  
4049 facilities, structures or improvements of whatever kind required  
4050 or useful for construction, maintenance and operation of the  
4051 enterprise; or with an initial capital investment of not less than  
4052 One Hundred Fifty Million Dollars (\$150,000,000.00) from private  
4053 or United States government sources together with all buildings

4054 and other supporting land and facilities, structures or  
4055 improvements of whatever kind required or useful for construction,  
4056 maintenance and operation of the enterprise and which creates at  
4057 least one thousand (1,000) net new full-time jobs; or which  
4058 creates at least one thousand (1,000) net new full-time jobs which  
4059 provides an average salary, excluding benefits which are not  
4060 subject to Mississippi income taxation, of at least one hundred  
4061 twenty-five percent (125%) of the most recently published average  
4062 annual wage of the state as determined by the Mississippi  
4063 Employment Security Commission. "Project" shall include any  
4064 addition to or expansion of an existing enterprise if such  
4065 addition or expansion has an initial capital investment of not  
4066 less than Three Hundred Million Dollars (\$300,000,000.00) from  
4067 private or United States government sources, or has an initial  
4068 capital investment of not less than One Hundred Fifty Million  
4069 Dollars (\$150,000,000.00) from private or United States government  
4070 sources together with all buildings and other supporting land and  
4071 facilities, structures or improvements of whatever kind required  
4072 or useful for construction, maintenance and operation of the  
4073 enterprise and which creates at least one thousand (1,000) net new  
4074 full-time jobs; or which creates at least one thousand (1,000) net  
4075 new full-time jobs which provides an average salary, excluding  
4076 benefits which are not subject to Mississippi income taxation, of  
4077 at least one hundred twenty-five percent (125%) of the most  
4078 recently published average annual wage of the state as determined  
4079 by the Mississippi Department of Employment Security. "Project"  
4080 shall also include any ancillary development or business resulting  
4081 from the enterprise, of which the authority is notified, within  
4082 three (3) years from the date that the enterprise entered into  
4083 commercial production, that the project area has been selected as  
4084 the site for the ancillary development or business.



4085                   (ii) Any major capital project designed to  
4086 improve, expand or otherwise enhance any active duty United States  
4087 Air Force or Navy training bases or naval stations, their support  
4088 areas or their military operations, upon designation by the  
4089 authority that any such base was or is at risk to be recommended  
4090 for closure or realignment pursuant to the Defense Base Closure  
4091 and Realignment Act of 1990; or any major development project  
4092 determined by the authority to be necessary to acquire base  
4093 properties and to provide employment opportunities through  
4094 construction of projects as defined in Section 57-3-5, which shall  
4095 be located on or provide direct support service or access to such  
4096 military installation property as such property exists on July 1,  
4097 1993, in the event of closure or reduction of military operations  
4098 at the installation. From and after July 1, 1997, projects  
4099 described in this subparagraph (ii) shall not be considered to be  
4100 within the meaning of the term "project" for purposes of this  
4101 section, unless such projects are commenced before July 1, 1997,  
4102 and shall not be eligible for any funding provided under the  
4103 Mississippi Major Economic Impact Act.

4104                   (iii) Any enterprise to be maintained, improved or  
4105 constructed in Tishomingo County by or for a National Aeronautics  
4106 and Space Administration facility in such county.

4107                   (iv) 1. Any major capital project with an initial  
4108 capital investment from private sources of not less than Seven  
4109 Hundred Fifty Million Dollars (\$750,000,000.00) which will create  
4110 at least three thousand (3,000) jobs meeting criteria established  
4111 by the Mississippi Development Authority.

4112                   2. "Project" shall also include any ancillary  
4113 development or business resulting from an enterprise operating a  
4114 project as defined in item 1 of this paragraph (f)(iv), of which  
4115 the authority is notified, within three (3) years from the date  
4116 that the enterprise entered into commercial production, that the

4117 state has been selected as the site for the ancillary development  
4118 or business.

4119 (v) Any manufacturing, processing or industrial  
4120 project determined by the authority, in its sole discretion, to  
4121 contribute uniquely and significantly to the economic growth and  
4122 development of the state, and which meets the following criteria:

4123 1. The project shall create at least two  
4124 thousand (2,000) net new full-time jobs meeting criteria  
4125 established by the authority, which criteria shall include, but  
4126 not be limited to, the requirement that such jobs must be held by  
4127 persons eligible for employment in the United States under  
4128 applicable state and federal law.

4129 2. The project and any facility related to  
4130 the project shall include a total investment from private sources  
4131 of not less than Sixty Million Dollars (\$60,000,000.00), or from  
4132 any combination of sources of not less than Eighty Million Dollars  
4133 (\$80,000,000.00).

4134 (vi) Any real property owned or controlled by the  
4135 National Aeronautics and Space Administration, the United States  
4136 government, or any agency thereof, which is legally conveyed to  
4137 the State of Mississippi or to the State of Mississippi for the  
4138 benefit of the Mississippi Major Economic Impact Authority, its  
4139 successors and assigns pursuant to Section 212 of Public Law  
4140 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4141 (vii) Any major capital project related to the  
4142 establishment, improvement, expansion and/or other enhancement of  
4143 any active duty military installation and having a minimum capital  
4144 investment from any source or combination of sources other than  
4145 the State of Mississippi of at least Forty Million Dollars  
4146 (\$40,000,000.00), and which will create at least four hundred  
4147 (400) military installation related full-time jobs, which jobs may  
4148 be military jobs, civilian jobs or a combination of military and

4149 civilian jobs. The authority shall require that binding  
4150 commitments be entered into requiring that the minimum  
4151 requirements for the project provided for in this subparagraph  
4152 shall be met not later than July 1, 2008.

4153 (viii) Any major capital project with an initial  
4154 capital investment from any source or combination of sources of  
4155 not less than Ten Million Dollars (\$10,000,000.00) which will  
4156 create at least eighty (80) full-time jobs which provide an  
4157 average annual salary, excluding benefits which are not subject to  
4158 Mississippi income taxes, of at least one hundred thirty-five  
4159 percent (135%) of the most recently published average annual wage  
4160 of the state or the most recently published average annual wage of  
4161 the county in which the project is located as determined by the  
4162 Mississippi Employment Security Commission, whichever is the  
4163 lesser. The authority shall require that binding commitments be  
4164 entered into requiring that:

4165 1. The minimum requirements for the project  
4166 provided for in this subparagraph shall be met, and

4167 2. That if such commitments are not met, all  
4168 or a portion of the funds provided by the state for the project as  
4169 determined by the authority shall be repaid.

4170 (ix) Any regional retail shopping mall with an  
4171 initial capital investment from private sources in excess of One  
4172 Hundred Fifty Million Dollars (\$150,000,000.00), with a square  
4173 footage in excess of eight hundred thousand (800,000) square feet,  
4174 which will create at least seven hundred (700) full-time jobs with  
4175 an average hourly wage of Eleven Dollars (\$11.00) per hour. The  
4176 authority shall require that binding commitments be entered into  
4177 requiring that:

4178 1. The minimum requirements for the project  
4179 provided for in this subparagraph shall be met, and

4180                   2. That if such commitments are not met, all  
4181 or a portion of the funds provided by the state for the project as  
4182 determined by the authority shall be repaid.

4183                   (x) Any major capital project with an initial  
4184 capital investment from any source or combination of sources of  
4185 not less than Seventy-five Million Dollars (\$75,000,000.00) which  
4186 will create at least one hundred twenty-five (125) full-time jobs  
4187 which provide an average annual salary, excluding benefits which  
4188 are not subject to Mississippi income taxes, of at least one  
4189 hundred thirty-five percent (135%) of the most recently published  
4190 average annual wage of the state or the most recently published  
4191 average annual wage of the county in which the project is located  
4192 as determined by the Mississippi Department of Employment  
4193 Security, whichever is the greater. The authority shall require  
4194 that binding commitments be entered into requiring that:

4195                   1. The minimum requirements for the project  
4196 provided for in this subparagraph shall be met; and

4197                   2. That if such commitments are not met, all  
4198 or a portion of the funds provided by the state for the project as  
4199 determined by the authority shall be repaid.

4200                   (xi) Any potential major capital project that the  
4201 authority has determined is feasible to recruit.

4202                   (g) "Project area" means the project site, together  
4203 with any area or territory within the state lying within  
4204 sixty-five (65) miles of any portion of the project site whether  
4205 or not such area or territory be contiguous; provided, however,  
4206 that for the project defined in paragraph (f)(iv) of this section  
4207 the term "project area" means any area or territory within the  
4208 state. The project area shall also include all territory within a  
4209 county if any portion of such county lies within sixty-five (65)  
4210 miles of any portion of the project site. "Project site" means

4211 the real property on which the principal facilities of the  
4212 enterprise will operate.

4213 (h) "Public agency" means:

4214 (i) Any department, board, commission, institution  
4215 or other agency or instrumentality of the state;

4216 (ii) Any city, town, county, political  
4217 subdivision, school district or other district created or existing  
4218 under the laws of the state or any public agency of any such city,  
4219 town, county, political subdivision or district or any other  
4220 public entity created or existing under local and private  
4221 legislation;

4222 (iii) Any department, commission, agency or  
4223 instrumentality of the United States of America; and

4224 (iv) Any other state of the United States of  
4225 America which may be cooperating with respect to location of the  
4226 project within the state, or any agency thereof.

4227 (i) "State" means State of Mississippi.

4228 (j) "Fee-in-lieu" means a negotiated fee to be paid by  
4229 the project in lieu of any franchise taxes imposed on the project  
4230 by Chapter 13, Title 27, Mississippi Code of 1972. The  
4231 fee-in-lieu shall not be less than Twenty-five Thousand Dollars  
4232 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an  
4233 enterprise operating an existing project defined in Section  
4234 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated  
4235 for other existing enterprises that fall within the definition of  
4236 the term "project."

4237 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is  
4238 amended as follows:

4239 57-80-7. (1) From and after December 31, 2000, and until  
4240 December 31, 2005, the following counties may apply to the MDA for  
4241 the issuance of a certificate of public convenience and necessity:

4242 (a) Any county of this state which has an annualized  
4243 unemployment rate that is at least two hundred percent (200%) of  
4244 the state's unemployment rate as of December 31 of any year from  
4245 2000 through 2005, as determined by the Mississippi Department of  
4246 Employment Security's most recently published data;

4247 (b) Any county of this state in which thirty percent  
4248 (30%) or more of the population of the county is at or below the  
4249 federal poverty level according to the official data compiled by  
4250 the United States Census Bureau as of August 30, 2000, for  
4251 counties that apply before December 31, 2002, or the most recent  
4252 official data compiled by the United States Census Bureau for  
4253 counties that apply from and after December 31, 2002; or

4254 (c) Any county of this state having an eligible  
4255 supervisors district.

4256 (2) The application, at a minimum, must contain (a) the  
4257 Mississippi Department of Employment Security's most recently  
4258 published figures that reflect the annualized unemployment rate of  
4259 the applying county as of December 31 or the most recent official  
4260 data by the United States Census Bureau required by subsection (1)  
4261 of this section, as the case may be, and (b) an order or  
4262 resolution of the county consenting to the designation of the  
4263 county as a growth and prosperity county.

4264 (3) Any municipality of a designated growth and prosperity  
4265 county or within an eligible supervisors district and not more  
4266 than eight (8) miles from the boundary of the county that meets  
4267 the criteria of subsection (1)(b) of this section may by order or  
4268 resolution of the municipality consent to participation in the  
4269 Growth and Prosperity Program.

4270 (4) No incentive or tax exemption shall be given under this  
4271 chapter without the consent of the affected county or  
4272 municipality.

4273           **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is  
4274 amended as follows:

4275           69-2-5. (1) The Mississippi Cooperative Extension Service  
4276 shall act as a clearinghouse for the dissemination of information  
4277 regarding programs and services which may be available to help  
4278 those persons and businesses which have been adversely affected by  
4279 the present emergency in the agricultural community. The  
4280 Cooperative Extension Service shall develop a plan of assistance  
4281 which shall identify all programs and services available within  
4282 the state which can be of assistance to those affected by the  
4283 present emergency. The Department of Agriculture and Commerce,  
4284 the Department of Finance and Administration, Department of Human  
4285 Services, Department of Mental Health, State Department of Health,  
4286 Board of Trustees of State Institutions of Higher Learning, State  
4287 Board for Community and Junior Colleges, Research and Development  
4288 Center, Mississippi Development Authority, Department of  
4289 Employment Security, Office of the Governor, Board of Vocational  
4290 and Technical Education, Mississippi Authority for Educational  
4291 Television, and other agencies of the state which have programs  
4292 and services that can be of assistance to those affected by the  
4293 present emergency, shall provide information regarding their  
4294 programs and services to the Cooperative Extension Service for use  
4295 in the clearinghouse. The types of programs and services shall  
4296 include, but not be limited to, financial counseling, farm and  
4297 small business management, employment services, labor market  
4298 information, job re-training, vocational and technical training,  
4299 food stamp programs, personal counseling, health services, and  
4300 free or low cost legal services. The clearinghouse shall provide  
4301 a single contact point to provide program information and referral  
4302 services to individuals interested or needing services from state  
4303 funded assistance programs affecting agriculture, horticulture,  
4304 aquaculture and other agribusinesses or related industries. Such

4305 assistance information shall identify all monies available under  
4306 the Small Business Financing Act, the Business Investment Act, the  
4307 Emerging Crop Fund legislation and any other sources which may be  
4308 used singularly or combined, to provide a comprehensive financing  
4309 package. The provisions of this section in establishing a single  
4310 contact point for information and referral services shall not be  
4311 construed to authorize the hiring of additional personnel.

4312 (2) The Cooperative Extension Service may accept monetary or  
4313 in-kind contributions, gifts and grants for the establishment or  
4314 operation of the clearinghouse.

4315 (3) The Cooperative Extension Service shall establish a  
4316 method for the dissemination of information to those who can be  
4317 benefited by the existing programs and services of the state.

4318 (4) The Cooperative Extension Service shall file an annual  
4319 report with the Governor, Lieutenant Governor and Speaker of the  
4320 House of Representatives regarding the efforts which have been  
4321 made in the clearinghouse operation. The report shall also  
4322 recommend any additional measures, including legislation, which  
4323 may be needed or desired in providing programs and benefits to  
4324 those affected by the agricultural emergency.

4325 **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is  
4326 amended as follows:

4327 7-1-355. (1) The Mississippi Development Authority is \* \* \*  
4328 designated as the sole administrator of all programs for which the  
4329 state is the prime sponsor under Title 1(B) of Public Law 105-220,  
4330 Workforce Investment Act of 1998, and the regulations promulgated  
4331 thereunder, and may take all necessary action to secure to this  
4332 state the benefits of such legislation. The Mississippi  
4333 Development Authority is empowered to receive and disburse funds  
4334 for such programs which become available to it from any source.

4335 (2) The Mississippi Development Authority shall establish  
4336 guidelines on the amount and/or percentage of indirect and/or



4337 administrative expenses by the local fiscal agent or the Workforce  
4338 Development Center operator. The Mississippi Development  
4339 Authority shall develop an accountability system and make an  
4340 annual report to the Legislature before December 31 of each year  
4341 on Workforce Investment Act activities. The report shall include,  
4342 but is not limited to, the following:

4343 (a) The total number of individuals served through the  
4344 Workforce Development Centers and the percentage and number of  
4345 individuals for which a quarterly follow-up is provided;

4346 (b) The number of individuals who receive core services  
4347 by each center;

4348 (c) The number of individuals who receive intensive  
4349 services by each center;

4350 (d) The number of Workforce Investment Act vouchers  
4351 issued by the Workforce Development Centers, including:

4352 (i) A list of schools and colleges to which these  
4353 vouchers were issued and the average cost per school of the  
4354 vouchers; and

4355 (ii) A list of the types of programs for which  
4356 these vouchers were issued;

4357 (e) The number of individuals placed in a job through  
4358 Workforce Development Centers;

4359 (f) The monies and the amount retained for  
4360 administrative and other costs received from Workforce Investment  
4361 Act funds for each agency or organization that Workforce  
4362 Investment Act funds flow through as a percentage and actual  
4363 dollar amount of all Workforce Investment funds received.

4364 **SECTION 58.** Sections 37-151-69, 37-151-71 and 37-151-73,  
4365 Mississippi Code of 1972, which authorize a Mississippi Workforce  
4366 Development Council, local district councils and one-stop career  
4367 centers, are hereby repealed.

4368           **SECTION 59.** Sections 71-5-103 and 71-5-105, Mississippi Code  
4369 of 1972, which provide for the organization and compensation of  
4370 members of the Mississippi Employment Security Commission, are  
4371 hereby repealed.

4372           **SECTION 60.** Section 57-73-25, Mississippi Code of 1972, is  
4373 amended as follows:

4374           57-73-25. (1) A fifty percent (50%) income tax credit shall  
4375 be granted to any employer (as defined in subsection (4) of this  
4376 section) sponsoring \* \* \* skills training. The fifty percent  
4377 (50%) credit shall be granted to employers that participate in  
4378 employer-sponsored training programs through any community/junior  
4379 college in the district within which the employer is located or  
4380 training approved by such community/junior college. \* \* \* The  
4381 credit is applied to qualified training \* \* \* expenses, which are  
4382 expenses related to instructors, instructional materials and  
4383 equipment, and the construction and maintenance of facilities by  
4384 such employer designated for training purposes which is  
4385 attributable to training \* \* \* provided through such  
4386 community/junior college or training approved by such  
4387 community/junior college. The credits allowed under this section  
4388 shall only be used by the actual employer qualifying for the  
4389 credits. The credit shall not exceed fifty percent (50%) of the  
4390 income tax liability in a tax year and may be carried forward for  
4391 the five (5) successive years if the amount allowable as credit  
4392 exceeds the income tax liability in a tax year; however,  
4393 thereafter, if the amount allowable as a credit exceeds the tax  
4394 liability, the amount of excess shall not be refundable or carried  
4395 forward to any other taxable year. The credit authorized under  
4396 this section shall not exceed Two Thousand Five Hundred Dollars  
4397 (\$2,500.00) \* \* \* per employee during any one year. Nothing in  
4398 this section shall be interpreted in any manner as to prevent the  
4399 continuing operation of state-supported university programs.

4400 (2) Employer-sponsored training shall include an evaluation  
4401 by the local community or junior college that serves the employer  
4402 to ensure that the training provided is job related and conforms  
4403 to the definition of "\* \* \* skills training" \* \* \* as hereinafter  
4404 defined.

4405 (3) Employers shall be certified as eligible for the tax  
4406 credit by the local community or junior college that serves the  
4407 employer and the State Tax Commission.

4408 (4) For the purposes of this section:

4409 (a) "\* \* \* Skills training" means any  
4410 employer-sponsored training by an appropriate community/junior  
4411 college or training approved by such community/junior college that  
4412 enhances skills that improve job performance. If the employer  
4413 provides pre-employment training, the portion of the  
4414 pre-employment training that involves skills training shall be  
4415 eligible for the credit.

4416 \* \* \*

4417 (b) "Employer-sponsored training" means training  
4418 provided by the appropriate community/junior college in the  
4419 district within which the employer is located or training approved  
4420 by such community/junior college.

4421 (c) "Employer" means those permanent business  
4422 enterprises as defined and set out in Section 57-73-21(2), (3),  
4423 (4) and (5).

4424 (5) The tax credits provided for in this section shall be in  
4425 addition to all other tax credits heretofore granted by the laws  
4426 of the state.

4427 (6) A community/junior college may commit to provide  
4428 employer-sponsored \* \* \* skills training \* \* \* program for an  
4429 employer for a multiple number of years, not to exceed five (5)  
4430 years.

4431 (7) The State Board for Community and Junior Colleges shall  
4432 make a report to the Legislature by January 30 of each year  
4433 summarizing the number of participants, the junior or community  
4434 college through which the training was offered and the type  
4435 training offered.

4436 \* \* \*

4437 **SECTION 61.** This act shall take effect and be in force from  
4438 and after July 1, 2004; provided, however, that Section 4 of this  
4439 act shall take effect and be in force from and after its passage.

**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 SUCH PROGRAMS PURSUANT TO  
12 FEDERAL LAW, TO PROVIDE FOR FOUR LOCAL WORKFORCE INVESTMENT  
13 BOARDS, TO PROVIDE FOR COMMUNITY COLLEGE DISTRICT WORKFORCE  
14 DEVELOPMENT COUNCILS, AND TO PROVIDE FOR WORKFORCE DEVELOPMENT  
15 CENTERS; TO AMEND SECTIONS 71-5-5, 71-5-11, 71-5-19, 71-5-101,  
16 71-5-107 THROUGH 71-5-143, 71-5-201, 71-5-357, 71-5-359, 71-5-451,  
17 71-5-457, 71-5-511, 71-5-513, 71-5-517, 71-5-519, 71-5-523,  
18 71-5-525, 71-5-529, 71-5-531, 71-5-541, 73-30-25, 43-1-30,  
19 43-17-5, 43-19-45, 43-19-46, 57-62-5, 57-62-9, 57-75-5, 57-80-7  
20 AND 69-2-5, MISSISSIPPI CODE OF 1972, TO TRANSFER THE POWERS AND  
21 RESPONSIBILITIES OF THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION  
22 TO THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY IN THE OFFICE  
23 OF THE GOVERNOR, TO PROVIDE FOR AN EXECUTIVE DIRECTOR OF THE  
24 DEPARTMENT OF EMPLOYMENT SECURITY APPOINTED BY THE GOVERNOR, TO  
25 CLARIFY RULEMAKING AUTHORITY OF THE DEPARTMENT, TO TRANSFER THE  
26 FUNCTION OF THE EMPLOYMENT SECURITY COMMISSION BOARD OF REVIEW TO  
27 THE EXECUTIVE DIRECTOR, AND IN CONFORMITY THERETO; TO AMEND  
28 SECTION 7-1-355, MISSISSIPPI CODE OF 1972, TO REQUIRE THE  
29 MISSISSIPPI DEVELOPMENT AUTHORITY TO MAKE AN ANNUAL REPORT TO THE  
30 LEGISLATURE ON WORKFORCE INVESTMENT ACTIVITIES; TO REPEAL SECTIONS  
31 37-151-69, 37-151-71 AND 37-151-73, MISSISSIPPI CODE OF 1972,  
32 WHICH AUTHORIZE A MISSISSIPPI WORKFORCE DEVELOPMENT COUNCIL, LOCAL  
33 DISTRICT COUNCILS AND WORKFORCE DEVELOPMENT CENTERS; TO REPEAL  
34 SECTIONS 71-5-103 AND 71-5-105, MISSISSIPPI CODE OF 1972, WHICH  
35 PROVIDE FOR THE ORGANIZATION AND COMPENSATION OF MEMBERS OF THE  
36 MISSISSIPPI EMPLOYMENT SECURITY COMMISSION; TO AMEND SECTION  
37 57-73-25, MISSISSIPPI CODE OF 1972, TO INCREASE AND REDEFINE THE  
38 TAX CREDIT FOR EMPLOYERS PROVIDING CERTAIN SKILLS TRAINING; TO  
39 REMOVE THE JULY 1, 2004, REPEAL DATE ON THIS TAX CREDIT; AND FOR  
40 RELATED PURPOSES.