

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2498

1 AN ACT TO REENACT SECTIONS 37-153-1 THROUGH 37-153-13,  
 2 MISSISSIPPI CODE OF 1972, TO DELETE THE AUTOMATIC REPEALER ON  
 3 THOSE STATUTES WHICH ESTABLISH AND PRESCRIBE THE MEMBERSHIP OF THE  
 4 MISSISSIPPI WORKFORCE INVESTMENT BOARD; TO REENACT SECTIONS  
 5 71-5-5, 71-5-11, 71-5-19, 71-5-101, 71-5-107 THROUGH 71-5-143,  
 6 71-5-201, 71-5-357, 71-5-359, 71-5-451, 71-5-457, 71-5-511,  
 7 71-5-513, 71-5-517, 71-5-519, 71-5-523, 71-5-525, 71-5-529,  
 8 71-5-531, 71-5-541, 73-30-25, 43-1-30, 43-17-5, 43-19-45,  
 9 43-19-46, 57-62-5, 57-62-9, 57-75-5, 57-80-7, 69-2-5 AND 7-1-355,  
 10 MISSISSIPPI CODE OF 1972, TO DELETE THE AUTOMATIC REPEALER ON  
 11 THOSE STATUTES WHICH TRANSFER THE POWERS AND RESPONSIBILITIES OF  
 12 THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION TO THE MISSISSIPPI  
 13 DEPARTMENT OF EMPLOYMENT SECURITY, OFFICE OF THE GOVERNOR; TO  
 14 REPEAL SECTION 60 OF CHAPTER 572, LAWS OF 2004, WHICH IS THE  
 15 AUTOMATIC REPEALER ON THOSE STATUTES TRANSFERRING THE MISSISSIPPI  
 16 EMPLOYMENT SECURITY COMMISSION TO THE MISSISSIPPI DEPARTMENT OF  
 17 EMPLOYMENT SECURITY, OFFICE OF THE GOVERNOR; AND FOR RELATED  
 18 PURPOSES.

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

20 **SECTION 1.** Section 37-153-1, Mississippi Code of 1972, is  
 21 reenacted as follows:

22 37-153-1. This chapter shall be known and may be cited as  
 23 the "Mississippi Comprehensive Workforce Training and Education  
 24 Consolidation Act of 2004."

25 **SECTION 2.** Section 37-153-3, Mississippi Code of 1972, is  
 26 reenacted as follows:

27 37-153-3. It is the intent of the Legislature by the passage  
 28 of Laws, 2004, Chapter 572, to establish one (1) comprehensive  
 29 workforce development system in the State of Mississippi that is  
 30 focused on achieving results, using resources efficiently and  
 31 ensuring that workers and employers can easily access needed  
 32 services. This system shall reflect a consolidation of the  
 33 Mississippi Workforce Development Advisory Council and the  
 34 Mississippi State Workforce Investment Act Board. The purpose of  
 35 Laws, 2004, Chapter 572, is to provide workforce activities,

36 through a statewide system that maximizes cooperation among state  
37 agencies, that increase the employment, retention and earnings of  
38 participants, and increase occupational skill attainment by  
39 participants and as a result, improve the quality of the  
40 workforce, reduce welfare dependency and enhance the productivity  
41 and competitiveness of the State of Mississippi.

42 **SECTION 3.** Section 37-153-5, Mississippi Code of 1972, is  
43 reenacted as follows:

44 37-153-5. For purposes of this chapter, the following words  
45 and phrases shall have the meanings respectively ascribed in this  
46 section unless the context clearly indicates otherwise:

47 (a) "State board" means the Mississippi State Workforce  
48 Investment Board;

49 (b) "District councils" means the Local Workforce  
50 Development Councils;

51 (c) "Local workforce investment board" means the board  
52 that oversees the workforce development activities of local  
53 workforce areas under the federal Workforce Investment Act.

54 **SECTION 4.** Section 37-153-7, Mississippi Code of 1972, is  
55 reenacted as follows:

56 37-153-7. (1) There is created the Mississippi State  
57 Workforce Investment Board. The Mississippi State Workforce  
58 Investment Board shall be composed of thirty-nine (39) voting  
59 members, of which a majority shall be representatives of business  
60 and industry in accordance with the federal Workforce Investment  
61 Act.

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

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

66 (ii) The Executive Director of the Mississippi  
67 Municipal League;

68 (iii) One (1) elected mayor;

69 (iv) One (1) elected county supervisor;  
70 (v) Two (2) representatives of labor  
71 organizations, who have been nominated by state labor federations;  
72 (vi) Two (2) representatives of individuals and  
73 organizations that have experience with respect to youth  
74 activities;  
75 (vii) One (1) representative of the Mississippi  
76 Association of Planning and Development Districts;  
77 (viii) One (1) representative from each of the  
78 four (4) workforce areas in the state, who has been nominated by  
79 the community colleges in each respective area, with the consent  
80 of the elected county supervisors within the respective workforce  
81 area; and  
82 (ix) Nineteen (19) representatives of business  
83 owners nominated by business and industry organizations, which may  
84 include representatives of the various planning and development  
85 districts in Mississippi.  
86 (b) The following state officials shall be members of  
87 the board:  
88 (i) The Executive Director of the Mississippi  
89 Department of Employment Security;  
90 (ii) The Executive Director of the Department of  
91 Rehabilitation Services;  
92 (iii) The State Superintendent of Public  
93 Education;  
94 (iv) The Executive Director of the Mississippi  
95 Development Authority;  
96 (v) The Executive Director of the Mississippi  
97 Department of Human Services;  
98 (vi) The Executive Director of the State Board for  
99 Community and Junior Colleges.  
100 (c) The Governor, or his designee, shall serve as a  
101 member.

102           (d) Four (4) legislators, who shall serve in a  
103 nonvoting capacity, two (2) of whom shall be appointed by the  
104 Lieutenant Governor from the membership of the Mississippi Senate,  
105 and two (2) of whom shall be appointed by the Speaker of the House  
106 from the membership of the Mississippi House of Representatives.

107           (e) The membership of the board shall reflect the  
108 diversity of the State of Mississippi.

109           (f) The Governor shall designate the Chairman of the  
110 Mississippi State Workforce Investment Board from among the voting  
111 members of the board, and a quorum of the board shall consist of a  
112 majority of the voting members of the board.

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

117           (h) The Mississippi Department of Employment Security  
118 shall be responsible for providing necessary administrative,  
119 clerical and budget support for the State Workforce Investment  
120 Board.

121           (2) The Mississippi Department of Employment Security shall  
122 establish limits on administrative costs for each portion of  
123 Mississippi's Workforce Development System consistent with the  
124 federal Workforce Investment Act or any future federal workforce  
125 legislation.

126           (3) The Mississippi State Workforce Investment Board shall  
127 have the following duties:

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

134           (b) Assist the Governor in the development and  
135 continuous improvement of the statewide workforce investment  
136 system that shall include:

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

139                   (ii) Review local workforce development plans that  
140 reflect the use of funds from the federal Workforce Investment  
141 Act, Wagner-Peyser Act and the Mississippi Comprehensive Workforce  
142 Training and Education Consolidation Act.

143           (c) Recommend the designation of local workforce  
144 investment areas as required in Section 116 of the federal  
145 Workforce Investment Act of 1998. There shall be four (4)  
146 workforce investment areas that are generally aligned with the  
147 planning and development district structure in Mississippi.  
148 Planning and development districts will serve as the fiscal agents  
149 to manage Workforce Investment Act funds, oversee and support the  
150 local workforce investment boards aligned with the area and the  
151 local programs and activities as delivered by the one-stop  
152 employment and training system. The planning and development  
153 districts will perform this function through the provisions of the  
154 county cooperative service districts created under Sections  
155 19-3-101 through 19-3-115; however, planning and development  
156 districts currently performing this function under the Interlocal  
157 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may  
158 continue to do so.

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

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

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

175                   (i) Design broad guidelines for the delivery of  
176 workforce development programs;

177                   (ii) Identify all existing delivery agencies and  
178 other resources;

179                   (iii) Define appropriate roles of the various  
180 agencies to include an analysis of service providers' strengths  
181 and weaknesses;

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

184                   (v) Develop a financial plan to support the  
185 delivery system that shall, at a minimum, include an  
186 accountability system.

187           (g) Assist the Governor in reducing duplication of  
188 services by urging the Local Workforce Investment Boards to  
189 designate the local community/junior college as the operator of  
190 the WIN Job Center. Incentive grants of Two Hundred Thousand  
191 Dollars (\$200,000.00) from federal Workforce Investment Act funds  
192 may be awarded to the local workforce boards where the  
193 community/junior college district is designated as the WIN Job  
194 Center. These grants must be provided to the community and junior  
195 colleges for the extraordinary costs of coordinating with the  
196 Workforce Investment Act, advanced technology centers and advanced  
197 skills centers. In no case shall these funds be used to supplant

198 state resources being used for operation of workforce development  
199 programs.

200 (h) To provide authority, in accordance with any  
201 executive order of the Governor, for developing the necessary  
202 collaboration among state agencies at the highest level for  
203 accomplishing the purposes of this chapter;

204 (i) To monitor the effectiveness of the workforce  
205 development centers and WIN job centers;

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

212 (k) To work with industry to identify barriers that  
213 inhibit the delivery of quality workforce education and the  
214 responsiveness of educational institutions to the needs of  
215 industry;

216 (l) To provide periodic assessments on effectiveness  
217 and results of the overall Mississippi comprehensive workforce  
218 development system and district councils; and

219 (m) To assist the Governor in carrying out any other  
220 responsibility required by the federal Workforce Investment Act of  
221 1998, as amended.

222 (4) The Mississippi State Workforce Investment Board shall  
223 coordinate all training programs and funds in the State of  
224 Mississippi.

225 Each state agency director responsible for workforce training  
226 activities shall advise the Mississippi State Workforce Investment  
227 Board of appropriate federal and state requirements. Each such  
228 state agency director shall remain responsible for the actions of  
229 his agency; however, each state agency and director shall work  
230 cooperatively, and shall be individually and collectively

231 responsible to the Governor for the successful implementation of  
232 the statewide workforce investment system. The Governor, as the  
233 Chief Executive Officer of the state, shall have complete  
234 authority to enforce cooperation among all entities within the  
235 state that utilize federal or state funding for the conduct of  
236 workforce development activities.

237 **SECTION 5.** Section 37-153-9, Mississippi Code of 1972, is  
238 reenacted as follows:

239 37-153-9. (1) In accordance with the federal Workforce  
240 Investment Act of 1998, there shall be established, for each of  
241 the four (4) state workforce areas prescribed in Section 37-153-3  
242 (2)(c), a local Workforce Investment Board to set policy for the  
243 portion of the state workforce investment system within the local  
244 area and carry out the provisions of the Workforce Investment Act.

245 (2) Each community college district shall have an affiliated  
246 District Workforce Development Council. The district council  
247 shall be composed of a diverse group of fifteen (15) persons  
248 appointed by the board of trustees of the affiliated public  
249 community or junior college. The members of each district council  
250 shall be selected from persons recommended by the chambers of  
251 commerce, employee groups, industrial foundations, community  
252 organizations and local governments located in the community  
253 college district of the affiliated community college with one (1)  
254 appointee being involved in basic literacy training. However, at  
255 least eight (8) members of each district council shall be chief  
256 executive officers, plant managers that are representatives of  
257 employers in that district or service sector executives. The  
258 District Workforce Development Council affiliated with each  
259 respective community or junior college shall advise the president  
260 of the community or junior college on the operation of its  
261 workforce development center/one-stop center.

262 The Workforce Development Council shall have the following  
263 advisory duties:



- 264           (a) To develop an integrated and coordinated district  
265 work force investment strategic plan that:
- 266           (i) Identifies workforce investment needs through  
267 job and employee assessments of local business and industry;
- 268           (ii) Sets short-term and long-term goals for  
269 industry-specific training and upgrading and for general  
270 development of the workforce; and
- 271           (iii) Provides for coordination of all training  
272 programs, including ABE/GED, Skills Enhancement and Industrial  
273 Services, and shall work collaboratively with the State Literacy  
274 Resource Center;
- 275           (b) To coordinate and integrate delivery of training as  
276 provided by the work force development plan;
- 277           (c) To assist business and industry management in the  
278 transition to a high-powered, quality organization;
- 279           (d) To encourage continuous improvement through  
280 evaluation and assessment; and
- 281           (e) To oversee development of an extensive marketing  
282 plan to the employer community.

283           **SECTION 6.** Section 37-153-11, Mississippi Code of 1972, is  
284 reenacted as follows:

285           37-153-11. (1) There are created workforce development  
286 centers to provide assessment, training and placement services to  
287 individuals needing retraining, training and upgrading for small  
288 business and local industry. Each workforce development center  
289 shall be affiliated with a separate public community or junior  
290 college district.

291           (2) Each workforce development center shall be staffed and  
292 organized locally by the affiliated community college. The  
293 workforce development center shall serve as staff to the  
294 affiliated district council.

295           (3) Each workforce development center, working in concert  
296 with its affiliated district council, shall offer and arrange

297 services to accomplish the purposes of this chapter, including,  
298 but not limited to, the following:

299 (a) For individuals needing training and retraining:

300 (i) Recruiting, assessing, counseling and  
301 referring to training or jobs;

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

304 (iii) Basic literacy skills training and high  
305 school equivalency education;

306 (iv) Vocational and technical training, full-time  
307 or part-time; and

308 (v) Short-term skills training for educationally  
309 and economically disadvantaged adults in cooperation with  
310 federally established employment and training programs;

311 (b) For specific small businesses, industries or firms  
312 within the district:

313 (i) Job analysis, testing and curriculum  
314 development;

315 (ii) Development of specific long-range training  
316 plans;

317 (iii) Industry or firm-related preemployment  
318 training;

319 (iv) Workplace basic skills and literacy training;

320 (v) Customized skills training;

321 (vi) Assistance in developing the capacity for  
322 Total Quality Management training;

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

327 (viii) Development of business plans;

328 (c) For public schools within the district technical  
329 assistance to secondary schools in curriculum coordination,

330 development of tech prep programs, instructional development and  
331 resource coordination; and

332 (d) For economic development, a local forum and  
333 resource center for all local industrial development groups to  
334 meet and promote regional economic development.

335 (4) Each workforce development center shall compile and make  
336 accessible to the Mississippi Workforce Investment Board necessary  
337 information for use in evaluating outcomes of its efforts and in  
338 improving the quality of programs at each community college, and  
339 shall include information on literacy initiatives. Each workforce  
340 development center shall, through an interagency management  
341 information system, maintain records on new small businesses,  
342 placement, length of time on the job after placement and wage  
343 rates of those placed in a form containing such information as  
344 established by the state council.

345 **SECTION 7.** Section 37-153-13, Mississippi Code of 1972, is  
346 reenacted as follows:

347 37-153-13. The State Board for Community and Junior Colleges  
348 is designated as the primary support agency to the workforce  
349 development centers. The State Board for Community and Junior  
350 Colleges may exercise the following powers:

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

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

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

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

362                   (ii) Establishing rigorous and comprehensive local  
363 preemployment training programs;

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

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

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

370                   (vi) Developing data for strategic planning;

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

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

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

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

385           (h) To develop and administer an incentive  
386 certification program;

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

389           (j) To collaborate, partner and contract for services  
390 with community-based organizations and disadvantaged businesses in  
391 the delivery of workforce training and career information  
392 especially to youth, as defined by the federal Workforce  
393 Investment Act, and to those adults who are in low income jobs or  
394 whose individual skill levels are so low as to be unable initially

395 to be aided by a workforce development center. Community-based  
396 organizations and disadvantaged businesses must meet  
397 performance-based certification requirements set by the State  
398 Board for Community and Junior Colleges.

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

401 71-5-5. The Legislature 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 reenacted 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 G. "Executive director" means the Executive Director of the  
477 Mississippi Department of Employment Security, Office of the  
478 Governor, appointed under Section 71-5-107.

479 H. "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 I. "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  
558 to Section 71-5-361(3), any other employing unit which has elected  
559 to 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           J. "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         However, for purposes of this subsection, the term  
600 "employment" shall include services described in subsection  
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; however, 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 subsection I(3) and (4) of this  
635 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; however,  
915 the department is authorized and directed to enter into agreements  
916 with the proper agencies under such act or acts of Congress, which  
917 agreements shall become effective ten (10) days after publication  
918 thereof in the manner provided in Section 71-5-117 for general

919 rules, to provide reciprocal treatment to individuals who have,  
920 after acquiring potential rights to benefits under this chapter,  
921 acquired rights to unemployment compensation under such act or  
922 acts of Congress or who have, after acquiring potential rights to  
923 unemployment compensation under such act or acts of Congress,  
924 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 a barber or beautician  
988 whose work station is leased to him or her by the owner of the  
989 shop in which he or she works and who is compensated directly by  
990 the patrons he or she serves and who is free from direction and  
991 control by the lessor.

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

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

998           M. "Fund" means the Unemployment Compensation Fund  
999 established by this chapter, to which all contributions required  
1000 and from which all benefits provided under this chapter shall be  
1001 paid.

1002           N. "Hospital" means an institution which has been licensed,  
1003 certified, or approved by the State Department of Health as a  
1004 hospital.

1005           O. "Institution of higher learning," for the purposes of  
1006 this section, means an educational institution which:

1007           (1) Admits as regular students only individuals having  
1008 a certificate of graduation from a high school, or the recognized  
1009 equivalent of such a certificate;

1010           (2) Is legally authorized in this state to provide a  
1011 program of education beyond high school;

1012           (3) Provides an educational program for which it awards  
1013 a bachelor's or higher degree, or provides a program which is  
1014 acceptable for full credit toward such a degree, a program of  
1015 postgraduate or postdoctoral studies, or a program of training to  
1016 prepare students for gainful employment in a recognized  
1017 occupation;

1018 (4) Is a public or other nonprofit institution;

1019 (5) Notwithstanding any of the foregoing provisions of  
1020 this subsection, all colleges and universities in this state are  
1021 institutions of higher learning for purposes of this section.

1022 P. (1) "State" includes, in addition to the states of the  
1023 United States of America, the District of Columbia, Commonwealth  
1024 of Puerto Rico and the Virgin Islands.

1025 (2) The term "United States" when used in a  
1026 geographical sense includes the states, the District of Columbia,  
1027 Commonwealth of Puerto Rico and the Virgin Islands.

1028 (3) The provisions of subsections (1) and (2) of  
1029 paragraph P, as including the Virgin Islands, shall become  
1030 effective on the day after the day on which the United States  
1031 Secretary of Labor approves for the first time under Section  
1032 3304(a) of the Internal Revenue Code of 1954 an unemployment  
1033 compensation law submitted to the secretary by the Virgin Islands  
1034 for such approval.

1035 Q. "Unemployment."

1036 (1) An individual shall be deemed "unemployed" in any  
1037 week during which he performs no services and with respect to  
1038 which no wages are payable to him, or in any week of less than  
1039 full-time work if the wages payable to him with respect to such  
1040 week are less than his weekly benefit amount as computed and  
1041 adjusted in Section 71-5-505. The department shall prescribe  
1042 regulations applicable to unemployed individuals, making such  
1043 distinctions in the procedure as to total unemployment, part-total  
1044 unemployment, partial unemployment of individuals attached to  
1045 their regular jobs, and other forms of short-time work, as the  
1046 department deems necessary.

1047 (2) An individual's week of total unemployment shall be  
1048 deemed to commence only after his registration at an employment  
1049 office, except as the department may by regulation otherwise  
1050 prescribe.



1051 R. (1) "Wages" means all remuneration for personal  
1052 services, including commissions and bonuses and the cash value of  
1053 all remuneration in any medium other than cash, except that  
1054 "wages," for purposes of determining employer's coverage and  
1055 payment of contributions for agricultural and domestic service  
1056 means cash remuneration only. The reasonable cash value of  
1057 remuneration in any medium other than cash shall be estimated and  
1058 determined in accordance with rules prescribed by the department;  
1059 however, that the term "wages" shall not include:

1060 (a) The amount of any payment made to, or on  
1061 behalf of, an employee under a plan or system established by an  
1062 employer which makes provision for his employees generally or for  
1063 a class or classes of his employees (including any amount paid by  
1064 an employer for insurance or annuities, or into a fund, to provide  
1065 for any such payment), on account of:

1066 (i) Retirement, or  
1067 (ii) Sickness or accident disability, or  
1068 (iii) Medical or hospitalization expenses in  
1069 connection with sickness or actual disability, or

1070 (iv) Death, provided the employee:

1071 (A) Has not the option to receive,  
1072 instead of provision for such death benefit, any part of such  
1073 payment or, if such death benefit is insured, any part of the  
1074 premiums (or contributions to premiums) paid by his employer, and

1075 (B) Has not the right, under the  
1076 provisions of the plan or system or policy of insurance providing  
1077 for such death benefit, to assign such benefit or to receive a  
1078 cash consideration in lieu of such benefit, either upon his  
1079 withdrawal from the plan or system providing for such benefit or  
1080 upon termination of such plan or system or policy of insurance or  
1081 of his employment with such employer;

1082 (b) Dismissal payments which the employer is not  
1083 legally required to make;

1084 (c) Payment by an employer (without deduction from  
1085 the remuneration of an employee) of the tax imposed by the  
1086 Internal Revenue Code, 26 USCS Section 3101;

1087 (d) From and after January 1, 1992, the amount of  
1088 any payment made to or on behalf of an employee for a "cafeteria"  
1089 plan, which meets the following requirements:

1090 (i) Qualifies under Section 125 of the  
1091 Internal Revenue Code;

1092 (ii) Covers only employees;

1093 (iii) Covers only noncash benefits;

1094 (iv) Does not include deferred compensation  
1095 plans.

1096 (2) [Not enacted].

1097 S. "Week" means calendar week or such period of seven (7)  
1098 consecutive days as the department may by regulation prescribe.  
1099 The department may by regulation prescribe that a week shall be  
1100 deemed to be in, within, or during any benefit year which includes  
1101 any part of such week.

1102 T. "Insured work" means "employment" for "employers."

1103 U. The term "includes" and "including," when used in a  
1104 definition contained in this chapter, shall not be deemed to  
1105 exclude other things otherwise within the meaning of the term  
1106 defined.

1107 V. "Employee leasing arrangement" means any agreement  
1108 between an employee leasing firm and a client, whereby specified  
1109 client responsibilities such as payment of wages, reporting of  
1110 wages for unemployment insurance purposes, payment of unemployment  
1111 insurance contributions and other such administrative duties are  
1112 to be performed by an employee leasing firm, on an ongoing basis.

1113 W. "Employee leasing firm" means any entity which provides  
1114 specified duties for a client company such as payment of wages,  
1115 reporting of wages for unemployment insurance purposes, payment of  
1116 unemployment insurance contributions and other administrative

1117 duties, in connection with the client's employees, that are  
1118 directed and controlled by the client and that are providing  
1119 ongoing services for the client.

1120 X. "Temporary help firm" means an entity which hires its own  
1121 employees and provides those employees to other individuals or  
1122 organizations to perform some service, to support or supplement  
1123 the existing work force in special situations such as employee  
1124 absences, temporary skill shortages, seasonal workloads and  
1125 special assignments and projects, with the expectation that the  
1126 worker's position will be terminated upon the completion of the  
1127 specified task or function.

1128 **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is  
1129 reenacted as follows:

1130 71-5-19. (1) Whoever makes a false statement or  
1131 representation knowing it to be false, or knowingly fails to  
1132 disclose a material fact, to obtain or increase any benefit or  
1133 other payment under this chapter or under an employment security  
1134 law of any other state, of the federal government or of a foreign  
1135 government, either for himself or for any other person, shall be  
1136 punished by a fine of not less than One Hundred Dollars (\$100.00)  
1137 nor more than Five Hundred Dollars (\$500.00), or by imprisonment  
1138 for not longer than thirty (30) days, or by both such fine and  
1139 imprisonment; and each such false statement or representation or  
1140 failure to disclose a material fact shall constitute a separate  
1141 offense.

1142 (2) Any employing unit, any officer or agent of an employing  
1143 unit or any other person who makes a false statement or  
1144 representation knowing it to be false, or who knowingly fails to  
1145 disclose a material fact, to prevent or reduce the payment of  
1146 benefits to any individual entitled thereto, or to avoid becoming  
1147 or remaining subject hereto, or to avoid or reduce any  
1148 contribution or other payment required from any employing unit  
1149 under this chapter, or who willfully fails or refuses to make any

1150 such contribution or other payment, or to furnish any reports  
1151 required hereunder or to produce or permit the inspection or  
1152 copying of records as required hereunder, shall be punished by a  
1153 fine of not less than One Hundred Dollars (\$100.00) nor more than  
1154 One Thousand Dollars (\$1,000.00), or by imprisonment for not  
1155 longer than sixty (60) days, or by both such fine and  
1156 imprisonment; and each such false statement, or representation, or  
1157 failure to disclose a material fact, and each day of such failure  
1158 or refusal shall constitute a separate offense. In lieu of such  
1159 fine and imprisonment, the employing unit or representative, or  
1160 both employing unit and representative, if such representative is  
1161 an employing unit in this state and is found to be a party to such  
1162 violation, shall not be eligible for a contributions rate of less  
1163 than five and four-tenths percent (5.4%) for the tax year in which  
1164 such violation is discovered by the department and for the next  
1165 two (2) succeeding tax years.

1166 (3) Any person who shall willfully violate any provision of  
1167 this chapter or any other rule or regulation thereunder, the  
1168 violation of which is made unlawful or the observance of which is  
1169 required under the terms of this chapter and for which a penalty  
1170 is neither prescribed herein nor provided by any other applicable  
1171 statute, shall be punished by a fine of not less than One Hundred  
1172 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),  
1173 or by imprisonment for not longer than sixty (60) days, or by both  
1174 such fine and imprisonment; and each day such violation continues  
1175 shall be deemed to be a separate offense. In lieu of such fine  
1176 and imprisonment, the employing unit or representative, or both  
1177 employing unit and representative, if such representative is an  
1178 employing unit in this state and is found to be a party to such  
1179 violation, shall not be eligible for a contributions rate of less  
1180 than five and four-tenths percent (5.4%) for the tax year in which  
1181 the violation is discovered by the department and for the next two  
1182 (2) succeeding tax years.

1183           (4) Any person who, by reason of the nondisclosure or  
1184 misrepresentation by him or by another of a material fact,  
1185 irrespective of whether such nondisclosure or misrepresentation  
1186 was known or fraudulent, or who, for any other reason has received  
1187 any such benefits under this chapter, while any conditions for the  
1188 receipt of benefits imposed by this chapter were not fulfilled in  
1189 his case, or while he was disqualified from receiving benefits,  
1190 shall, in the discretion of the department, either be liable to  
1191 have such sum deducted from any future benefits payable to him  
1192 under this chapter or shall be liable to repay to the department  
1193 for the Unemployment Compensation Fund a sum equal to the amount  
1194 so received by him; and such sum shall be collectible in the  
1195 manner provided in Sections 71-5-363 through 71-5-383 for the  
1196 collection of past-due contributions. However, no such deduction  
1197 shall be made, nor shall any action be taken for the collection of  
1198 any such overpayments, after five (5) years have elapsed from the  
1199 date of the receipt of the benefits at issue; and any such  
1200 judgment against such person for collection of such overpayments  
1201 shall not be a lien upon the property of the person for a longer  
1202 period than five (5) years from the date of the filing of the  
1203 lien, and any such notice of lien shall not be refiled by the  
1204 department.

1205           (5) The department, by agreement with another state or the  
1206 United States, as provided under Section 303(g) of the Social  
1207 Security Act, may recover any overpayment of benefits paid to any  
1208 individual under the laws of this state or of another state or  
1209 under an unemployment benefit program of the United States. Any  
1210 overpayments subject to this subsection may be deducted from any  
1211 future benefits payable to the individual under the laws of this  
1212 state or of another state or under an unemployment program of the  
1213 United States.

1214           **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is  
1215 reenacted as follows:

1216           71-5-101. There is established the Mississippi Department of  
1217 Employment Security, Office of the Governor. The Department of  
1218 Employment Security shall be the Mississippi Employment Security  
1219 Commission and shall retain all powers and duties as granted to  
1220 the Mississippi Employment Security Commission. Wherever the term  
1221 "Employment Security Commission" appears in any law, the same  
1222 shall mean the Mississippi Department of Employment Security,  
1223 Office of the Governor. The Executive Director of the Department  
1224 of Employment Security may assign to the appropriate offices such  
1225 powers and duties deemed appropriate to carry out the lawful  
1226 functions of the department.

1227           **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is  
1228 reenacted as follows:

1229           71-5-107. The department shall administer this chapter  
1230 through a full-time salaried executive director, to be appointed  
1231 by the Governor, with the advice and consent of the Senate. He  
1232 shall be responsible for the administration of this chapter under  
1233 authority delegated to him by the Governor.

1234           **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is  
1235 reenacted as follows:

1236           71-5-109. There is created a Board of Review consisting of  
1237 three (3) members to be appointed by the executive director. The  
1238 executive director shall designate one (1) member of the Board of  
1239 Review as chairman. Each member shall be paid a salary or per  
1240 diem at a rate to be determined by the executive director, and  
1241 such expenses as may be allowed by the executive director. All  
1242 salaries, per diem and expenses of the Board of Review shall be  
1243 paid from the Employment Security Administration Fund.

1244           **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is  
1245 reenacted as follows:

1246           71-5-111. There is created in the State Treasury a special  
1247 fund to be known as the Employment Security Administration Fund.  
1248 All monies which are deposited or paid into this fund are

1249 appropriated and made available to the department. All monies in  
1250 this fund shall be expended solely for the purpose of defraying  
1251 the cost of administration of this chapter, and for no other  
1252 purpose whatsoever. The fund shall consist of all monies  
1253 appropriated by this state and all monies received from the United  
1254 States of America, or any agency thereof, or from any other source  
1255 for such purpose. Notwithstanding any provision of this section,  
1256 all monies requisitioned and deposited in this fund pursuant to  
1257 Section 71-5-457 shall remain part of the Employment Security  
1258 Administration Fund and shall be used only in accordance with the  
1259 conditions specified in that section. All monies in this fund  
1260 shall be deposited, administered and disbursed in the same manner  
1261 and under the same conditions and requirements as is provided by  
1262 law for other special funds in the State Treasury. The State  
1263 Treasurer shall be liable on his official bond for the faithful  
1264 performance of his duties in connection with the Employment  
1265 Security Administration Fund under this chapter.

1266       **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is  
1267 reenacted as follows:

1268       71-5-112. All funds received by the Mississippi Employment  
1269 Security Commission shall clear through the State Treasury as  
1270 provided and required by Sections 71-5-111 and 71-5-453. All  
1271 expenditures from the administration fund of the department  
1272 authorized by Section 71-5-111 shall be expended only pursuant to  
1273 appropriation approved by the Legislature and as provided by law.

1274       **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is  
1275 reenacted as follows:

1276       71-5-113. All monies received from the Social Security Board  
1277 or its successors for the administration of this chapter shall be  
1278 expended solely for the purposes and in the amounts found  
1279 necessary by the Social Security Board or its successors for the  
1280 proper and efficient administration of this chapter.

1281           It shall be the duty of the department to take appropriate  
1282 action with respect to the replacement, within a reasonable time,  
1283 of any monies received from the Social Security Board, or its  
1284 successors, for the administration of this chapter, and monies  
1285 used to match grants pursuant to the provisions of the  
1286 Wagner-Peyser Act, which the board, or its successors, find,  
1287 because of any action or contingency, have been lost or have been  
1288 expended for purposes other than, or in amounts in excess of those  
1289 found necessary by the Social Security Board, or its successors,  
1290 for the proper administration of this chapter. Funds which have  
1291 been expended by the department or its agents in accordance with  
1292 the budget approved by the Social Security Board, or its  
1293 successors, or in accordance with the general standards and  
1294 limitations promulgated by the Social Security Board, or its  
1295 successors, prior to such expenditure (where proposed expenditures  
1296 have not been specifically disapproved by the Social Security  
1297 Board, or its successors), shall not be deemed to require  
1298 replacement. To effectuate the purposes of this paragraph, it  
1299 shall be the duty of the department to take such action to  
1300 safeguard the expenditure of the funds referred to herein as it  
1301 deems necessary. In the event of a loss of such funds or an  
1302 improper expenditure thereof as herein defined, it shall be the  
1303 duty of the department to notify the Governor of any such loss or  
1304 improper expenditure and submit to him a request for an  
1305 appropriation in the amount thereof. The Governor shall transmit  
1306 to the next regular session of the Legislature following such  
1307 notification, the department's request for an appropriation in an  
1308 amount necessary to replace funds which have been lost or  
1309 improperly expended as defined above. Such request of the  
1310 department for an appropriation shall not be subject to the  
1311 provisions of Sections 27-103-101 through 27-103-139. The  
1312 Legislature recognizes its obligation to replace such funds as may



1313 be necessary and shall make necessary appropriations in accordance  
1314 with such requests.

1315         **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is  
1316 reenacted as follows:

1317         71-5-114. There is created in the State Treasury a special  
1318 fund, to be known as the "Special Employment Security  
1319 Administration Fund," into which shall be deposited or transferred  
1320 all interest, penalties and damages collected on and after July 1,  
1321 1982, pursuant to Sections 71-5-363 through 71-5-379. Interest,  
1322 penalties and damages collected on delinquent payments deposited  
1323 during any calendar quarter in the clearing account in the  
1324 Unemployment Compensation Fund shall, as soon as practicable after  
1325 the close of such calendar quarter, be transferred to the Special  
1326 Employment Security Administration Fund. All monies in this fund  
1327 shall be deposited, administered and disbursed in the same manner  
1328 and under the same conditions and requirements as is provided by  
1329 law for other special funds in the State Treasury. The State  
1330 Treasurer shall be liable on his official bond for the faithful  
1331 performance of his duties in connection with the Special  
1332 Employment Security Administration Fund under this chapter. Those  
1333 monies shall not be expended or made available for expenditure in  
1334 any manner which would permit their substitution for (or permit a  
1335 corresponding reduction in) federal funds which would, in the  
1336 absence of those monies, be available to finance expenditures for  
1337 the administration of the state unemployment compensation and  
1338 employment service laws. Nothing in this section shall prevent  
1339 those monies in this fund from being used as a revolving fund to  
1340 cover expenditures necessary and proper under the law for which  
1341 federal funds have been duly requested but not yet received,  
1342 subject to the charging of such expenditures against such funds  
1343 when necessary. The monies in this fund may be used by the  
1344 department for the payment of costs of administration of the  
1345 employment security laws of this state which are found not to be

1346 or not to have been properly and validly chargeable against funds  
1347 obtained from federal sources. All monies in this Special  
1348 Employment Security Administration Fund shall be continuously  
1349 available to the department for expenditure in accordance with the  
1350 provisions of this chapter, and shall not lapse at any time. The  
1351 monies in this fund are specifically made available to replace, as  
1352 contemplated by Section 71-5-113, expenditures from the Employment  
1353 Security Administration Fund established by Section 71-5-111,  
1354 which have been found, because of any action or contingency, to  
1355 have been lost or improperly expended.

1356 The department, whenever it is of the opinion that the money  
1357 in the Special Employment Security Administration Fund is more  
1358 than ample to pay for all foreseeable needs for which such special  
1359 fund is set up, may, by written order, order the transfer  
1360 therefrom to the Unemployment Compensation Fund of such amount of  
1361 money in the Special Employment Security Administration Fund as it  
1362 deems proper, and the same shall thereupon be immediately  
1363 transferred to the Unemployment Compensation Fund.

1364 **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is  
1365 reenacted as follows:

1366 71-5-115. It shall be the duty of the executive director to  
1367 administer this chapter; and the executive director shall have the  
1368 power and authority to adopt, amend or rescind such rules and  
1369 regulations, to employ such persons, make such expenditures,  
1370 require such reports, make such investigations, and take such  
1371 other action as he deems necessary or suitable to that end. Such  
1372 rules and regulations shall be effective upon publication in the  
1373 manner, not inconsistent with the provisions of this chapter,  
1374 which the executive director shall prescribe. The executive  
1375 director shall determine the department's own organization and  
1376 methods of procedure in accordance with the provisions of this  
1377 chapter, and shall have an official seal which shall be judicially  
1378 noticed. Not later than the first day of February in each year,

1379 the executive director shall submit to the Governor a report  
1380 covering the administration and operation of this chapter during  
1381 the preceding fiscal year and shall make such recommendations for  
1382 amendments to this chapter as the executive director deems proper.  
1383 Whenever the executive director believes that a change in  
1384 contribution or benefit rates will become necessary to protect the  
1385 solvency of the fund, he shall promptly so inform the Governor and  
1386 the Legislature, and make recommendations with respect thereto.

1387 **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is  
1388 reenacted as follows:

1389 71-5-117. General rules may be adopted, amended or rescinded  
1390 by the executive director only after public hearing or opportunity  
1391 to be heard thereon, of which proper notice has been given.  
1392 General rules shall become effective ten (10) days after filing  
1393 with the Secretary of State and publication in one or more  
1394 newspapers of general circulation in this state. Regulations may  
1395 be adopted, amended or rescinded by the executive director and  
1396 shall become effective in the manner and at the time prescribed by  
1397 the executive director.

1398 **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is  
1399 reenacted as follows:

1400 71-5-119. The department shall cause to be printed for  
1401 distribution to the public the text of this chapter, its  
1402 regulations and general rules, its reports to the Governor, and  
1403 any other material it deems relevant and suitable, and shall  
1404 furnish the same to any person upon application therefor.

1405 **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is  
1406 reenacted as follows:

1407 71-5-121. Subject to other provisions of this chapter, the  
1408 executive director is authorized to appoint, fix the compensation,  
1409 and prescribe the duties and powers of such officers, accountants,  
1410 attorneys, experts and other persons as may be necessary in the  
1411 performance of department duties; however, all personnel who were

1412 former members of the Armed Forces of the United States of America  
1413 shall be given credit regardless of rate, rank or commission. All  
1414 positions shall be filled by persons selected and appointed on a  
1415 nonpartisan merit basis, in accordance with Section 25-9-101 et  
1416 seq., that provides for a state service personnel system. The  
1417 executive director shall not employ any person who is an officer  
1418 or committee member of any political party organization. The  
1419 executive director may delegate to any such person so appointed  
1420 such power and authority as he deems reasonable and proper for the  
1421 effective administration of this chapter, and may in his  
1422 discretion bond any person handling monies or signing checks  
1423 hereunder. The veteran status of an individual shall be  
1424 considered and preference given in accordance with the provisions  
1425 of the State Personnel Board.

1426         The department and its employees are exempt from Sections  
1427 25-15-101 and 25-15-103.

1428         The department may use federal granted funds to provide such  
1429 group health, life, accident and hospitalization insurance for its  
1430 employees as may be agreed upon by the department and the federal  
1431 granting authorities.

1432         The department shall adopt a "layoff formula" to be used  
1433 wherever it is determined that, because of reduced workload,  
1434 budget reductions or in order to effect a more economical  
1435 operation, a reduction in force shall occur in any group.

1436         In establishing this formula, the department shall give  
1437 effect to the principle of seniority and shall provide that  
1438 seniority points may be added for disabled veterans and veterans,  
1439 with due regard to the efficiency of the service. Any such layoff  
1440 formula shall be implemented according to the policies, rules and  
1441 regulations of the State Personnel Board.

1442         **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is  
1443 reenacted as follows:

1444           71-5-123. The executive director shall retain all powers and  
1445 duties as granted to the state advisory council appointed by the  
1446 former Employment Security Commission. The executive director may  
1447 appoint local advisory councils, composed in each case of an equal  
1448 number of employer representatives and employee representatives  
1449 who may fairly be regarded as representative because of their  
1450 vocation, employment or affiliations, and of such members  
1451 representing the general public as the executive director may  
1452 designate. Such councils shall aid the department in formulating  
1453 policies and discussing problems related to the administration of  
1454 this chapter and in assuring impartiality and freedom from  
1455 political influence in the solution of such problems. Members of  
1456 the advisory councils shall receive a per diem in accordance with  
1457 Section 25-3-69 for attendance upon meetings of the council, and  
1458 shall be reimbursed for actual and necessary traveling expenses.  
1459 The per diem and expenses herein authorized shall be paid from the  
1460 Employment Security Administration Fund.

1461           **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is  
1462 reenacted as follows:

1463           71-5-125. The department shall take all appropriate steps to  
1464 reduce and prevent unemployment; to encourage and assist in the  
1465 adoption of practical methods of vocational training, retraining  
1466 and vocational guidance; to investigate, recommend, advise and  
1467 assist in the establishment and operation, by municipalities,  
1468 counties, school districts and the state, of reserves for public  
1469 works to be used in times of business depression and unemployment;  
1470 to promote the reemployment of unemployed workers throughout the  
1471 state in every other way that may be feasible; and to these ends  
1472 to carry on and publish the results of investigation and research  
1473 studies.

1474           **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is  
1475 reenacted as follows:

1476           71-5-127. Each employing unit shall keep true and accurate  
1477 work records, containing such information as the department may  
1478 prescribe. Such records shall be open to inspection and be  
1479 subject to being copied by the department or its authorized  
1480 representatives at any reasonable time and as often as may be  
1481 necessary. The department, Board of Review and any referee may  
1482 require from any employing unit any sworn or unsworn reports with  
1483 respect to persons employed by it which they or any of them deem  
1484 necessary for the effective administration of this chapter.  
1485 Information thus obtained or obtained from any individual pursuant  
1486 to the administration of this chapter shall, except to the extent  
1487 necessary for the proper administration of this chapter, be held  
1488 confidential and shall not be published or be opened to public  
1489 inspection (other than to public employees in the performance of  
1490 their public duties) in any manner revealing the individual's or  
1491 employing unit's identity, but any claimant (or his legal  
1492 representative) at a hearing before an appeal tribunal or the  
1493 Board of Review shall be supplied with information from such  
1494 records to the extent necessary for the proper presentation of his  
1495 claim. Any employee or member of the Board of Review or any  
1496 employee of the department who violates any provisions of this  
1497 section shall be fined not less than Twenty Dollars (\$20.00) nor  
1498 more than Two Hundred Dollars (\$200.00), or imprisoned for not  
1499 longer than ninety (90) days, or both. The department may make  
1500 the state's records relating to the administration of this chapter  
1501 available to the Railroad Retirement Board, and may furnish the  
1502 Railroad Retirement Board, at the expense of such board, such  
1503 copies thereof as the Railroad Retirement Board deems necessary  
1504 for its purposes. The department may afford reasonable  
1505 cooperation with every agency of the United States charged with  
1506 the administration of any unemployment insurance law.

1507           **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is  
1508 reenacted as follows:

1509           71-5-129. Records hereinafter designated, which are found by  
1510 the department to be useless, may be disposed of in accordance  
1511 with approved records control schedules.

1512           (a) Records which have been preserved by it for not  
1513 less than three (3) years:

- 1514                   (1) Initial claims for benefits,
- 1515                   (2) Continued claims for benefits,
- 1516                   (3) Correspondence and master index cards in  
1517 connection with such claims for benefits, and
- 1518                   (4) Individual wage slips filed by employers  
1519 subject to the provisions of the Unemployment Compensation Law.

1520           (b) Records which have been preserved by it for not  
1521 less than six (6) months after becoming inactive:

- 1522                   (1) Work applications,
- 1523                   (2) Cross-index cards for work applications,
- 1524                   (3) Test records,
- 1525                   (4) Employer records,
- 1526                   (5) Work orders,
- 1527                   (6) Clearance records,
- 1528                   (7) Counseling records,
- 1529                   (8) Farm placement records, and
- 1530                   (9) Correspondence relating to all such records.

1531           Nothing herein contained shall be construed as authorizing  
1532 the destruction or disposal of basic fiscal records reflecting the  
1533 financial operations of the department and no records may be  
1534 destroyed without the approval of the Director of the Department  
1535 of Archives and History.

1536           **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is  
1537 reenacted as follows:

1538           71-5-131. All letters, reports, communications, or any other  
1539 matters, either oral or written, from the employer or employee to  
1540 each other or to the department or any of its agents,  
1541 representatives or employees, which shall have been written, sent,

1542 delivered or made in connection with the requirements and  
1543 administration of this chapter shall be absolutely privileged and  
1544 shall not be made the subject matter or basis of any suit for  
1545 slander or libel in any court of the State of Mississippi unless  
1546 the same be false in fact and maliciously written, sent, delivered  
1547 or made for the purpose of causing a denial of benefits under this  
1548 chapter.

1549         **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is  
1550 reenacted as follows:

1551         71-5-133. In any case where an employing unit or any  
1552 officer, member or agent thereof, or any other person having  
1553 possession of the records thereof, shall fail or refuse upon  
1554 demand by the department or its duly appointed agents to produce  
1555 or permit the examination or copying of any book, paper, account,  
1556 record or other data pertaining to payrolls or employment or  
1557 ownership of interests or stock in any employing unit, or bearing  
1558 upon the correctness of any report, or for the purpose of making a  
1559 report as required by this chapter where none has been made, then  
1560 and in that event the department or its duly authorized agents  
1561 may, by the issuance of a subpoena, require the attendance of such  
1562 employing unit or any officer, member or agent thereof, or any  
1563 other person having possession of the records thereof, and take  
1564 testimony with respect to any such matter and may require any such  
1565 person to produce any books or records specified in such subpoena.  
1566 The department or its authorized agents at any such hearing shall  
1567 have power to administer oaths to any such person or persons.  
1568 When any person called as a witness by a subpoena signed by the  
1569 department or its agents and served upon him by the sheriff of a  
1570 county of which such person is a resident, or wherein is located  
1571 the principal office of such employing unit or wherein such  
1572 records are located or kept, shall fail to obey such subpoena to  
1573 appear before the department or its authorized agent, or shall  
1574 refuse to testify or to answer any questions or to produce any



1575 book, record, paper or other data when required to do so, such  
1576 failure or refusal shall be reported to the Attorney General, who  
1577 shall thereupon institute proceedings by the filing of a petition  
1578 in the name of the State of Mississippi, on the relation of the  
1579 department, in the circuit court or other court of competent  
1580 jurisdiction of the county where such witness resides, or wherein  
1581 such records are located or kept, to compel the obedience of such  
1582 witness. Such petition shall set forth the facts and  
1583 circumstances of the demand for and refusal or failure to permit  
1584 the examination or copying of such records, or the failure or  
1585 refusal of such witness to testify in answer to such subpoena or  
1586 to produce the records so required by such subpoena. Such court,  
1587 upon the filing and docketing of such petition, shall thereupon  
1588 promptly issue an order to the defendants named in the petition to  
1589 produce forthwith in such court, or at a place in such county  
1590 designated in such order for the examination or copying by the  
1591 department or its duly appointed agents, the records, books or  
1592 documents so described, and to testify concerning matters  
1593 described in such petition. Unless such defendants to such  
1594 petition shall appear in the court upon a day specified in such  
1595 order, which day shall be not more than ten (10) days after the  
1596 date of issuance of such order, and offer, under oath, good and  
1597 sufficient reasons why such examination or copying should not be  
1598 permitted, or why such subpoena should not be obeyed, such court  
1599 shall thereupon deliver to the department or its agents, for  
1600 examination or copying, the records, books and documents so  
1601 described in the petition and so produced in such court, and shall  
1602 order the defendants to appear in answer to the subpoena of the  
1603 department or its agents, and to testify concerning matters  
1604 inquired about by the department. Any employing unit or any  
1605 officer, member or agent thereof, or any other person having  
1606 possession of the records thereof, who shall willfully disobey  
1607 such order of the court after the same shall have been served upon

1608 him shall be guilty of indirect contempt of such court from which  
1609 such order shall have issued, and may be adjudged in contempt of  
1610 the court and punished therefor as provided by law.

1611         **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is  
1612 reenacted as follows:

1613         71-5-135. If any employing unit fails to make any report  
1614 required by this chapter, the department or its authorized agents  
1615 shall give written notice by mail to such employing unit to make  
1616 and file such report within fifteen (15) days from the date of  
1617 such notice. If such employing unit, by its proper members,  
1618 officers or agents, shall fail or refuse to make and file such  
1619 reports within such time, then and in that event such report shall  
1620 be made by the department or its authorized agents from the best  
1621 information available, and the amount of contributions due shall  
1622 be computed thereon; and such report shall be prima facie correct  
1623 for the purposes of this chapter.

1624         **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is  
1625 reenacted as follows:

1626         71-5-137. In the discharge of the duties imposed by this  
1627 chapter, the department, any referee, the members of the Board of  
1628 Review, and any duly authorized representative of any of them  
1629 shall have power to administer oaths and affirmations, to take  
1630 depositions, certify to official acts, and issue subpoenas to  
1631 compel the attendance of witnesses and the production of books,  
1632 papers, correspondence, memoranda and other records deemed  
1633 necessary as evidence in connection with a disputed claim or the  
1634 administration of this chapter.

1635         **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is  
1636 reenacted as follows:

1637         71-5-139. In case of contumacy or refusal to obey a subpoena  
1638 issued to any person, any court in this state within the  
1639 jurisdiction of which the inquiry is carried on, or within the  
1640 jurisdiction of which the person guilty of contumacy or refusal to

1641 obey is found or resides or transacts business, upon application  
1642 by the department, the Board of Review, any referee, or any duly  
1643 authorized representative of any of them, shall have jurisdiction  
1644 to issue to such person an order requiring such person to appear  
1645 before the department, the Board of Review, any referee, or any  
1646 duly authorized representative of any of them, there to produce  
1647 evidence if so ordered or there to give testimony touching the  
1648 matter under investigation or in question. Any failure to obey  
1649 such order of the court may be punished by the court as a contempt  
1650 thereof. Any person who shall, without just cause, fail or refuse  
1651 to attend and testify or to answer any lawful inquiry or to  
1652 produce books, papers, correspondence, memoranda and other records  
1653 if it is in his power so to do, in obedience to a subpoena of the  
1654 department, the Board of Review, any referee, or any duly  
1655 authorized representative of any of them, shall be punished by a  
1656 fine of not more than Two Hundred Dollars (\$200.00), or by  
1657 imprisonment for not longer than sixty (60) days, or by both such  
1658 fine and imprisonment; and each day such violation continues shall  
1659 be deemed to be a separate offense.

1660       **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is  
1661 reenacted as follows:

1662       71-5-141. No person shall be excused from attending and  
1663 testifying or from producing books, papers, correspondence,  
1664 memoranda and other records before the department, the Board of  
1665 Review, any referee, or any duly authorized representative of any  
1666 of them, or in obedience to the subpoena of any of them in any  
1667 cause or proceeding before the department, the Board of Review or  
1668 an appeal tribunal, on the ground that the testimony or evidence,  
1669 documentary or otherwise, required of him may tend to incriminate  
1670 him or subject him to a penalty or forfeiture; but no individual  
1671 shall be prosecuted or subjected to any penalty or forfeiture for  
1672 or on account of any transaction, matter or thing concerning which  
1673 he is compelled, after having claimed his privilege against

1674 self-incrimination, to testify or produce evidence, documentary or  
1675 otherwise, except that such individual so testifying shall not be  
1676 exempt from prosecution and punishment for perjury committed in so  
1677 testifying.

1678         **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is  
1679 reenacted as follows:

1680         71-5-143. In the administration of this chapter, the  
1681 department shall cooperate, to the fullest extent consistent with  
1682 the provisions of this chapter, with the Social Security Board  
1683 created by the Social Security Act, approved August 14, 1935, as  
1684 amended; shall make such reports in such form and containing such  
1685 information as the Social Security Board may from time to time  
1686 require, and shall comply with such provisions as the Social  
1687 Security Board may from time to time find necessary to assure the  
1688 correctness and verification of such reports; and shall comply  
1689 with the reasonable, valid and lawful regulations prescribed by  
1690 the Social Security Board pursuant to and under the authority of  
1691 the Social Security Act, governing the expenditures of such sums  
1692 as may be allotted and paid to this state under Title III of the  
1693 Social Security Act, as amended, for the purpose of assisting in  
1694 the administration of this chapter.

1695         Upon request therefor, the department shall furnish to any  
1696 agency of the United States charged with the administration of  
1697 public works, or assistance through public employment, the name,  
1698 address, ordinary occupation and employment status of each  
1699 recipient of benefits, and such recipient's rights to further  
1700 benefits under this chapter.

1701         **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is  
1702 reenacted as follows:

1703         71-5-201. The Mississippi State Employment Service is  
1704 established in the Mississippi Department of Employment Security,  
1705 Office of the Governor. The department, in the conduct of such  
1706 service, shall establish and maintain free public employment

1707 offices in such number and in such places as may be necessary for  
1708 the proper administration of this article and for the purpose of  
1709 performing such functions as are within the purview of the act of  
1710 Congress entitled "An act to provide for the establishment of a  
1711 national employment system and for cooperation with the states in  
1712 the promotion of such system, and for other purposes" (29 USCS  
1713 Section 49 et seq.). Any existing free public employment offices  
1714 maintained by the state but not heretofore under the jurisdiction  
1715 of the department shall be transferred to the jurisdiction of the  
1716 department, and upon such transfer all duties and powers conferred  
1717 upon any other department, agency or officers of this state  
1718 relating to the establishment, maintenance and operation of free  
1719 public employment offices shall be vested in the department. The  
1720 Mississippi State Employment Service shall be administered by the  
1721 department, which is charged with the duty to cooperate with any  
1722 official or agency of the United States having powers or duties  
1723 under the provisions of the act of Congress, as amended, and to do  
1724 and perform all things necessary to secure to this state the  
1725 benefits of that act of Congress, as amended, in the promotion and  
1726 maintenance of a system of public employment offices. The  
1727 provisions of that act of Congress, as amended, are accepted by  
1728 this state, in conformity with 29 USCS Section 49c, and this state  
1729 will observe and comply with the requirements thereof. The  
1730 department is designated and constituted the agency of this state  
1731 for the purposes of that act. The department may cooperate with  
1732 or enter into agreements with the Railroad Retirement Board or  
1733 veteran's organization with respect to the establishment,  
1734 maintenance and use of free employment service facilities.

1735       **SECTION 34.** Section 71-5-357, Mississippi Code of 1972, is  
1736 reenacted as follows:

1737       71-5-357. Benefits paid to employees of nonprofit  
1738 organizations shall be financed in accordance with the provisions  
1739 of this section. For the purpose of this section, a nonprofit

1740 organization is an organization (or group of organizations)  
1741 described in Section 501(c)(3) of the Internal Revenue Code of  
1742 1954 which is exempt from income tax under Section 501(a) of such  
1743 code (26 USCS Section 501).

1744           (a) Any nonprofit organization which, under Section  
1745 71-5-11, subsection I(3), is or becomes subject to this chapter  
1746 shall pay contributions under the provisions of Sections 71-5-351  
1747 through 71-5-355 unless it elects, in accordance with this  
1748 paragraph, to pay to the department for the unemployment fund an  
1749 amount equal to the amount of regular benefits and one-half (1/2)  
1750 of the extended benefits paid, that is attributable to service in  
1751 the employ of such nonprofit organization, to individuals for  
1752 weeks of unemployment which begin during the effective period of  
1753 such election.

1754           (i) Any nonprofit organization which becomes  
1755 subject to this chapter may elect to become liable for payments in  
1756 lieu of contributions for a period of not less than twelve (12)  
1757 months, beginning with the date on which such subjectivity begins,  
1758 by filing a written notice of its election with the department not  
1759 later than thirty (30) days immediately following the date of the  
1760 determination of such subjectivity.

1761           (ii) Any nonprofit organization which makes an  
1762 election in accordance with subparagraph (i) of this paragraph  
1763 will continue to be liable for payments in lieu of contributions  
1764 unless it files with the department a written termination notice  
1765 not later than thirty (30) days prior to the beginning of the tax  
1766 year for which such termination shall first be effective.

1767           (iii) Any nonprofit organization which has been  
1768 paying contributions under this chapter may change to a  
1769 reimbursable basis by filing with the department, not later than  
1770 thirty (30) days prior to the beginning of any tax year, a written  
1771 notice of election to become liable for payments in lieu of

1772 contributions. Such election shall not be terminable by the  
1773 organization for that and the next tax year.

1774 (iv) The department may for good cause extend the  
1775 period within which a notice of election or a notice of  
1776 termination must be filed, and may permit an election to be  
1777 retroactive.

1778 (v) The department, in accordance with such  
1779 regulations as it may prescribe, shall notify each nonprofit  
1780 organization of any determination which it may make of its status  
1781 as an employer, of the effective date of any election which it  
1782 makes and of any termination of such election. Such  
1783 determinations shall be subject to reconsideration, appeal and  
1784 review in accordance with the provisions of Sections 71-5-351  
1785 through 71-5-355.

1786 (b) Payments in lieu of contributions shall be made in  
1787 accordance with the provisions of subparagraph (i) of this  
1788 paragraph.

1789 (i) At the end of each calendar quarter, or at the  
1790 end of any other period as determined by the department, the  
1791 department shall bill each nonprofit organization (or group of  
1792 such organizations) which has elected to make payments in lieu of  
1793 contributions, for an amount equal to the full amount of regular  
1794 benefits plus one-half (1/2) of the amount of extended benefits  
1795 paid during such quarter or other prescribed period that is  
1796 attributable to service in the employ of such organization.

1797 (ii) Payment of any bill rendered under  
1798 subparagraph (i) of this paragraph shall be made not later than  
1799 forty-five (45) days after such bill was mailed to the last known  
1800 address of the nonprofit organization or was otherwise delivered  
1801 to it, unless there has been an application for review and  
1802 redetermination in accordance with subparagraph (v) of this  
1803 paragraph.

1804                   1. All of the enforcement procedures for the  
1805 collection of delinquent contributions contained in Sections  
1806 71-5-363 through 71-5-383 shall be applicable in all respects for  
1807 the collection of delinquent payments due by nonprofit  
1808 organizations who have elected to become liable for payments in  
1809 lieu of contributions.

1810                   2. If any nonprofit organization is  
1811 delinquent in making payments in lieu of contributions, the  
1812 department may terminate such organization's election to make  
1813 payments in lieu of contributions as of the beginning of the next  
1814 tax year, and such termination shall be effective for the balance  
1815 of such tax year.

1816                   (iii) Payments made by any nonprofit organization  
1817 under the provisions of this paragraph shall not be deducted or  
1818 deductible, in whole or in part, from the remuneration of  
1819 individuals in the employ of the organization.

1820                   (iv) Payments due by employers who elect to  
1821 reimburse the fund in lieu of contributions as provided in this  
1822 paragraph may not be noncharged under any condition. The  
1823 reimbursement must be on a dollar-for-dollar basis (One Dollar  
1824 (\$1.00) reimbursement for each dollar paid in benefits) in every  
1825 case, so that the trust fund shall be reimbursed in full, such  
1826 reimbursement to include, but not be limited to, benefits or  
1827 payments erroneously or incorrectly paid, or paid as a result of a  
1828 determination of eligibility which is subsequently reversed, or  
1829 paid as a result of claimant fraud. However, political  
1830 subdivisions who are reimbursing employers may elect to pay to the  
1831 fund an amount equal to five-tenths percent (.5%) of the taxable  
1832 wages paid during the calendar year with respect to employment,  
1833 and those employers who so elect shall be relieved of liability  
1834 for reimbursement of benefits paid under the same conditions that  
1835 benefits are not charged to the experience rating record of a  
1836 contributing employer as provided in Section 71-5-355(2)(b)(ii)



1837 other than Clause 5 thereof. Benefits paid in such circumstances  
1838 for which reimbursing employers are relieved of liability for  
1839 reimbursement shall not be considered attributable to service in  
1840 the employment of such reimbursing employer.

1841 (v) The amount due specified in any bill from the  
1842 department shall be conclusive on the organization unless, not  
1843 later than fifteen (15) days after the bill was mailed to its last  
1844 known address or otherwise delivered to it, the organization files  
1845 an application for redetermination by the department, setting  
1846 forth the grounds for such application or appeal. The department  
1847 shall promptly review and reconsider the amount due specified in  
1848 the bill and shall thereafter issue a redetermination in any case  
1849 in which such application for redetermination has been filed. Any  
1850 such redetermination shall be conclusive on the organization  
1851 unless, not later than fifteen (15) days after the redetermination  
1852 was mailed to its last known address or otherwise delivered to it,  
1853 the organization files an appeal to the Circuit Court of the First  
1854 Judicial District of Hinds County, Mississippi, in accordance with  
1855 the provisions of law with respect to review of civil causes by  
1856 certiorari.

1857 (vi) Past due payments of amounts in lieu of  
1858 contributions shall be subject to the same interest and penalties  
1859 that, pursuant to Section 71-5-363, apply to past due  
1860 contributions.

1861 (c) Each employer that is liable for payments in lieu  
1862 of contributions shall pay to the department for the fund the  
1863 amount of regular benefits plus the amount of one-half (1/2) of  
1864 extended benefits paid are attributable to service in the employ  
1865 of such employer. If benefits paid to an individual are based on  
1866 wages paid by more than one (1) employer and one or more of such  
1867 employers are liable for payments in lieu of contributions, the  
1868 amount payable to the fund by each employer that is liable for  
1869 such payments shall be determined in accordance with the

1870 provisions of subparagraph (i) or subparagraph (ii) of this  
1871 paragraph.

1872           (i) If benefits paid to an individual are based on  
1873 wages paid by one or more employers that are liable for payment in  
1874 lieu of contributions and on wages paid by one or more employers  
1875 who are liable for contributions, the amount of benefits payable  
1876 by each employer that is liable for payments in lieu of  
1877 contributions shall be an amount which bears the same ratio to the  
1878 total benefits paid to the individual as the total base-period  
1879 wages paid to the individual by such employer bear to the total  
1880 base-period wages paid to the individual by all of his base-period  
1881 employers.

1882           (ii) If benefits paid to an individual are based  
1883 on wages paid by two (2) or more employers that are liable for  
1884 payments in lieu of contributions, the amount of benefits payable  
1885 by each such employer shall be an amount which bears the same  
1886 ratio to the total benefits paid to the individual as the total  
1887 base-period wages paid to the individual by such employer bear to  
1888 the total base-period wages paid to the individual by all of his  
1889 base-period employers.

1890           (d) In the discretion of the department, any nonprofit  
1891 organization that elects to become liable for payments in lieu of  
1892 contributions shall be required, within thirty (30) days after the  
1893 effective date of its election, to execute and file with the  
1894 department a surety bond approved by the department, or it may  
1895 elect instead to deposit with the department money or securities.  
1896 The amount of such bond or deposit shall be determined in  
1897 accordance with the provisions of this paragraph.

1898           (i) The amount of the bond or deposit required by  
1899 paragraph (d) shall be equal to two and seven-tenths percent  
1900 (2.7%) of the organization's taxable wages paid for employment as  
1901 defined in Section 71-5-11, subsection J(4), for the four (4)  
1902 calendar quarters immediately preceding the effective date of the

1903 election, the renewal date in the case of a bond, or the biennial  
1904 anniversary of the effective date of election in the case of a  
1905 deposit of money or securities, whichever date shall be most  
1906 recent and applicable. If the nonprofit organization did not pay  
1907 wages in each of such four (4) calendar quarters, the amount of  
1908 the bond or deposit shall be as determined by the department.

1909 (ii) Any bond deposited under paragraph (d) shall  
1910 be in force for a period of not less than two (2) tax years and  
1911 shall be renewed with the approval of the department at such times  
1912 as the department may prescribe, but not less frequently than at  
1913 intervals of two (2) years as long as the organization continues  
1914 to be liable for payments in lieu of contributions. The  
1915 department shall require adjustments to be made in a previously  
1916 filed bond as it deems appropriate. If the bond is to be  
1917 increased, the adjusted bond shall be filed by the organization  
1918 within thirty (30) days of the date notice of the required  
1919 adjustment was mailed or otherwise delivered to it. Failure by  
1920 any organization covered by such bond to pay the full amount of  
1921 payments in lieu of contributions when due, together with any  
1922 applicable interest and penalties provided in paragraph (b)(v) of  
1923 this section, shall render the surety liable on the bond to the  
1924 extent of the bond, as though the surety was such organization.

1925 (iii) Any deposit of money or securities in  
1926 accordance with paragraph (d) shall be retained by the department  
1927 in an escrow account until liability under the election is  
1928 terminated, at which time it shall be returned to the  
1929 organization, less any deductions as hereinafter provided. The  
1930 department may deduct from the money deposited under paragraph (d)  
1931 by a nonprofit organization, or sell the securities it has so  
1932 deposited, to the extent necessary to satisfy any due and unpaid  
1933 payments in lieu of contributions and any applicable interest and  
1934 penalties provided for in paragraph (b)(v) of this section. The  
1935 department shall require the organization, within thirty (30) days

1936 following any deduction from a money deposit or sale of deposited  
1937 securities under the provisions hereof, to deposit sufficient  
1938 additional money or securities to make whole the organization's  
1939 deposit at the prior level. Any cash remaining from the sale of  
1940 such securities shall be a part of the organization's escrow  
1941 account. The department may, at any time, review the adequacy of  
1942 the deposit made by any organization. If, as a result of such  
1943 review, it determines that an adjustment is necessary, it shall  
1944 require the organization to make additional deposit within thirty  
1945 (30) days of written notice of its determination or shall return  
1946 to it such portion of the deposit as it no longer considers  
1947 necessary, whichever action is appropriate. Disposition of income  
1948 from securities held in escrow shall be governed by the applicable  
1949 provisions of the state law.

1950 (iv) If any nonprofit organization fails to file a  
1951 bond or make a deposit, or to file a bond in an increased amount,  
1952 or to increase or make whole the amount of a previously made  
1953 deposit as provided under this subparagraph, the department may  
1954 terminate such organization's election to make payments in lieu of  
1955 contributions, and such termination shall continue for not less  
1956 than the four (4) consecutive calendar-quarter periods beginning  
1957 with the quarter in which such termination becomes effective;  
1958 however, the department may extend for good cause the applicable  
1959 filing, deposit or adjustment period by not more than thirty (30)  
1960 days.

1961 (v) Group account shall be established according  
1962 to regulations prescribed by the department.

1963 (e) Any employer which elects to make payments in lieu  
1964 of contributions into the Unemployment Compensation Fund as  
1965 provided in this paragraph shall not be liable to make such  
1966 payments with respect to the benefits paid to any individual whose  
1967 base-period wages include wages for previously uncovered services  
1968 as defined in Section 71-5-511(e) to the extent that the

1969 Unemployment Compensation Fund is reimbursed for such benefits  
1970 pursuant to Section 121 of Public Law 94-566.

1971 **SECTION 35.** Section 71-5-359, Mississippi Code of 1972, is  
1972 reenacted as follows:

1973 71-5-359. (1) (a) Before January 1, 1978, each state board  
1974 or other instrumentality of this state or one or more other states  
1975 covered under Section 71-5-11, subsection I(3), shall pay  
1976 contributions under the provisions of Sections 71-5-351 through  
1977 71-5-355 for all of the hospitals or institutions of higher  
1978 learning under its jurisdiction unless it elects, in the same  
1979 manner and under the same conditions as provided for nonprofit  
1980 organizations in subsections (a), (b) and (c) of Section 71-5-357,  
1981 to pay to the department for the unemployment fund an amount equal  
1982 to the regular benefits and one-half (1/2) of the extended  
1983 benefits paid that are attributable to service in the employ of  
1984 such hospitals or institutions. When an election is made, the  
1985 amounts required to be paid in lieu of contributions shall be  
1986 billed and payment made as provided in Section 71-5-357 with  
1987 respect to similar payments by nonprofit organizations. A state  
1988 board having jurisdiction over two (2) or more state-owned  
1989 hospitals or state-owned institutions of higher learning shall be  
1990 treated as a single employer for the employment in all of those  
1991 hospitals or institutions of higher learning for purposes of  
1992 computing contribution rates and payment of contributions, or for  
1993 purposes of reimbursing the fund, unless it elects, in accordance  
1994 with this section, to have one or more of those hospitals or  
1995 institutions of higher learning treated as a separate employer.

1996 (b) A state board may elect to have one or more  
1997 state-owned hospitals or one or more state-owned institutions of  
1998 higher learning under its jurisdiction treated as a separate  
1999 employer for the purposes of this section, provided it files with  
2000 the department, not later than thirty (30) days prior to the  
2001 beginning of any tax year, a written notice of such election. Any

2002 such election shall be effective throughout such tax year, and  
2003 shall continue in effect unless the state board files with the  
2004 department a written notice of termination of such election not  
2005 less than thirty (30) days prior to the beginning of the tax year  
2006 for which such termination is to be effective.

2007 (2) (a) From January 1, 1978, through December 31, 1978,  
2008 the Commission of Budget and Accounting shall, in the manner  
2009 provided in subsection (2)(c) of this section, pay, upon warrant  
2010 issued by the State Auditor of Public Accounts, to the department  
2011 for the Unemployment Compensation Fund an amount equal to the  
2012 regular benefits and one-half (1/2) of the extended benefits paid  
2013 that are attributable to service in the employ of a state agency.  
2014 The amount required to be reimbursed by a certain agency shall be  
2015 billed to the Commission of Budget and Accounting and shall be  
2016 paid from the Employment Compensation Revolving Fund pursuant to  
2017 subsection (2)(c) of this section not later than thirty (30) days  
2018 after such bill was mailed, unless there has been an application  
2019 for review and redetermination in accordance with Section  
2020 71-5-357(b)(v).

2021 (b) The Department of Finance and Administration shall,  
2022 in the manner provided in subsection (2)(c) of this section, pay,  
2023 upon warrant issued by the State Auditor, or the successor to  
2024 these duties, to the department for the Unemployment Compensation  
2025 Fund an amount equal to the regular benefits and the extended  
2026 benefits paid that are attributable to service in the employ of a  
2027 state agency. The amount required to be reimbursed by a certain  
2028 agency shall be billed to the Department of Finance and  
2029 Administration and shall be paid from the Employment Compensation  
2030 Revolving Fund pursuant to subsection (2)(c) of this section not  
2031 later than thirty (30) days after such bill was mailed, unless  
2032 there has been an application for review and redetermination in  
2033 accordance with Section 71-5-357(b)(v).

2034                   (c) Each agency of state government shall deposit  
2035 monthly for a period of twenty-four (24) months an amount equal to  
2036 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand  
2037 Dollars (\$6,000.00) paid to each employee thereof during the next  
2038 preceding year into the Employment Compensation Revolving Fund  
2039 that is created in the State Treasury. The Department of Finance  
2040 and Administration shall determine the percentage to be applied to  
2041 the amount of covered wages paid in order to maintain a balance in  
2042 the revolving fund of not less than two percent (2%) of the  
2043 covered wages paid during the next preceding year. The State  
2044 Treasurer shall invest all funds in the Employment Compensation  
2045 Revolving Fund and all interest earned shall be credited to the  
2046 Employment Compensation Revolving Fund.

2047                   The reimbursement of benefits paid by the Mississippi  
2048 Employment Security Commission shall be paid by the Department of  
2049 Finance and Administration from the Employment Compensation  
2050 Revolving Fund upon warrants issued by the State Auditor of Public  
2051 Accounts, or the successor to these duties; and the auditor shall  
2052 issue his warrants upon requisitions signed by the Department of  
2053 Finance and Administration. However, the Department of Finance and  
2054 Administration may, if it so elects, contract for the performance  
2055 of the duties prescribed by subsections (2)(b) and (c), and other  
2056 duties necessarily related thereto.

2057                   (d) From January 1, 1978, through December 31, 1978,  
2058 any political subdivision of this state shall pay to the  
2059 department for the unemployment fund an amount equal to the  
2060 regular benefits and one-half (1/2) of the extended benefits paid  
2061 that are attributable to service in the employ of such political  
2062 subdivision unless it elects to make contributions to the  
2063 unemployment fund as provided in subsection (2)(j) of this  
2064 section. The amount required to be reimbursed shall be billed and  
2065 shall be paid as provided in Section 71-5-357, with respect to  
2066 similar payments for nonprofit organizations.

2067           (e) On and after January 1, 1979, any political  
2068 subdivision of this state shall pay to the department for the  
2069 unemployment fund an amount equal to the regular benefits and the  
2070 extended benefits paid that are attributable to service in the  
2071 employ of such political subdivision unless it elects to make  
2072 contributions to the unemployment fund as provided in subsection  
2073 (2)(j) of this section. The amount required to be reimbursed  
2074 shall be billed and shall be paid as provided in Section 71-5-357,  
2075 with respect to similar payments for nonprofit organizations.

2076           (f) Each political subdivision unless it elects to make  
2077 contributions to the unemployment fund as provided in subsection  
2078 (2)(j) of this section, shall establish a revolving fund and  
2079 deposit therein monthly for a period of twenty-four (24) months an  
2080 amount equal to one-twelfth of one percent (1/12 of 1%) of the  
2081 first Six Thousand Dollars (\$6,000.00) paid to each employee  
2082 thereof during the next preceding year plus an amount each month  
2083 equal to one-third (1/3) of any reimbursement paid to the  
2084 department for the next preceding quarter. After January 1, 1980,  
2085 the balance in the revolving fund shall be maintained at an amount  
2086 not less than two percent (2%) of the covered wages paid during  
2087 the next preceding year. However, the department shall by  
2088 regulation establish a procedure to allow reimbursing political  
2089 subdivisions to elect to maintain the balance in the revolving  
2090 fund as required under this paragraph or to annually execute a  
2091 surety bond to be approved by the department in an amount not less  
2092 than two percent (2%) of the covered wages paid during the next  
2093 preceding year.

2094           (g) In the event any political subdivision becomes  
2095 delinquent in payments due under this chapter, upon due notice,  
2096 and upon certification of the delinquency by the department to the  
2097 Department of Finance and Administration, the State Tax  
2098 Commission, the Department of Environmental Quality and the  
2099 Department of Insurance, or any of them, such agencies shall



2100 direct the issuance of warrants which in the aggregate shall be  
2101 the amount of such delinquency payable to the department and drawn  
2102 upon any funds in the State Treasury which may be available to  
2103 such political subdivision in satisfaction of any such  
2104 delinquency. This remedy shall be in addition to any other  
2105 collection remedies in this chapter or otherwise provided by law.

2106 (h) Payments made by any political subdivision under  
2107 the provisions of this section shall not be deducted or  
2108 deductible, in whole or in part, from the remuneration of  
2109 individuals in the employ of the organization.

2110 (i) Any governmental entity shall not be liable to make  
2111 payments to the unemployment fund with respect to the benefits  
2112 paid to any individual whose base-period wages include wages for  
2113 previously uncovered services as defined in Section 71-5-511,  
2114 subsection (e), to the extent that the Unemployment Compensation  
2115 Fund is reimbursed for such benefits pursuant to Section 121 of  
2116 Public Law 94-566.

2117 (j) Any political subdivision of this state may elect  
2118 to make contributions to the unemployment fund instead of making  
2119 reimbursement for benefits paid as provided in subsections (2)(d),  
2120 (e) and (f) of this section. A political subdivision which makes  
2121 this election shall so notify the department, not later than July  
2122 1, 1978; and shall be subject to the provisions of Section  
2123 71-5-351, with regard to the payment of contributions. A  
2124 political subdivision which makes this election shall pay  
2125 contributions equal to two percent (2%) of wages paid by it during  
2126 each calendar quarter it is subject to this chapter. The  
2127 department shall by regulation establish a procedure to allow  
2128 political subdivisions the option periodically to elect either the  
2129 reimbursement or the contribution method of financing unemployment  
2130 compensation coverage.

2131 **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is  
2132 reenacted as follows:

2133           71-5-451. There is established as a special fund, separate  
2134 and apart from all public monies or funds of this state, an  
2135 Unemployment Compensation Fund, which shall be administered by the  
2136 department exclusively for:

2137           (a) All contributions collected under this chapter;

2138           (b) Interest earned upon any monies in the fund;

2139           (c) Any property or securities acquired through the use  
2140 of monies belonging to the fund;

2141           (d) All earnings of such property or securities;

2142           (e) All monies credited to this state's account in the  
2143 Unemployment Trust Fund pursuant to the Social Security Act, 42  
2144 USCS, Section 1104; and

2145           (f) By way of reimbursement in accordance with Section  
2146 204 of the Federal-State Extended Unemployment Compensation Act of  
2147 1970 (84 Stat. 711). All monies in the fund shall be mingled and  
2148 undivided.

2149           **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is  
2150 reenacted as follows:

2151           71-5-457. (1) Except as otherwise provided in subsection  
2152 (5), money credited to the account of this state in the  
2153 Unemployment Trust Fund by the Secretary of the Treasury of the  
2154 United States of America pursuant to the Social Security Act, 42  
2155 USCS Section 1103, may be requisitioned and used for the payment  
2156 of expenses incurred for the administration of this law pursuant  
2157 to a specific appropriation by the Legislature, provided that the  
2158 expenses are incurred and the money is requisitioned after the  
2159 enactment of an appropriation law which:

2160           (a) Specifies the purposes for which such money is  
2161 appropriated and the amounts appropriated therefor;

2162           (b) Limits the period within which such money may be  
2163 obligated to a period ending not more than two (2) years after the  
2164 date of the enactment of the appropriation law; and

2165 (c) Limits the amount which may be obligated during a  
2166 twelve-month period beginning on July 1 and ending on the next  
2167 June 30 to an amount which does not exceed the amount by which:

2168 (i) The aggregate of the amounts credited to the  
2169 account of this state pursuant to the Social Security Act, 42 USCS  
2170 Section 1103, during the same twelve-month period and the  
2171 thirty-four (34) preceding twelve-month periods exceeds.

2172 (ii) The aggregate of the amounts obligated  
2173 pursuant to this section and charged against the amounts credited  
2174 to the account of this state during such thirty-five (35)  
2175 twelve-month periods.

2176 For the purposes of this section, amounts obligated during  
2177 any such twelve-month period shall be charged against equivalent  
2178 amounts which were first credited and which are not already so  
2179 charged; except that no amount obligated for administration during  
2180 any such twelve-month period may be charged against any amount  
2181 credited during such a twelve-month period earlier than the  
2182 thirty-fourth preceding such period.

2183 (2) Money credited to the account of this state pursuant to  
2184 the Social Security Act, 42 USCS Section 1103, may not be  
2185 withdrawn or used except for the payment of benefits and for the  
2186 payment of expenses for the administration of this law and of  
2187 public employment offices pursuant to this section.

2188 (3) Money appropriated as provided herein for the payment of  
2189 expenses of administration shall be requisitioned as needed for  
2190 the payment of obligations incurred under such appropriation and,  
2191 upon requisition, shall be deposited in the Employment Security  
2192 Administration Fund, from which such payments shall be made.  
2193 Money so deposited shall, until expended, remain a part of the  
2194 Unemployment Compensation Fund and, if it will not be expended,  
2195 shall be returned promptly to the account of this state in the  
2196 Unemployment Trust Fund.

2197 (4) The thirty-five-year limitation provided in this section  
2198 is no longer in force, effective October 1, 1991.

2199 (5) Notwithstanding subsection (1), monies credited with  
2200 respect to federal fiscal years 1999, 2000 and 2001 shall be used  
2201 by the department solely for the administration of the  
2202 unemployment compensation program.

2203 **SECTION 38.** Section 71-5-511, Mississippi Code of 1972, is  
2204 reenacted as follows:

2205 71-5-511. An unemployed individual shall be eligible to  
2206 receive benefits with respect to any week only if the department  
2207 finds that:

2208 (a) (i) He has registered for work at and thereafter  
2209 has continued to report to an employment office in accordance with  
2210 such regulations as the department may prescribe; except that the  
2211 department may, by regulation, waive or alter either or both of  
2212 the requirements of this subparagraph as to such types of cases or  
2213 situations with respect to which it finds that compliance with  
2214 such requirements would be oppressive or would be inconsistent  
2215 with the purposes of this chapter; and

2216 (ii) He participates in reemployment services,  
2217 such as job search assistance services, if, in accordance with a  
2218 profiling system established by the department, it has been  
2219 determined that he is likely to exhaust regular benefits and needs  
2220 reemployment services, unless the department determines that:

2221 1. The individual has completed such  
2222 services; or

2223 2. There is justifiable cause for the  
2224 claimant's failure to participate in such services.

2225 (b) He has made a claim for benefits in accordance with  
2226 the provisions of Section 71-5-515 and in accordance with such  
2227 regulations as the department may prescribe thereunder.

2228 (c) He is able to work and is available for work.

2229                   (d) He has been unemployed for a waiting period of one  
2230 (1) week. No week shall be counted as a week of unemployment for  
2231 the purposes of this subsection:

2232                   (i) Unless it occurs within the benefit year which  
2233 includes the week with respect to which he claims payment of  
2234 benefits;

2235                   (ii) If benefits have been paid with respect  
2236 thereto;

2237                   (iii) Unless the individual was eligible for  
2238 benefits with respect thereto, as provided in Sections 71-5-511  
2239 and 71-5-513, except for the requirements of this subsection.

2240                   (e) For weeks beginning on or before July 1, 1982, he  
2241 has, during his base period, been paid wages for insured work  
2242 equal to not less than thirty-six (36) times his weekly benefit  
2243 amount; he has been paid wages for insured work during at least  
2244 two (2) quarters of his base period; and he has, during that  
2245 quarter of his base period in which his total wages were highest,  
2246 been paid wages for insured work equal to not less than sixteen  
2247 (16) times the minimum weekly benefit amount. For benefit years  
2248 beginning after July 1, 1982, he has, during his base period, been  
2249 paid wages for insured work equal to not less than forty (40)  
2250 times his weekly benefit amount; he has been paid wages for  
2251 insured work during at least two (2) quarters of his base period,  
2252 and he has, during that quarter of his base period in which his  
2253 total wages were highest, been paid wages for insured work equal  
2254 to not less than twenty-six (26) times the minimum weekly benefit  
2255 amount. For purposes of this subsection, wages shall be counted  
2256 as "wages for insured work" for benefit purposes with respect to  
2257 any benefit year only if such benefit year begins subsequent to  
2258 the date on which the employing unit by which such wages were paid  
2259 has satisfied the conditions of Section 71-5-11, subsection I, or  
2260 Section 71-5-361, subsection (3), with respect to becoming an  
2261 employer.

2262           (f) No individual may receive benefits in a benefit  
2263 year unless, subsequent to the beginning of the next preceding  
2264 benefit year during which he received benefits, he performed  
2265 service in "employment" as defined in Section 71-5-11, subsection  
2266 J, and earned remuneration for such service in an amount equal to  
2267 not less than eight (8) times his weekly benefit amount applicable  
2268 to his next preceding benefit year.

2269           (g) Benefits based on service in employment defined in  
2270 Section 71-5-11, subsection J(3) and J(4), and Section 71-5-361,  
2271 subsection (4) shall be payable in the same amount, on the same  
2272 terms, and subject to the same conditions as compensation payable  
2273 on the basis of other service subject to this chapter, except that  
2274 benefits based on service in an instructional, research or  
2275 principal administrative capacity in an institution of higher  
2276 learning (as defined in Section 71-5-11, subsection O) with  
2277 respect to service performed prior to January 1, 1978, shall not  
2278 be paid to an individual for any week of unemployment which begins  
2279 during the period between two (2) successive academic years, or  
2280 during a similar period between two (2) regular terms, whether or  
2281 not successive, or during a period of paid sabbatical leave  
2282 provided for in the individual's contract, if the individual has a  
2283 contract or contracts to perform services in any such capacity for  
2284 any institution or institutions of higher learning for both such  
2285 academic years or both such terms.

2286           (h) Benefits based on service in employment defined in  
2287 Section 71-5-11, subsection J(3) and J(4), shall be payable in the  
2288 same amount, on the same terms and subject to the same conditions  
2289 as compensation payable on the basis of other service subject to  
2290 this chapter; except that:

2291           (i) With respect to service performed in an  
2292 instructional, research or principal administrative capacity for  
2293 an educational institution, benefits shall not be paid based on  
2294 such services for any week of unemployment commencing during the

2295 period between two (2) successive academic years, or during a  
2296 similar period between two (2) regular but not successive terms,  
2297 or during a period of paid sabbatical leave provided for in the  
2298 individual's contract, to any individual, if such individual  
2299 performs such services in the first of such academic years or  
2300 terms and if there is a contract or a reasonable assurance that  
2301 such individual will perform services in any such capacity for any  
2302 educational institution in the second of such academic years or  
2303 terms, and provided that Section 71-5-511, subsection (g), shall  
2304 apply with respect to such services prior to January 1, 1978. In  
2305 no event shall benefits be paid unless the individual employee was  
2306 terminated by the employer.

2307           (ii) With respect to services performed in any  
2308 other capacity for an educational institution, benefits shall not  
2309 be paid on the basis of such services to any individual for any  
2310 week which commences during a period between two (2) successive  
2311 academic years or terms, if such individual performs such services  
2312 in the first of such academic years or terms and there is a  
2313 reasonable assurance that such individual will perform such  
2314 services in the second of such academic years or terms, except  
2315 that if compensation is denied to any individual under this  
2316 subparagraph and such individual was not offered an opportunity to  
2317 perform such services for the educational institution for the  
2318 second of such academic years or terms, such individual shall be  
2319 entitled to a retroactive payment of compensation for each week  
2320 for which the individual filed a timely claim for compensation and  
2321 for which compensation was denied solely by reason of this clause.  
2322 In no event shall benefits be paid unless the individual employee  
2323 was terminated by the employer.

2324           (iii) With respect to services described in  
2325 subsection (h)(i) and (ii), benefits shall not be payable on the  
2326 basis of services in any such capacities to any individual for any  
2327 week which commences during an established and customary vacation

2328 period or holiday recess if such individual performs such services  
2329 in the first of such academic years or terms, or in the period  
2330 immediately before such vacation period or holiday recess, and  
2331 there is a reasonable assurance that such individual will perform  
2332 such services in the period immediately following such vacation  
2333 period or holiday recess.

2334 (iv) With respect to any services described in  
2335 subsection (h)(i) and (ii), benefits shall not be payable on the  
2336 basis of services in any such capacities as specified in  
2337 subsection (h)(i), (ii) and (iii) to any individual who performed  
2338 such services in an educational institution while in the employ of  
2339 an educational service agency. For purposes of this subsection,  
2340 the term "educational service agency" means a governmental agency  
2341 or governmental entity which is established and operated  
2342 exclusively for the purpose of providing such services to one or  
2343 more educational institutions.

2344 (v) With respect to services to which Sections  
2345 71-5-357 and 71-5-359 apply, if such services are provided to or  
2346 on behalf of an educational institution, benefits shall not be  
2347 payable under the same circumstances and subject to the same terms  
2348 and conditions as described in subsection (h)(i), (ii), (iii) and  
2349 (iv).

2350 (i) Subsequent to December 31, 1977, benefits shall not  
2351 be paid to any individual on the basis of any services  
2352 substantially all of which consist of participating in sports or  
2353 athletic events or training or preparing to so participate, for  
2354 any week which commences during the period between two (2)  
2355 successive sports seasons (or similar periods) if such individual  
2356 performs such services in the first of such seasons (or similar  
2357 periods) and there is a reasonable assurance that such individual  
2358 will perform such services in the later of such seasons (or  
2359 similar periods).



2360           (j) (i) Subsequent to December 31, 1977, benefits  
2361 shall not be payable on the basis of services performed by an  
2362 alien, unless such alien is an individual who was lawfully  
2363 admitted for permanent residence at the time such services were  
2364 performed, was lawfully present for purposes of performing such  
2365 services, or was permanently residing in the United States under  
2366 color of law at the time such services were performed (including  
2367 an alien who was lawfully present in the United States as a result  
2368 of the application of the provisions of Section 203(a)(7) or  
2369 Section 212(d)(5) of the Immigration and Nationality Act).

2370           (ii) Any data or information required of  
2371 individuals applying for benefits to determine whether benefits  
2372 are not payable to them because of their alien status shall be  
2373 uniformly required from all applicants for benefits.

2374           (iii) In the case of an individual whose  
2375 application for benefits would otherwise be approved, no  
2376 determination that benefits to such individual are not payable  
2377 because of his alien status shall be made, except upon a  
2378 preponderance of the evidence.

2379           (k) An individual shall be deemed prima facie  
2380 unavailable for work, and therefore ineligible to receive  
2381 benefits, during any period which, with respect to his employment  
2382 status, is found by the department to be a holiday or vacation  
2383 period.

2384           **SECTION 39.** Section 71-5-513, Mississippi Code of 1972, is  
2385 reenacted as follows:

2386           71-5-513. A. An individual shall be disqualified for  
2387 benefits:

2388           (1) (a) For the week, or fraction thereof, which  
2389 immediately follows the day on which he left work voluntarily  
2390 without good cause, if so found by the department, and for each  
2391 week thereafter until he has earned remuneration for personal  
2392 services performed for an employer, as in this chapter defined,

2393 equal to not less than eight (8) times his weekly benefit amount,  
2394 as determined in each case; however, marital, filial and domestic  
2395 circumstances and obligations shall not be deemed good cause  
2396 within the meaning of this subsection. Pregnancy shall not be  
2397 deemed to be a marital, filial or domestic circumstance for the  
2398 purpose of this subsection.

2399 (b) For the week, or fraction thereof, which  
2400 immediately follows the day on which he was discharged for  
2401 misconduct connected with his work, if so found by the department,  
2402 and for each week thereafter until he has earned remuneration for  
2403 personal services performed for an employer, as in this chapter  
2404 defined, equal to not less than eight (8) times his weekly benefit  
2405 amount, as determined in each case.

2406 (c) The burden of proof of good cause for leaving  
2407 work shall be on the claimant, and the burden of proof of  
2408 misconduct shall be on the employer.

2409 (2) For the week, or fraction thereof, with respect to  
2410 which he willfully makes a false statement, a false representation  
2411 of fact, or willfully fails to disclose a material fact for the  
2412 purpose of obtaining or increasing benefits under the provisions  
2413 of this law, if so found by the department, and such individual's  
2414 maximum benefit allowance shall be reduced by the amount of  
2415 benefits so paid to him during any such week of disqualification;  
2416 and additional disqualification shall be imposed for a period not  
2417 exceeding fifty-two (52) weeks, the length of such period of  
2418 disqualification and the time when such period begins to be  
2419 determined by the department, in its discretion, according to the  
2420 circumstances in each case.

2421 (3) If the department finds that he has failed, without  
2422 good cause, either to apply for available suitable work when so  
2423 directed by the employment office or the department, to accept  
2424 suitable work when offered him, or to return to his customary  
2425 self-employment (if any) when so directed by the department, such

2426 disqualification shall continue for the week in which such failure  
2427 occurred and for not more than the twelve (12) weeks which  
2428 immediately follow such week, as determined by the department  
2429 according to the circumstances in each case.

2430           (a) In determining whether or not any work is  
2431 suitable for an individual, the department shall consider among  
2432 other factors the degree of risk involved to his health, safety  
2433 and morals, his physical fitness and prior training, his  
2434 experience and prior earnings, his length of unemployment and  
2435 prospects for securing local work in his customary occupation, and  
2436 the distance of the available work from his residence; however,  
2437 offered employment paying the minimum wage or higher, if such  
2438 minimum or higher wage is that prevailing for his customary  
2439 occupation or similar work in the locality, shall be deemed to be  
2440 suitable employment after benefits have been paid to the  
2441 individual for a period of eight (8) weeks.

2442           (b) Notwithstanding any other provisions of this  
2443 chapter, no work shall be deemed suitable and benefits shall not  
2444 be denied under this chapter to any otherwise eligible individual  
2445 for refusing to accept new work under any of the following  
2446 conditions:

2447                   (i) If the position offered is vacant due  
2448 directly to a strike, lockout or other labor dispute;

2449                   (ii) If the wages, hours or other conditions  
2450 of the work offered are substantially less favorable to the  
2451 individual than those prevailing for similar work in the locality;

2452                   (iii) If as a condition of being employed the  
2453 individual would be required to join a company union or to resign  
2454 from or refrain from joining any bona fide labor organization.

2455           (4) For any week with respect to which the department  
2456 finds that his total unemployment is due to a stoppage of work  
2457 which exists because of a labor dispute at a factory,  
2458 establishment or other premises at which he is or was last

2459 employed; however, this subsection shall not apply if it is shown  
2460 to the satisfaction of the department:

2461 (a) He is unemployed due to a stoppage of work  
2462 occasioned by an unjustified lockout, if such lockout was not  
2463 occasioned or brought about by such individual acting alone or  
2464 with other workers in concert; or

2465 (b) He is not participating in or directly  
2466 interested in the labor dispute which caused the stoppage of work;  
2467 and

2468 (c) He does not belong to a grade or class of  
2469 workers of which, immediately before the commencement of stoppage,  
2470 there were members employed at the premises at which the stoppage  
2471 occurs, any of whom are participating in or directly interested in  
2472 the dispute.

2473 If in any case separate branches of work which are commonly  
2474 conducted as separate businesses in separate premises are  
2475 conducted in separate departments of the same premises, each such  
2476 department shall, for the purposes of this subsection, be deemed  
2477 to be a separate factory, establishment or other premises.

2478 (5) For any week with respect to which he has received  
2479 or is seeking unemployment compensation under an unemployment  
2480 compensation law of another state or of the United States.

2481 However, if the appropriate agency of such other state or of the  
2482 United States finally determines that he is not entitled to such  
2483 unemployment compensation benefits, this disqualification shall  
2484 not apply. Nothing in this subsection contained shall be  
2485 construed to include within its terms any law of the United States  
2486 providing unemployment compensation or allowances for honorably  
2487 discharged members of the Armed Forces.

2488 (6) For any week with respect to which he is receiving  
2489 or has received remuneration in the form of payments under any  
2490 governmental or private retirement or pension plan, system or  
2491 policy which a base-period employer is maintaining or contributing

2492 to or has maintained or contributed to on behalf of the  
2493 individual; however, if the amount payable with respect to any  
2494 week is less than the benefits which would otherwise be due under  
2495 Section 71-5-501, he shall be entitled to receive for such week,  
2496 if otherwise eligible, benefits reduced by the amount of such  
2497 remuneration. However, on or after the first Sunday immediately  
2498 following July 1, 2001, no social security payments, to which the  
2499 employee has made contributions, shall be deducted from  
2500 unemployment benefits paid for any period of unemployment  
2501 beginning on or after the first Sunday following July 1, 2001.  
2502 This one hundred percent (100%) exclusion shall not apply to any  
2503 other governmental or private retirement or pension plan, system  
2504 or policy. If benefits payable under this section, after being  
2505 reduced by the amount of such remuneration, are not a multiple of  
2506 One Dollar (\$1.00), they shall be adjusted to the next lower  
2507 multiple of One Dollar (\$1.00).

2508 (7) For any week with respect to which he is receiving  
2509 or has received remuneration in the form of a back pay award, or  
2510 other compensation allocable to any week, whether by settlement or  
2511 otherwise. Any benefits previously paid for weeks of unemployment  
2512 with respect to which back pay awards, or other such compensation,  
2513 are made shall constitute an overpayment and such amounts shall be  
2514 deducted from the award by the employer prior to payment to the  
2515 employee, and shall be transmitted promptly to the department by  
2516 the employer for application against the overpayment and credit to  
2517 the claimant's maximum benefit amount and prompt deposit into the  
2518 fund; however, the removal of any charges made against the  
2519 employer as a result of such previously paid benefits shall be  
2520 applied to the calendar year and the calendar quarter in which the  
2521 overpayment is transmitted to the department, and no attempt shall  
2522 be made to relate such a credit to the period to which the award  
2523 applies. Any amount of overpayment so deducted by the employer  
2524 and not transmitted to the department shall be subject to the same

2525 procedures for collection as is provided for contributions by  
2526 Sections 71-5-363 through 71-5-381. Any amount of overpayment not  
2527 deducted by the employer shall be established as an overpayment  
2528 against the claimant and collected as provided above. It is the  
2529 purpose of this paragraph to assure equity in the situations to  
2530 which it applies, and it shall be construed accordingly.

2531 B. Notwithstanding any other provision in this chapter, no  
2532 otherwise eligible individual shall be denied benefits for any  
2533 week because he is in training with the approval of the  
2534 department; nor shall such individual be denied benefits with  
2535 respect to any week in which he is in training with the approval  
2536 of the department by reason of the application of provisions in  
2537 Section 71-5-511, subsection (c), relating to availability for  
2538 work, or the provisions of subsection A(3) of this section,  
2539 relating to failure to apply for, or a refusal to accept, suitable  
2540 work.

2541 C. Notwithstanding any other provisions of this chapter, no  
2542 otherwise eligible individual shall be denied benefits for any  
2543 week because he or she is in training approved under Section  
2544 236(a)(1) of the Trade Act of 1974, nor shall such individual be  
2545 denied benefits by reason of leaving work to enter such training,  
2546 provided the work left is not suitable employment, or because of  
2547 the application to any such week in training of provisions in this  
2548 law (or any applicable federal unemployment compensation law),  
2549 relating to availability for work, active search for work or  
2550 refusal to accept work.

2551 For purposes of this section, the term "suitable employment"  
2552 means with respect to an individual, work of a substantially equal  
2553 or higher skill level than the individual's past adversely  
2554 affected employment (as defined for purposes of the Trade Act of  
2555 1974), and wages for such work at not less than eighty percent  
2556 (80%) of the individual's average weekly wage as determined for  
2557 the purposes of the Trade Act of 1974.

2558           **SECTION 40.** Section 71-5-517, Mississippi Code of 1972, is  
2559 reenacted as follows:

2560           71-5-517. An examiner designated by the department shall  
2561 take the claim. An initial determination thereon shall be made  
2562 promptly and shall include a determination with respect to whether  
2563 or not benefits are payable, the week with respect to which  
2564 benefits shall commence, the weekly benefit amount payable and the  
2565 maximum duration of benefits. In any case in which the payment or  
2566 denial of benefits will be determined by the provisions of  
2567 subsection A(4) of Section 71-5-513, the examiner shall promptly  
2568 transmit all the evidence with respect to that subsection to the  
2569 department, which, on the basis of evidence so submitted and such  
2570 additional evidence as it may require, shall make an initial  
2571 determination with respect thereto. An initial determination may  
2572 for good cause be reconsidered. The claimant, his most recent  
2573 employing unit and all employers whose experience-rating record  
2574 would be charged with benefits pursuant to such determination  
2575 shall be promptly notified of such initial determination or any  
2576 amended initial determination and the reason therefor. Benefits  
2577 shall be denied or, if the claimant is otherwise eligible,  
2578 promptly paid in accordance with the initial determination or  
2579 amended initial determination. The jurisdiction of the department  
2580 over benefit claims which have not been appealed shall be  
2581 continuous. The claimant or any party to the initial  
2582 determination or amended initial determination may file an appeal  
2583 from such initial determination or amended initial determination  
2584 within fourteen (14) days after notification thereof, or after the  
2585 date such notification was mailed to his last known address.

2586           Notwithstanding any other provision of this section, benefits  
2587 shall be paid promptly in accordance with a determination or  
2588 redetermination, or the decision of an appeal tribunal, the Board  
2589 of Review or a reviewing court upon the issuance of such  
2590 determination, redetermination or decision in favor of the

2591 claimant (regardless of the pendency of the period to apply for  
2592 reconsideration, file an appeal, or petition for judicial review,  
2593 as the case may be, or the pendency of any such application,  
2594 filing or petition), unless and until such determination,  
2595 redetermination or decision has been modified or reversed by a  
2596 subsequent redetermination or decision, in which event benefits  
2597 shall be paid or denied in accordance with such modifying or  
2598 reversing redetermination or decision. Any benefits finally  
2599 determined to have been erroneously paid shall be set up as an  
2600 overpayment to the claimant and must be liquidated before any  
2601 future benefits can be paid to the claimant. If, subsequent to  
2602 such initial determination or amended initial determination,  
2603 benefits with respect to any week for which a claim has been filed  
2604 are denied for reasons other than matters included in the initial  
2605 determination or amended initial determination, the claimant shall  
2606 be promptly notified of the denial and the reason therefor and may  
2607 appeal therefrom in accordance with the procedure herein described  
2608 for appeals from initial determination or amended initial  
2609 determination.

2610       **SECTION 41.** Section 71-5-519, Mississippi Code of 1972, is  
2611 reenacted as follows:

2612       71-5-519. Unless such appeal is withdrawn, an appeal  
2613 tribunal appointed by the executive director, after affording the  
2614 parties reasonable opportunity for fair hearing, shall affirm,  
2615 modify or reverse the findings of fact and initial determination  
2616 or amended initial determination. The parties shall be duly  
2617 notified of such tribunal's decision, together with its reasons  
2618 therefor, which shall be deemed to be the final decision of the  
2619 executive director unless, within fourteen (14) days after the  
2620 date of notification or mailing of such decision, further appeal  
2621 is initiated pursuant to Section 71-5-523.

2622       **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is  
2623 reenacted as follows:



2624           71-5-523. The Board of Review may on its own motion affirm,  
2625 modify, or set aside any decision of an appeal tribunal on the  
2626 basis of the evidence previously submitted in such case, or direct  
2627 the taking of additional evidence, or may permit any of the  
2628 parties to such decision to initiate further appeals before it.  
2629 The Board of Review shall permit such further appeal by any of the  
2630 parties to a decision of an appeal tribunal which is not  
2631 unanimous, and by the examiner whose decision has been overruled  
2632 or modified by an appeal tribunal. The Board of Review may remove  
2633 to itself or transfer to another appeal tribunal the proceedings  
2634 on any claim pending before an appeal tribunal. Any proceedings  
2635 so removed to the Board of Review shall be heard by a quorum  
2636 thereof in accordance with the requirements of Section 71-5-519  
2637 and within fifteen (15) days after notice of appeal has been  
2638 received by the executive director. No notice of appeal shall be  
2639 deemed to be received by the executive director, within the  
2640 meaning of this section, until all prior appeals pending before  
2641 the Board of Review have been heard. The Board of Review shall,  
2642 within four (4) days after its decision, so notify the parties to  
2643 any proceeding of its findings and decision.

2644           **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is  
2645 reenacted as follows:

2646           71-5-525. The manner in which appealed claims shall be  
2647 presented and the conduct of hearings and appeals shall be in  
2648 accordance with regulations prescribed by the Board of Review for  
2649 determining the rights of the parties, whether or not such  
2650 regulations conform to common law or statutory rules of evidence  
2651 and other technical rules of procedure. A full and complete  
2652 record shall be kept of all proceedings in connection with an  
2653 appealed claim. The department's entire file relative to the  
2654 appealed claim shall be a part of such record and shall be  
2655 considered as evidence. All testimony at any hearing upon an

2656 appealed claim shall be recorded, but need not be transcribed  
2657 unless the claim is further appealed.

2658         **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is  
2659 reenacted as follows:

2660         71-5-529. Any decision of the Board of Review, in the  
2661 absence of an appeal therefrom as herein provided, shall become  
2662 final ten (10) days after the date of notification or mailing  
2663 thereof; and judicial review thereof shall be permitted only after  
2664 any party claiming to be aggrieved thereby has exhausted his  
2665 administrative remedies as provided by this chapter. The  
2666 department shall be deemed to be a party to any judicial action  
2667 involving any such decision, and may be represented in any such  
2668 judicial action by any qualified attorney employed by the  
2669 department and designated by it for that purpose or, at the  
2670 department's request, by the Attorney General.

2671         **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is  
2672 reenacted as follows:

2673         71-5-531. Within ten (10) days after the decision of the  
2674 Board of Review has become final, any party aggrieved thereby may  
2675 secure judicial review thereof by commencing an action, in the  
2676 circuit court of the county in which the plaintiff resides,  
2677 against the department for the review of such decision, in which  
2678 action any other party to the proceeding before the Board of  
2679 Review shall be made a defendant. In cases wherein the plaintiff  
2680 is not a resident of the State of Mississippi, such action may be  
2681 filed in the circuit court of the county in which the employer  
2682 resides, the county in which the cause of action arose, or in the  
2683 county of employment. In such action, a petition which need not  
2684 be verified, but which shall state the grounds upon which a review  
2685 is sought, shall be served upon the department or upon such person  
2686 as the department may designate, and such service shall be deemed  
2687 completed service on all parties; but there shall be left with the  
2688 party so served as many copies of the petition as there are

2689 defendants, and the department shall forthwith mail one (1) such  
2690 copy to each such defendant. With its answer, the department  
2691 shall certify and file with said court all documents and papers  
2692 and a transcript of all testimony taken in the matter, together  
2693 with the Board of Review's findings of fact and decision therein.  
2694 The department may also, in its discretion, certify to such court  
2695 questions of law involved in any decision. In any judicial  
2696 proceedings under this section, the findings of the Board of  
2697 Review as to the facts, if supported by evidence and in the  
2698 absence of fraud, shall be conclusive, and the jurisdiction of the  
2699 court shall be confined to questions of law. Such actions, and  
2700 the questions so certified, shall be heard in a summary manner and  
2701 shall be given precedence over all other civil cases. An appeal  
2702 may be taken from the decision of the circuit court of the county  
2703 in which the plaintiff resides to the Supreme Court of  
2704 Mississippi, in the same manner, but not inconsistent with the  
2705 provisions of this chapter, as is provided in civil cases. It  
2706 shall not be necessary, in any judicial proceeding under this  
2707 section, to enter exceptions to the rulings of the Board of  
2708 Review, and no bond shall be required for entering such appeal.  
2709 Upon the final determination of such judicial proceeding, the  
2710 Board of Review shall enter an order in accordance with such  
2711 determination. A petition for judicial review shall not act as a  
2712 supersedeas or stay unless the Board of Review shall so order.

2713       **SECTION 46.** Section 71-5-541, Mississippi Code of 1972, is  
2714 reenacted as follows:

2715       71-5-541. A. (1) In the administration of this chapter,  
2716 the department shall cooperate with the Department of Labor to the  
2717 fullest extent consistent with the provisions of this chapter and  
2718 shall take such action, through the adoption of appropriate rules,  
2719 regulations, administrative methods and standards, as may be  
2720 necessary to secure to this state and its citizens all advantages  
2721 available under the provisions of the Social Security Act that

2722 relate to unemployment compensation, the Federal Unemployment Tax  
2723 Act, the Wagner-Peyser Act and the Federal-State Extended  
2724 Unemployment Compensation Act of 1970, all as amended.

2725           (2) In the administration of the provisions of this  
2726 section, which are enacted to conform with the requirements of the  
2727 Federal-State Extended Unemployment Compensation Act of 1970, as  
2728 amended, the department shall take such actions as may be  
2729 necessary:

2730                   (a) To ensure that the provisions are so  
2731 interpreted and applied as to meet the requirements of such  
2732 federal act as interpreted by the United States Department of  
2733 Labor; and

2734                   (b) To secure to this state the full reimbursement  
2735 of the federal share of extended benefits paid under this chapter  
2736 that are reimbursable under the federal act; and also

2737                   (c) To limit the amount of extended benefits paid  
2738 as may be necessary so that the reimbursement of the federal share  
2739 of extended benefits paid shall remain at one-half (1/2) of the  
2740 total extended benefits paid.

2741           B. As used in this section, unless the context clearly  
2742 requires otherwise:

2743                   (1) "Extended benefit period" means a period which:

2744                           (a) Begins with the third week after a week for  
2745 which there is a state "on" indicator; and

2746                           (b) Ends with either of the following weeks,  
2747 whichever occurs later:

2748                                   (i) The third week after the first week for  
2749 which there is a state "off" indicator; or

2750                                   (ii) The thirteenth consecutive week of such  
2751 period.

2752           No extended benefit period may begin by reason of a state  
2753 "on" indicator before the fourteenth week following the end of a

2754 prior extended benefit period which was in effect with respect to  
2755 this state.

2756 (2) For weeks beginning after September 25, 1982, there  
2757 is a "state 'on' indicator" for a week if the rate of insured  
2758 unemployment under this chapter for the period consisting of such  
2759 week and the immediately preceding twelve (12) weeks:

2760 (a) Equaled or exceeded one hundred twenty percent  
2761 (120%) of the average of such rates for the corresponding period  
2762 of thirteen (13) weeks ending in each of the preceding two (2)  
2763 calendar years; and

2764 (b) Equaled or exceeded five percent (5%).

2765 The determination of whether there has been a state "on" or  
2766 "off" indicator beginning or ending any extended benefit period  
2767 shall be made under this subsection as if (i) paragraph (2) did  
2768 not contain subparagraph (a) thereof, and (ii) the figure "5"  
2769 contained in subparagraph (b) thereof were "6"; except that,  
2770 notwithstanding any such provision of this subsection, any week  
2771 for which there would otherwise be a "state 'on' indicator" shall  
2772 continue to be such week and shall not be determined to be a week  
2773 for which there is a "state 'off' indicator."

2774 (3) There is a "state 'off' indicator" for a week if,  
2775 for the period consisting of such week and the immediately  
2776 preceding twelve (12) weeks, either subparagraph (a) or (b) of  
2777 paragraph (2) was not satisfied.

2778 (4) "Rate of insured unemployment," for purposes of  
2779 paragraphs (2) and (3) of this subsection, means the percentage  
2780 derived by dividing:

2781 (a) The average number of continued weeks claimed  
2782 for regular state compensation in this state for weeks of  
2783 unemployment with respect to the most recent period of thirteen  
2784 (13) consecutive weeks, as determined by the department on the  
2785 basis of its reports to the United States Secretary of Labor; by

2786 (b) The average monthly employment covered under  
2787 this chapter for the first four (4) of the most recent six (6)  
2788 completed calendar quarters ending before the end of such period  
2789 of thirteen (13) weeks.

2790 (5) "Regular benefits" means benefits payable to an  
2791 individual under this chapter or under any other state law  
2792 (including benefits payable to federal civilian employees and to  
2793 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than  
2794 extended benefits.

2795 (6) "Extended benefits" means benefits (including  
2796 benefits payable to federal civilian employees and to  
2797 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an  
2798 individual under the provisions of this section for weeks of  
2799 unemployment in his eligibility period.

2800 (7) "Eligibility period" of an individual means the  
2801 period consisting of the weeks in his benefit year which begin in  
2802 an extended benefit period and, if his benefit year ends within  
2803 such extended benefit period, any weeks thereafter which begin in  
2804 such period.

2805 (8) "Exhaustee" means an individual who, with respect  
2806 to any week of unemployment in his eligibility period:

2807 (a) Has received, prior to such week, all of the  
2808 regular benefits that were available to him under this chapter or  
2809 any other state law (including dependents' allowances and benefits  
2810 payable to federal civilian employees and ex-servicemen under 5  
2811 USCS Section 8501-8525) in his current benefit year that includes  
2812 such week;

2813 For the purposes of this subparagraph, an individual shall be  
2814 deemed to have received all of the regular benefits that were  
2815 available to him although, as a result of a pending appeal with  
2816 respect to wages that were not considered in the original monetary  
2817 determination in his benefit year, he may subsequently be  
2818 determined to be entitled to added regular benefits; or

2819 (b) Has no, or insufficient, wages on the basis of  
2820 which he could establish a new benefit year that would include  
2821 such week, his benefit year having expired prior to such week; and

2822 (c) (i) Has no right to unemployment benefits or  
2823 allowances, as the case may be, under the Railroad Unemployment  
2824 Insurance Act, the Trade Expansion Act of 1962, the Automotive  
2825 Products Trade Act of 1965, and such other federal laws as are  
2826 specified in regulations issued by the United States Secretary of  
2827 Labor; and

2828 (ii) Has not received and is not seeking  
2829 unemployment benefits under the Unemployment Compensation Law of  
2830 the Virgin Islands or of Canada; but if he is seeking such  
2831 benefits and the appropriate agency finally determines that he is  
2832 not entitled to benefits under such law, he is considered an  
2833 exhaustee; however, the reference in this subsection to the Virgin  
2834 Islands shall be inapplicable effective on the day on which the  
2835 United States Secretary of Labor approves under Section 3304(a) of  
2836 the Internal Revenue Code of 1954, an unemployment compensation  
2837 law submitted to the Secretary by the Virgin Islands for approval.

2838 (9) "State law" means the unemployment insurance law of  
2839 any state, approved by the United States Secretary of Labor under  
2840 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section  
2841 3304).

2842 C. Except when the result would be inconsistent with the  
2843 other provisions of this section, as provided in the regulations  
2844 of the department, the provisions of this chapter which apply to  
2845 claims for, or the payment of, regular benefits shall apply to  
2846 claims for, and the payment of, extended benefits.

2847 D. An individual shall be eligible to receive extended  
2848 benefits with respect to any week of unemployment in his  
2849 eligibility period only if the department finds that with respect  
2850 to such week:

2851           (1) He is an "exhaustee" as defined in subsection B(8)  
2852 of this section.

2853           (2) He has satisfied the requirements of this chapter  
2854 for the receipt of regular benefits that are applicable to  
2855 individuals claiming extended benefits, including not being  
2856 subject to a disqualification for the receipt of benefits.

2857           (3) For a week beginning after September 25, 1982, he  
2858 has, during his base period, been paid wages for insured work  
2859 equal to not less than forty (40) times his weekly benefit amount;  
2860 he has been paid wages for insured work during at least two (2)  
2861 quarters of his base period, and he has, during that quarter of  
2862 his base period in which his total wages were highest, been paid  
2863 wages for insured work equal to not less than twenty-six (26)  
2864 times the minimum weekly benefit amount.

2865           E. The weekly extended benefit amount payable to an  
2866 individual for a week of total unemployment in his eligibility  
2867 period shall be an amount equal to the weekly benefit amount  
2868 payable to him during his applicable benefit year; however,  
2869 benefits paid to individuals during eligibility periods beginning  
2870 before October 1, 1983, shall be computed to the next higher  
2871 multiple of One Dollar (\$1.00), if not a multiple of One Dollar  
2872 (\$1.00); and benefits paid to individuals during eligibility  
2873 periods beginning on or after October 1, 1983, shall be computed  
2874 to the next lower multiple of One Dollar (\$1.00), if not a  
2875 multiple of One Dollar (\$1.00). In no event shall the weekly  
2876 extended benefit amount payable to an individual be more than two  
2877 (2) times the amount of the reimbursement of the federal share of  
2878 extended benefits paid.

2879           F. (1) The total extended benefit amount payable to any  
2880 eligible individual with respect to his applicable benefit year  
2881 shall be the least of the following amounts:

2882                   (a) Fifty percent (50%) of the total amount of  
2883 regular benefits which were payable to him under this chapter in



2884 his applicable benefit year; however, benefits paid to individuals  
2885 during eligibility periods beginning before October 1, 1983, shall  
2886 be computed to the next higher multiple of One Dollar (\$1.00), if  
2887 not a multiple of One Dollar (\$1.00), and benefits paid to  
2888 individuals during eligibility periods beginning on or after  
2889 October 1, 1983, shall be computed to the next lower multiple of  
2890 One Dollar (\$1.00), if not a multiple of One Dollar (\$1.00); or

2891 (b) Thirteen (13) times his weekly benefit amount  
2892 which was payable to him under this chapter for a week of total  
2893 unemployment in the applicable benefit year.

2894 (2) The total extended benefits otherwise payable to an  
2895 individual who is filing an interstate claim under the interstate  
2896 benefit payment plan shall not exceed two (2) weeks whenever an  
2897 extended benefit period is not in effect for such week in the  
2898 state where the claim is filed.

2899 (3) In no event shall the total extended benefit amount  
2900 payable to any eligible individual with respect to his applicable  
2901 benefit year be more than two (2) times the amount of the  
2902 reimbursement of the federal share of extended benefits paid.

2903 G. (1) Whenever an extended benefit period is to become  
2904 effective in this state as a result of a state "on" indicator, or  
2905 an extended benefit period is to be terminated in this state as a  
2906 result of state "off" indicators, the department shall make an  
2907 appropriate public announcement.

2908 (2) Computations required by the provisions of  
2909 subsection B(4) shall be made by the department, in accordance  
2910 with regulations prescribed by the United States Secretary of  
2911 Labor.

2912 H. Extended benefits paid under the provisions of this  
2913 section which are not reimbursable from federal funds shall be  
2914 charged to the experience-rating record of base period employers.

2915 I. (1) Notwithstanding the provisions of subsections C and  
2916 D of this section, an individual shall be disqualified for receipt

2917 of extended benefits if the department finds that during any week  
2918 of his eligibility period:

2919 (a) He has failed either to apply for or to accept  
2920 an offer of suitable work (as defined under paragraph (3)) to  
2921 which he was referred by the department; or

2922 (b) He has failed to furnish tangible evidence  
2923 that he has actively engaged in a systematic and sustained effort  
2924 to find work, unless such individual is not actively engaged in  
2925 seeking work because such individual is:

2926 (i) Before any court of the United States or  
2927 any state pursuant to a lawfully issued summons to appear for jury  
2928 duty;

2929 (ii) Hospitalized for treatment of an  
2930 emergency or a life-threatening condition.

2931 The entitlement to benefits of any individual who is  
2932 determined not to be actively engaged in seeking work in any week  
2933 for the foregoing reasons shall be decided pursuant to the able  
2934 and available requirements in Section 71-5-511 without regard to  
2935 the disqualification provisions otherwise applicable under Section  
2936 71-5-541. The conditions prescribed in clauses (i) and (ii) of  
2937 this subparagraph (b) must be applied in the same manner to  
2938 individuals filing claims for regular benefits.

2939 (2) Such disqualification shall begin with the week in  
2940 which such failure occurred and shall continue until he has been  
2941 employed in each of eight (8) subsequent weeks (whether or not  
2942 consecutive) and has earned remuneration for personal services  
2943 performed for an employer, as in this chapter defined, equal to  
2944 not less than eight (8) times his weekly extended benefit amount.

2945 (3) For the purpose of subparagraph (a) of paragraph  
2946 (1) the term "suitable work" means any work which is within the  
2947 individual's capabilities to perform, if:

2948 (a) The gross average weekly remuneration payable  
2949 for the work exceeds the sum of the individual's weekly extended

2950 benefit amount plus the amount, if any, of supplemental  
2951 unemployment benefits (as defined in Section 501(c)(17)(D) of the  
2952 Internal Revenue Code of 1954) payable to such individual for such  
2953 week;

2954 (b) The wages payable for the work equal the  
2955 higher of the minimum wages provided by Section 6(a)(1) of the  
2956 Fair Labor Standards Act of 1938 (without regard to any  
2957 exemption), or the state or local minimum wage; and

2958 (c) The position was offered to the individual in  
2959 writing or was listed with the state employment service; and

2960 (d) Such work otherwise meets the definition of  
2961 "suitable work" for regular benefits contained in Section  
2962 71-5-513A(4) to the extent that such criteria of suitability are  
2963 not inconsistent with the provisions of this paragraph (3); and

2964 (e) The individual cannot furnish satisfactory  
2965 evidence to the department that his prospects for obtaining work  
2966 in his customary occupation within a reasonably short period are  
2967 good. If such evidence is deemed satisfactory for this purpose,  
2968 the determination of whether any work is suitable with respect to  
2969 such individual shall be made in accordance with the definition of  
2970 suitable work contained in Section 71-5-513A(4) without regard to  
2971 the definition specified by this paragraph (3).

2972 (4) Notwithstanding any provisions of subsection I to  
2973 the contrary, no work shall be deemed to be suitable work for an  
2974 individual which does not accord with the labor standard  
2975 provisions set forth herein under Section 71-5-513A(4).

2976 (5) The employment service shall refer any claimant  
2977 entitled to extended benefits under this section to any suitable  
2978 work which meets the criteria prescribed in paragraph (3).

2979 (6) An individual shall be disqualified for extended  
2980 benefits for the week, or fraction thereof, which immediately  
2981 follows the day on which he left work voluntarily without good  
2982 cause (as defined in Section 71-5-513A(1)), was discharged for

2983 misconduct connected with his work, or refused suitable work  
2984 (except as provided in subsection I of this section), and for each  
2985 week thereafter until he has earned remuneration for personal  
2986 services performed for an employer, as in this chapter defined,  
2987 equal to not less than eight (8) times his weekly benefit amount,  
2988 as determined in each case.

2989 (7) The provisions of paragraphs I(1) through (6) of  
2990 this section shall not apply to claims for weeks of unemployment  
2991 beginning after March 6, 1993, and before January 1, 1995, and  
2992 during that period the provisions of this chapter applicable to  
2993 claims for regular compensation shall apply.

2994 J. Notwithstanding any other provisions of this chapter, if  
2995 the benefit year of any individual ends within an extended benefit  
2996 period, the remaining balance of extended benefits that such  
2997 individual would, but for this section, be entitled to receive in  
2998 that extended benefit period, with respect to weeks of  
2999 unemployment beginning after the end of the benefit year, shall be  
3000 reduced (but not below zero) by the product of the number of weeks  
3001 for which the individual received any amounts as trade  
3002 readjustment allowances within that benefit year, multiplied by  
3003 the individual's weekly benefit amount for extended benefits.

3004 **SECTION 47.** Section 73-30-25, Mississippi Code of 1972, is  
3005 reenacted as follows:

3006 73-30-25. It is not the intent of this chapter to regulate  
3007 against members of other duly regulated professions in this state  
3008 who do counseling in the normal course of the practice of their  
3009 own profession. This chapter does not apply to:

3010 (a) Any person registered, certified or licensed by the  
3011 state to practice any other occupation or profession while  
3012 rendering counseling services in the performance of the occupation  
3013 or profession for which he is registered, certified or licensed;

3014 (b) Certified school counselors when they are  
3015 practicing counseling within the scope of their employment;

- 3016           (c) Certified vocational counselors when they are  
3017 practicing vocational counseling within the scope of their  
3018 employment;
- 3019           (d) Counselors in post-secondary institutions when they  
3020 are practicing within the scope of their employment;
- 3021           (e) Student interns or trainees in counseling pursuing  
3022 a course of study in counseling in a regionally or nationally  
3023 accredited institution of higher learning or training institution  
3024 if activities and services constitute a part of the supervised  
3025 course of study, provided that such persons be designated a  
3026 counselor intern;
- 3027           (f) Professionals employed by regionally or nationally  
3028 accredited post-secondary institutions as counselor educators when  
3029 they are practicing counseling within the scope of their  
3030 employment;
- 3031           (g) Professionals registered, certified or licensed by  
3032 a recognized state or national professional association that has a  
3033 published code of ethics and requires adherence to same;
- 3034           (h) Duly ordained ministers or clergy while functioning  
3035 in their ministerial capacity and duly accredited Christian  
3036 Science practitioners;
- 3037           (i) Professional employees of regional mental health  
3038 centers, state mental hospitals, vocational rehabilitation  
3039 institutions, youth court counselors and employees of the  
3040 Mississippi Department of Employment Security or other  
3041 governmental agency so long as they practice within the scope of  
3042 their employment;
- 3043           (j) Professional employees of alcohol or drug abuse  
3044 centers or treatment facilities, whether privately or publicly  
3045 funded, so long as they practice within the scope of their  
3046 employment;
- 3047           (k) Private employment counselors;

3048           (1) Any nonresident temporarily employed in this state  
3049 to render counseling services for not more than thirty (30) days  
3050 in any year, if in the opinion of the board the person would  
3051 qualify for a license under this chapter and if the person holds  
3052 any license required for counselors in his home state or country;  
3053 and

3054           (m) Any social workers holding a master's degree in  
3055 social work from a school accredited by the Council on Social Work  
3056 Education and who do counseling in the normal course of the  
3057 practice of their own profession.

3058           **SECTION 48.** Section 43-1-30, Mississippi Code of 1972, is  
3059 reenacted as follows:

3060           43-1-30. (1) There is created the Mississippi TANF  
3061 Implementation Council. It shall serve as the independent, single  
3062 state advisory and review council for assuring Mississippi's  
3063 compliance with the federal Personal Responsibility and Work  
3064 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as  
3065 amended. The council shall further cooperation between  
3066 government, education and the private sector in meeting the needs  
3067 of the TANF program. It shall also further cooperation between  
3068 the business and labor communities, education and training  
3069 delivery systems, and between businesses in developing highly  
3070 skilled workers for high skill, high paying jobs in Mississippi.

3071           (2) The council shall be comprised of thirteen (13) public  
3072 members and certain ex officio nonvoting members. All public  
3073 members of the council shall be appointed as follows by the  
3074 Governor:

3075           Ten (10) members shall be representatives from business and  
3076 industry, provided that no fewer than five (5) members are from  
3077 the manufacturing and industry sector who are also serving as  
3078 members of private industry councils established within the state,  
3079 and one (1) member may be a representative of a nonprofit  
3080 organization. Three (3) members shall be recipients or former

3081 recipients of TANF assistance appointed from the state at large.

3082       The ex officio nonvoting members of the council shall consist  
3083 of the following, or their designees:

3084           (a) The Executive Director of the Mississippi  
3085 Department of Human Services;

3086           (b) The Executive Director of the Mississippi  
3087 Department of Employment Security;

3088           (c) The Executive Director of the Mississippi  
3089 Development Authority;

3090           (d) The State Superintendent of Public Education;

3091           (e) The Director of the State Board for Community and  
3092 Junior Colleges;

3093           (f) The Executive Director of the Division of Medicaid;

3094           (g) The Commissioner of the Mississippi Department of  
3095 Corrections; and

3096           (h) The Director of the Mississippi Cooperative  
3097 Extension Service.

3098       (3) The Governor shall designate one (1) public member to  
3099 serve as chairman of the council for a term of two (2) years and  
3100 until a successor as chairman is appointed and qualified.

3101       (4) The term of office for public members appointed by the  
3102 Governor shall be four (4) years and until their successors are  
3103 appointed and qualified.

3104       (5) Any vacancy shall be filled for the unexpired term by  
3105 the Governor in the manner of the original appointment, unless  
3106 otherwise specified in this section.

3107       (6) Public members shall receive a per diem as authorized in  
3108 Section 25-3-69, for each day actually engaged in meetings of the  
3109 council, and shall be reimbursed for mileage and necessary  
3110 expenses incurred in the performance of their duties, as provided  
3111 in Section 25-3-41.

3112       (7) The council shall:

3113           (a) Annually review and recommend policies and programs  
3114 to the Governor and the Legislature that will implement and meet  
3115 federal requirements under the TANF program.

3116           (b) Annually review and recommend policies and programs  
3117 to the Governor and to the Legislature that will enable citizens  
3118 of Mississippi to acquire the skills necessary to maximize their  
3119 economic self-sufficiency.

3120           (c) Review the provision of services and the use of  
3121 funds and resources under the TANF program, and under all  
3122 state-financed job training and job retraining programs, and  
3123 advise the Governor and the Legislature on methods of coordinating  
3124 such provision of services and use of funds and resources  
3125 consistent with the laws and regulations governing such programs.

3126           (d) Assist in developing outcome and output measures to  
3127 measure the success of the Department of Human Services' efforts  
3128 in implementing the TANF program. These recommendations shall be  
3129 made to the Department of Human Services at such times as required  
3130 in the event that the department implements new programs to comply  
3131 with the TANF program requirements.

3132           (e) Collaborate with the Mississippi Development  
3133 Authority, local planning and development districts and local  
3134 industrial development boards, and shall develop an economic  
3135 development plan for the creation of manufacturing jobs in each of  
3136 the counties in the state that has an unemployment rate of ten  
3137 percent (10%) or more, which shall include, but not be limited to,  
3138 procedures for business development, entrepreneurship and  
3139 financial and technical assistance.

3140           (8) A majority of the members of the council shall  
3141 constitute a quorum for the conduct of meetings and all actions of  
3142 the council shall be by a majority of the members present at a  
3143 meeting.



3144 (9) The council shall adopt rules and regulations as it  
3145 deems necessary to carry out its responsibilities under this  
3146 section and under applicable federal human resources programs.

3147 (10) The council may make and enter into contracts and  
3148 interagency agreements as may be necessary and proper.

3149 (11) The council is authorized to commit and expend monies  
3150 appropriated to it by the Legislature for its authorized purposes.  
3151 The council is authorized to solicit, accept and expend public and  
3152 private gifts, grants, awards and contributions related to  
3153 furtherance of its statutory duties.

3154 (12) Funds for the operations of the council shall be  
3155 derived from federal funds for the operation of state councils  
3156 pursuant to applicable federal human resources programs and from  
3157 such other monies appropriated to it by the Legislature.

3158 **SECTION 49.** Section 43-17-5, Mississippi Code of 1972, is  
3159 reenacted as follows:

3160 43-17-5. (1) The amount of Temporary Assistance for Needy  
3161 Families (TANF) benefits which may be granted for any dependent  
3162 child and a needy caretaker relative shall be determined by the  
3163 county department with due regard to the resources and necessary  
3164 expenditures of the family and the conditions existing in each  
3165 case, and in accordance with the rules and regulations made by the  
3166 Department of Human Services which shall not be less than the  
3167 Standard of Need in effect for 1988, and shall be sufficient when  
3168 added to all other income (except that any income specified in the  
3169 federal Social Security Act, as amended, may be disregarded) and  
3170 support available to the child to provide such child with a  
3171 reasonable subsistence compatible with decency and health. The  
3172 first family member in the dependent child's budget may receive an  
3173 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;  
3174 the second family member in the dependent child's budget may  
3175 receive an amount not to exceed Thirty-six Dollars (\$36.00) per  
3176 month; and each additional family member in the dependent child's

3177 budget an amount not to exceed Twenty-four Dollars (\$24.00) per  
3178 month. The maximum for any individual family member in the  
3179 dependent child's budget may be exceeded for foster or medical  
3180 care or in cases of mentally retarded or physically handicapped  
3181 children. TANF benefits granted shall be specifically limited  
3182 only (a) to children existing or conceived at the time the  
3183 caretaker relative initially applies and qualifies for such  
3184 assistance, unless this limitation is specifically waived by the  
3185 department, or (b) to a child born following a twelve (12)  
3186 consecutive month period of discontinued benefits by the caretaker  
3187 relative.

3188 (2) TANF cash benefits in Mississippi shall be provided by  
3189 monthly checks mailed to the recipient family until such time as  
3190 an on-line electronic benefits transfer system for TANF benefit  
3191 payments is implemented pursuant to Section 43-1-28.

3192 (3) The Department of Human Services shall deny TANF  
3193 benefits to the following categories of individuals, except for  
3194 individuals and families specifically exempt or excluded for good  
3195 cause as allowed by federal statute or regulation:

3196 (a) Families without a minor child residing with the  
3197 custodial parent or other adult caretaker relative of the child;

3198 (b) Families which include an adult who has received  
3199 TANF assistance for sixty (60) months after the commencement of  
3200 the Mississippi TANF program, whether or not such period of time  
3201 is consecutive;

3202 (c) Families not assigning to the state any rights a  
3203 family member may have, on behalf of the family member or of any  
3204 other person for whom the family member has applied for or is  
3205 receiving such assistance, to support from any other person, as  
3206 required by law;

3207 (d) Families who fail to cooperate in establishing  
3208 paternity or obtaining child support, as required by law;

3209           (e) Any individual who has not attained eighteen (18)  
3210 years of age, is not married to the head of household, has a minor  
3211 child at least twelve (12) weeks of age in his or her care, and  
3212 has not successfully completed a high school education or its  
3213 equivalent, if such individual does not participate in educational  
3214 activities directed toward the attainment of a high school diploma  
3215 or its equivalent, or an alternative educational or training  
3216 program approved by the department;

3217           (f) Any individual who has not attained eighteen (18)  
3218 years of age, is not married, has a minor child in his or her  
3219 care, and does not reside in a place or residence maintained by a  
3220 parent, legal guardian or other adult relative or the individual  
3221 as such parent's, guardian's or adult relative's own home;

3222           (g) Any minor child who has been, or is expected by a  
3223 parent or other caretaker relative of the child to be, absent from  
3224 the home for a period of more than thirty (30) days;

3225           (h) Any individual who is a parent or other caretaker  
3226 relative of a minor child who fails to notify the department of  
3227 the absence of the minor child from the home for the thirty-day  
3228 period specified in paragraph (g), by the end of the five-day  
3229 period that begins with the date that it becomes clear to the  
3230 individual that the minor child will be absent for the thirty-day  
3231 period;

3232           (i) Any individual who fails to comply with the  
3233 provisions of the Employability Development Plan signed by the  
3234 individual which prescribe those activities designed to help the  
3235 individual become and remain employed, or to participate  
3236 satisfactorily in the assigned work activity, as authorized under  
3237 subsection (6)(c) and (d), or who does not engage in an applicant  
3238 job search within the thirty-day period for TANF application  
3239 approval after receiving the advice and consultation of  
3240 eligibility workers and/or caseworkers of the department providing

3241 a detailed description of available job search venues in the  
3242 individual's county of residence or the surrounding counties;

3243 (j) A parent or caretaker relative who has not engaged  
3244 in an allowable work activity once the department determines the  
3245 parent or caretaker relative is ready to engage in work, or once  
3246 the parent or caretaker relative has received TANF assistance  
3247 under the program for twenty-four (24) months, whether or not  
3248 consecutive, whichever is earlier;

3249 (k) Any individual who is fleeing to avoid prosecution,  
3250 or custody or confinement after conviction, under the laws of the  
3251 jurisdiction from which the individual flees, for a crime, or an  
3252 attempt to commit a crime, which is a felony under the laws of the  
3253 place from which the individual flees, or who is violating a  
3254 condition of probation or parole imposed under federal or state  
3255 law;

3256 (l) Aliens who are not qualified under federal law;

3257 (m) For a period of ten (10) years following  
3258 conviction, individuals convicted in federal or state court of  
3259 having made a fraudulent statement or representation with respect  
3260 to the individual's place of residence in order to receive TANF,  
3261 food stamps or Supplemental Security Income (SSI) assistance under  
3262 Title XVI or Title XIX simultaneously from two (2) or more states;  
3263 and

3264 (n) Individuals who are recipients of federal  
3265 Supplemental Security Income (SSI) assistance.

3266 (4) (a) Any person who is otherwise eligible for TANF  
3267 benefits, including custodial and noncustodial parents, shall be  
3268 required to attend school and meet the monthly attendance  
3269 requirement as provided in this subsection if all of the following  
3270 apply:

3271 (i) The person is under age twenty (20);

3272 (ii) The person has not graduated from a public or  
3273 private high school or obtained a GED equivalent;

3274 (iii) The person is physically able to attend  
3275 school and is not excused from attending school; and

3276 (iv) If the person is a parent or caretaker  
3277 relative with whom a dependent child is living, child care is  
3278 available for the child.

3279 The monthly attendance requirement under this subsection  
3280 shall be attendance at the school in which the person is enrolled  
3281 for each day during a month that the school conducts classes in  
3282 which the person is enrolled, with not more than two (2) absences  
3283 during the month for reasons other than the reasons listed in  
3284 paragraph (e)(iv) of this subsection. Persons who fail to meet  
3285 participation requirements in this subsection shall be subject to  
3286 sanctions as provided in paragraph (f) of this subsection.

3287 (b) As used in this subsection, "school" means any one  
3288 (1) of the following:

3289 (i) A school as defined in Section 37-13-91(2);

3290 (ii) A vocational, technical and adult education  
3291 program; or

3292 (iii) A course of study meeting the standards  
3293 established by the State Department of Education for the granting  
3294 of a declaration of equivalency of high school graduation.

3295 (c) If any compulsory-school-age child, as defined in  
3296 Section 37-13-91(2), to which TANF eligibility requirements apply  
3297 is not in compliance with the compulsory school attendance  
3298 requirements of Section 37-13-91(6), the superintendent of schools  
3299 of the school district in which the child is enrolled or eligible  
3300 to attend shall notify the county department of human services of  
3301 the child's noncompliance. The Department of Human Services shall  
3302 review school attendance information as provided under this  
3303 paragraph at all initial eligibility determinations and upon  
3304 subsequent report of unsatisfactory attendance.

3305 (d) The signature of a person on an application for  
3306 TANF benefits constitutes permission for the release of school

3307 attendance records for that person or for any child residing with  
3308 that person. The department shall request information from the  
3309 child's school district about the child's attendance in the school  
3310 district's most recently completed semester of attendance. If  
3311 information about the child's previous school attendance is not  
3312 available or cannot be verified, the department shall require the  
3313 child to meet the monthly attendance requirement for one (1)  
3314 semester or until the information is obtained. The department  
3315 shall use the attendance information provided by a school district  
3316 to verify attendance for a child. The department shall review  
3317 with the parent or caretaker relative a child's claim that he or  
3318 she has a good cause for not attending school.

3319 A school district shall provide information to the department  
3320 about the attendance of a child who is enrolled in a public school  
3321 in the district within five (5) working days of the receipt of a  
3322 written request for such information from the department. The  
3323 school district shall define how many hours of attendance count as  
3324 a full day and shall provide that information, upon request, to  
3325 the department. In reporting attendance, the school district may  
3326 add partial days' absence together to constitute a full day's  
3327 absence.

3328 (e) A child who is required to attend school to meet  
3329 the requirements under this subsection shall comply except when  
3330 there is good cause, which shall be demonstrated by any of the  
3331 following circumstances:

3332 (i) The minor parent is the caretaker of a child  
3333 less than twelve (12) weeks old; or

3334 (ii) The department determines that child care  
3335 services are necessary for the minor parent to attend school and  
3336 there is no child care available; or

3337 (iii) The child is prohibited by the school  
3338 district from attending school and an expulsion is pending. This  
3339 exemption no longer applies once the teenager has been expelled;

3340 however, a teenager who has been expelled and is making  
3341 satisfactory progress towards obtaining a GED equivalent shall be  
3342 eligible for TANF benefits; or

3343 (iv) The child failed to attend school for one or  
3344 more of the following reasons:

- 3345 1. Illness, injury or incapacity of the child  
3346 or the minor parent's child;
- 3347 2. Court-required appearances or temporary  
3348 incarceration;
- 3349 3. Medical or dental appointments for the  
3350 child or minor parent's child;
- 3351 4. Death of a close relative;
- 3352 5. Observance of a religious holiday;
- 3353 6. Family emergency;
- 3354 7. Breakdown in transportation;
- 3355 8. Suspension; or
- 3356 9. Any other circumstance beyond the control  
3357 of the child, as defined in regulations of the department.

3358 (f) Upon determination that a child has failed without  
3359 good cause to attend school as required, the department shall  
3360 provide written notice to the parent or caretaker relative  
3361 (whoever is the primary recipient of the TANF benefits) that  
3362 specifies:

3363 (i) That the family will be sanctioned in the next  
3364 possible payment month because the child who is required to attend  
3365 school has failed to meet the attendance requirement of this  
3366 subsection;

3367 (ii) The beginning date of the sanction, and the  
3368 child to whom the sanction applies;

3369 (iii) The right of the child's parents or  
3370 caretaker relative (whoever is the primary recipient of the TANF  
3371 benefits) to request a fair hearing under this subsection.

3372           The child's parent or caretaker relative (whoever is the  
3373 primary recipient of the TANF benefits) may request a fair hearing  
3374 on the department's determination that the child has not been  
3375 attending school. If the child's parents or caretaker relative  
3376 does not request a fair hearing under this subsection, or if,  
3377 after a fair hearing has been held, the hearing officer finds that  
3378 the child without good cause has failed to meet the monthly  
3379 attendance requirement, the department shall discontinue or deny  
3380 TANF benefits to the child thirteen (13) years old, or older, in  
3381 the next possible payment month. The department shall discontinue  
3382 or deny twenty-five percent (25%) of the family grant when a child  
3383 six (6) through twelve (12) years of age without good cause has  
3384 failed to meet the monthly attendance requirement. Both the child  
3385 and family sanction may apply when children in both age groups  
3386 fail to meet the attendance requirement without good cause. A  
3387 sanction applied under this subsection shall be effective for one  
3388 (1) month for each month that the child failed to meet the monthly  
3389 attendance requirement. In the case of a dropout, the sanction  
3390 shall remain in force until the parent or caretaker relative  
3391 provides written proof from the school district that the child has  
3392 reenrolled and met the monthly attendance requirement for one (1)  
3393 calendar month. Any month in which school is in session for at  
3394 least ten (10) days during the month may be used to meet the  
3395 attendance requirement under this subsection. This includes  
3396 attendance at summer school. The sanction shall be removed the  
3397 next possible payment month.

3398           (5) All parents or caretaker relatives shall have their  
3399 dependent children receive vaccinations and booster vaccinations  
3400 against those diseases specified by the State Health Officer  
3401 pursuant to Section 41-23-37 in accordance with the vaccination  
3402 and booster vaccination schedule prescribed by the State Health  
3403 Officer for children of that age, in order for the parents or  
3404 caretaker relatives to be eligible or remain eligible to receive



3405 TANF benefits. Proof of having received such vaccinations and  
3406 booster vaccinations shall be given by presenting the certificates  
3407 of vaccination issued by any health care provider licensed to  
3408 administer vaccinations, and submitted on forms specified by the  
3409 State Board of Health. If the parents without good cause do not  
3410 have their dependent children receive the vaccinations and booster  
3411 vaccinations as required by this subsection and they fail to  
3412 comply after thirty (30) days' notice, the department shall  
3413 sanction the family's TANF benefits by twenty-five percent (25%)  
3414 for the next payment month and each subsequent payment month until  
3415 the requirements of this subsection are met.

3416 (6) (a) If the parent or caretaker relative applying for  
3417 TANF assistance is an employable person, as determined by the  
3418 Department of Human Services, the person shall be required to  
3419 engage in an allowable work activity once the department  
3420 determines the parent or caretaker relative is ready to engage in  
3421 work, or once the parent or caretaker relative has received TANF  
3422 assistance under the program for twenty-four (24) months, whether  
3423 or not consecutive, whichever is earlier. No TANF benefits shall  
3424 be given to any person to whom this section applies who fails  
3425 without good cause to comply with the Employability Development  
3426 Plan prepared by the department for the person, or who has refused  
3427 to accept a referral or offer of employment, training or education  
3428 in which he or she is able to engage, subject to the penalties  
3429 prescribed in subsection (6)(e). A person shall be deemed to have  
3430 refused to accept a referral or offer of employment, training or  
3431 education if he or she:

3432 (i) Willfully fails to report for an interview  
3433 with respect to employment when requested to do so by the  
3434 department; or

3435 (ii) Willfully fails to report to the department  
3436 the result of a referral to employment; or

3437 (iii) Willfully fails to report for allowable work  
3438 activities as prescribed in subsection (6)(c) and (d).

3439 (b) The Department of Human Services shall operate a  
3440 statewide work program for TANF recipients to provide work  
3441 activities and supportive services to enable families to become  
3442 self-sufficient and improve their competitive position in the work  
3443 force in accordance with the requirements of the federal Personal  
3444 Responsibility and Work Opportunity Reconciliation Act of 1996  
3445 (Public Law 104-193), as amended, and the regulations promulgated  
3446 thereunder. Within sixty (60) days after the initial application  
3447 for TANF benefits, the TANF recipient must participate in a job  
3448 search skills training workshop or a job readiness program, which  
3449 shall include résumé writing, job search skills, employability  
3450 skills and, if available at no charge, the General Aptitude Test  
3451 Battery or its equivalent. All adults who are not specifically  
3452 exempt shall be referred by the department for allowable work  
3453 activities. An adult may be exempt from the mandatory work  
3454 activity requirement for the following reasons:

3455 (i) Incapacity;

3456 (ii) Temporary illness or injury, verified by  
3457 physician's certificate;

3458 (iii) Is in the third trimester of pregnancy,  
3459 verified by physician's certificate;

3460 (iv) Caretaker of a child under twelve (12)  
3461 months, for not more than twelve (12) months of the sixty-month  
3462 maximum benefit period;

3463 (v) Caretaker of an ill or incapacitated person,  
3464 as verified by physician's certificate;

3465 (vi) Age, if over sixty (60) or under eighteen  
3466 (18) years of age;

3467 (vii) Receiving treatment for substance abuse, if  
3468 the person is in compliance with the substance abuse treatment  
3469 plan;

3470 (viii) In a two-parent family, the caretaker of a  
3471 severely disabled child, as verified by a physician's certificate;  
3472 or

3473 (ix) History of having been a victim of domestic  
3474 violence, which has been reported as required by state law and is  
3475 substantiated by police reports or court records, and being at  
3476 risk of further domestic violence, shall be exempt for a period as  
3477 deemed necessary by the department but not to exceed a total of  
3478 twelve (12) months, which need not be consecutive, in the  
3479 sixty-month maximum benefit period. For the purposes of this  
3480 subparagraph (ix), "domestic violence" means that an individual  
3481 has been subjected to:

3482 1. Physical acts that resulted in, or  
3483 threatened to result in, physical injury to the individual;

3484 2. Sexual abuse;

3485 3. Sexual activity involving a dependent  
3486 child;

3487 4. Being forced as the caretaker relative of  
3488 a dependent child to engage in nonconsensual sexual acts or  
3489 activities;

3490 5. Threats of, or attempts at, physical or  
3491 sexual abuse;

3492 6. Mental abuse; or

3493 7. Neglect or deprivation of medical care.

3494 (c) For all families, all adults who are not  
3495 specifically exempt shall be required to participate in work  
3496 activities for at least the minimum average number of hours per  
3497 week specified by federal law or regulation, not fewer than twenty  
3498 (20) hours per week (thirty-five (35) hours per week for  
3499 two-parent families) of which are attributable to the following  
3500 allowable work activities:

3501 (i) Unsubsidized employment;

3502 (ii) Subsidized private employment;

3503 (iii) Subsidized public employment;

3504 (iv) Work experience (including work associated  
3505 with the refurbishing of publicly assisted housing), if sufficient  
3506 private employment is not available;

3507 (v) On-the-job training;

3508 (vi) Job search and job readiness assistance  
3509 consistent with federal TANF regulations;

3510 (vii) Community service programs;

3511 (viii) Vocational educational training (not to  
3512 exceed twelve (12) months with respect to any individual);

3513 (ix) The provision of child care services to an  
3514 individual who is participating in a community service program;

3515 (x) Satisfactory attendance at high school or in a  
3516 course of study leading to a high school equivalency certificate,  
3517 for heads of household under age twenty (20) who have not  
3518 completed high school or received such certificate;

3519 (xi) Education directly related to employment, for  
3520 heads of household under age twenty (20) who have not completed  
3521 high school or received such equivalency certificate.

3522 (d) The following are allowable work activities which  
3523 may be attributable to hours in excess of the minimum specified in  
3524 subsection (6)(c):

3525 (i) Job skills training directly related to  
3526 employment;

3527 (ii) Education directly related to employment for  
3528 individuals who have not completed high school or received a high  
3529 school equivalency certificate;

3530 (iii) Satisfactory attendance at high school or in  
3531 a course of study leading to a high school equivalency, for  
3532 individuals who have not completed high school or received such  
3533 equivalency certificate;

3534 (iv) Job search and job readiness assistance  
3535 consistent with federal TANF regulations.

3536 (e) If any adult or caretaker relative refuses to  
3537 participate in allowable work activity as required under this  
3538 subsection (6), the following full family TANF benefit penalty  
3539 will apply, subject to due process to include notification,  
3540 conciliation and a hearing if requested by the recipient:

3541 (i) For the first violation, the department shall  
3542 terminate the TANF assistance otherwise payable to the family for  
3543 a two-month period or until the person has complied with the  
3544 required work activity, whichever is longer;

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

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

3553 (iv) For the fourth violation, the person shall be  
3554 permanently disqualified.

3555 For a two-parent family, unless prohibited by state or  
3556 federal law, Medicaid assistance shall be terminated only for the  
3557 person whose failure to participate in allowable work activity  
3558 caused the family's TANF assistance to be sanctioned under this  
3559 subsection (6)(e), unless an individual is pregnant, but shall not  
3560 be terminated for any other person in the family who is meeting  
3561 that person's applicable work requirement or who is not required  
3562 to work. Minor children shall continue to be eligible for  
3563 Medicaid benefits regardless of the disqualification of their  
3564 parent or caretaker relative for TANF assistance under this  
3565 subsection (6), unless prohibited by state or federal law.

3566 (f) Any person enrolled in a two-year or four-year  
3567 college program who meets the eligibility requirements to receive  
3568 TANF benefits, and who is meeting the applicable work requirements

3569 and all other applicable requirements of the TANF program, shall  
3570 continue to be eligible for TANF benefits while enrolled in the  
3571 college program for as long as the person meets the requirements  
3572 of the TANF program, unless prohibited by federal law.

3573 (g) No adult in a work activity required under this  
3574 subsection (6) shall be employed or assigned (i) when any other  
3575 individual is on layoff from the same or any substantially  
3576 equivalent job within six (6) months before the date of the TANF  
3577 recipient's employment or assignment; or (ii) if the employer has  
3578 terminated the employment of any regular employee or otherwise  
3579 caused an involuntary reduction of its work force in order to fill  
3580 the vacancy so created with an adult receiving TANF assistance.  
3581 The Mississippi Department of Employment Security, established  
3582 under Section 71-5-101, shall appoint one or more impartial  
3583 hearing officers to hear and decide claims by employees of  
3584 violations of this paragraph (g). The hearing officer shall hear  
3585 all the evidence with respect to any claim made hereunder and such  
3586 additional evidence as he may require and shall make a  
3587 determination and the reason therefor. The claimant shall be  
3588 promptly notified of the decision of the hearing officer and the  
3589 reason therefor. Within ten (10) days after the decision of the  
3590 hearing officer has become final, any party aggrieved thereby may  
3591 secure judicial review thereof by commencing an action, in the  
3592 circuit court of the county in which the claimant resides, against  
3593 the department for the review of such decision, in which action  
3594 any other party to the proceeding before the hearing officer shall  
3595 be made a defendant. Any such appeal shall be on the record which  
3596 shall be certified to the court by the department in the manner  
3597 provided in Section 71-5-531, and the jurisdiction of the court  
3598 shall be confined to questions of law which shall render its  
3599 decision as provided in that section.

3600 (7) The Department of Human Services may provide child care  
3601 for eligible participants who require such care so that they may

3602 accept employment or remain employed. The department may also  
3603 provide child care for those participating in the TANF program  
3604 when it is determined that they are satisfactorily involved in  
3605 education, training or other allowable work activities. The  
3606 department may contract with Head Start agencies to provide child  
3607 care services to TANF recipients. The department may also arrange  
3608 for child care by use of contract or vouchers, provide vouchers in  
3609 advance to a caretaker relative, reimburse a child care provider,  
3610 or use any other arrangement deemed appropriate by the department,  
3611 and may establish different reimbursement rates for child care  
3612 services depending on the category of the facility or home. Any  
3613 center-based or group home child care facility under this  
3614 paragraph shall be licensed by the State Department of Health  
3615 pursuant to law. When child care is being provided in the child's  
3616 own home, in the home of a relative of the child, or in any other  
3617 unlicensed setting, the provision of such child care may be  
3618 monitored on a random basis by the Department of Human Services or  
3619 the State Department of Health. Transitional child care  
3620 assistance may be continued if it is necessary for parents to  
3621 maintain employment once support has ended, unless prohibited  
3622 under state or federal law. Transitional child care assistance  
3623 may be provided for up to twenty-four (24) months after the last  
3624 month during which the family was eligible for TANF assistance, if  
3625 federal funds are available for such child care assistance.

3626 (8) The Department of Human Services may provide  
3627 transportation or provide reasonable reimbursement for  
3628 transportation expenses that are necessary for individuals to be  
3629 able to participate in allowable work activity under the TANF  
3630 program.

3631 (9) Medicaid assistance shall be provided to a family of  
3632 TANF program participants for up to twenty-four (24) consecutive  
3633 calendar months following the month in which the participating  
3634 family would be ineligible for TANF benefits because of increased

3635 income, expiration of earned income disregards, or increased hours  
3636 of employment of the caretaker relative; however, Medicaid  
3637 assistance for more than twelve (12) months may be provided only  
3638 if a federal waiver is obtained to provide such assistance for  
3639 more than twelve (12) months and federal and state funds are  
3640 available to provide such assistance.

3641 (10) The department shall require applicants for and  
3642 recipients of public assistance from the department to sign a  
3643 personal responsibility contract that will require the applicant  
3644 or recipient to acknowledge his or her responsibilities to the  
3645 state.

3646 (11) The department shall enter into an agreement with the  
3647 State Personnel Board and other state agencies that will allow  
3648 those TANF participants who qualify for vacant jobs within state  
3649 agencies to be placed in state jobs. State agencies participating  
3650 in the TANF work program shall receive any and all benefits  
3651 received by employers in the private sector for hiring TANF  
3652 recipients. This subsection (11) shall be effective only if the  
3653 state obtains any necessary federal waiver or approval and if  
3654 federal funds are available therefor.

3655 (12) No new TANF program requirement or restriction  
3656 affecting a person's eligibility for TANF assistance, or allowable  
3657 work activity, which is not mandated by federal law or regulation  
3658 may be implemented by the Department of Human Services after July  
3659 1, 2004, unless such is specifically authorized by an amendment to  
3660 this section by the Legislature.

3661 **SECTION 50.** Section 43-19-45, Mississippi Code of 1972, is  
3662 reenacted as follows:

3663 43-19-45. (1) The Child Support Unit shall establish a  
3664 state parent locator service for the purpose of locating absent  
3665 and nonsupporting parents and alleged parents, which will utilize  
3666 all appropriate public and private locator sources. In order to  
3667 carry out the responsibilities imposed under Sections 43-19-31



3668 through 43-19-53, the Child Support Unit may secure by  
3669 administrative subpoena from the customer records of public  
3670 utilities and cable television companies the names and addresses  
3671 of individuals and the names and addresses of employers of such  
3672 individuals that would enable the location of parents or alleged  
3673 parents who have a duty to provide support and maintenance for  
3674 their children. The Child Support Unit may also administratively  
3675 subpoena any and all financial information, including account  
3676 numbers, names and social security numbers of record for assets,  
3677 accounts, and account balances from any individual, financial  
3678 institution, business or other entity, public or private, needed  
3679 to establish, modify or enforce a support order. No entity  
3680 complying with an administrative subpoena to supply the requested  
3681 information of whatever nature shall be liable in any civil action  
3682 or proceeding on account of such compliance. Full faith and  
3683 credit shall be given to all uniform administrative subpoenas  
3684 issued by other state child support units. The recipient of an  
3685 administrative subpoena shall supply the Child Support Unit, other  
3686 state and federal IV-D agencies, its attorneys, investigators,  
3687 probation officers, county or district attorneys in this state,  
3688 all information relative to the location, employment, employment  
3689 related benefits including, but not limited to, availability of  
3690 medical insurance, income and property of such parents and alleged  
3691 parents and with all information on hand relative to the location  
3692 and prosecution of any person who has, by means of a false  
3693 statement or misrepresentation or by impersonation or other  
3694 fraudulent device, obtained Temporary Assistance for Needy  
3695 Families (TANF) to which he or she was not entitled,  
3696 notwithstanding any provision of law making such information  
3697 confidential. The Mississippi Department of Information  
3698 Technology Services and any other agency in this state using the  
3699 facilities of the Mississippi Department of Information Technology  
3700 Services are directed to permit the Child Support Unit access to

3701 their files, inclusive of those maintained for other state  
3702 agencies, for the purpose of locating absent and nonsupporting  
3703 parents and alleged parents, except to the extent that any such  
3704 access would violate any valid federal statute or regulation  
3705 issued pursuant thereto. The Child Support Unit, other state and  
3706 federal IV-D agencies, its attorneys, investigators, probation  
3707 officers, or county or district attorneys, shall use such  
3708 information only for the purpose of investigating or enforcing the  
3709 support liability of such absent parents or alleged parents or for  
3710 the prosecution of other persons mentioned herein. Neither the  
3711 Child Support Unit nor those authorities shall use the  
3712 information, or disclose it, for any other purpose. All records  
3713 maintained pursuant to the provisions of Sections 43-19-31 through  
3714 43-19-53 shall be confidential and shall be available only to the  
3715 Child Support Unit, other state and federal IV-D agencies, the  
3716 attorneys, investigators and other staff employed or under  
3717 contract under Sections 43-19-31 through 43-19-53, district or  
3718 county attorneys, probation departments, child support units in  
3719 other states, and courts having jurisdiction in paternity, support  
3720 or abandonment proceedings. The Child Support Unit may release to  
3721 the public the name, photo, last known address, arrearage amount  
3722 and other necessary information of a parent who has a judgment  
3723 against him for child support and is currently in arrears in the  
3724 payment of this support. Such release may be included in a "Most  
3725 Wanted List" or other media in order to solicit assistance.

3726 (2) The Child Support Unit shall have the authority to  
3727 secure information from the records of the Mississippi Department  
3728 of Employment Security that may be necessary to locate absent and  
3729 nonsupporting parents and alleged parents under the provisions of  
3730 Sections 43-19-31 through 43-19-53. Upon request of the Child  
3731 Support Unit, all departments, boards, bureaus and agencies of the  
3732 state shall provide to the Child Support Unit verification of  
3733 employment or payment and the address and social security number

3734 of any person designated as an absent or nonsupporting parent or  
3735 alleged parent. In addition, upon request of the Child Support  
3736 Unit, the Mississippi Department of Employment Security, or any  
3737 private employer or payor of any income to a person designated as  
3738 an absent or nonsupporting parent or alleged parent, shall provide  
3739 to the Child Support Unit verification of employment or payment  
3740 and the address and social security number of the person so  
3741 designated. Full faith and credit shall be given to such notices  
3742 issued by child support units in other states. All such records  
3743 and information shall be confidential and shall not be used for  
3744 any purposes other than those specified by Sections 43-19-31  
3745 through 43-19-53. The violation of the provisions of this  
3746 subsection shall be unlawful and any person convicted of violating  
3747 the provisions of this subsection shall be guilty of a misdemeanor  
3748 and shall pay a fine of not more than Two Hundred Dollars  
3749 (\$200.00).

3750 (3) Federal and state IV-D agencies shall have access to the  
3751 state parent locator service and any system used by the Child  
3752 Support Unit to locate an individual for purposes relating to  
3753 motor vehicles or law enforcement. No employer or other source of  
3754 income who complies with this section shall be liable in any civil  
3755 action or proceeding brought by the obligor or obligee on account  
3756 of such compliance.

3757 **SECTION 51.** Section 43-19-46, Mississippi Code of 1972, is  
3758 reenacted as follows:

3759 43-19-46. (1) Each employer, as defined in Section  
3760 93-11-101, doing business in Mississippi shall report to the  
3761 Directory of New Hires within the Mississippi Department of Human  
3762 Services:

3763 (a) The hiring of any person who resides or works in  
3764 this state to whom the employer anticipates paying wages; and

3765           (b) The hiring or return to work of any employee who  
3766 was laid off, furloughed, separated, granted leave without pay or  
3767 was terminated from employment.

3768           (2) Employers shall report, by mailing or by other means  
3769 authorized by the Department of Human Services, a copy of the  
3770 employee's W-4 form or its equivalent which will result in timely  
3771 reporting. Each employer shall submit reports within fifteen (15)  
3772 days of the hiring, rehiring or return to work of the employee.  
3773 The report shall contain:

3774           (a) The employee's name, address, social security  
3775 number and the date of birth;

3776           (b) The employer's name, address, and federal and state  
3777 withholding tax identification numbers; and

3778           (c) The date upon which the employee began or resumed  
3779 employment, or is scheduled to begin or otherwise resume  
3780 employment.

3781           (3) The department shall retain the information, which shall  
3782 be forwarded to the federal registry of new hires.

3783           (4) The Department of Human Services may operate the  
3784 program, may enter into a mutual agreement with the Mississippi  
3785 Department of Employment Security or the State Tax Commission, or  
3786 both, for the operation of the Directory of New Hires Program, or  
3787 the Department of Human Services may contract for such service, in  
3788 which case the department shall maintain administrative control of  
3789 the program.

3790           (5) In cases in which an employer fails to report  
3791 information, as required by this section, an administratively  
3792 levied civil penalty in an amount not to exceed Five Hundred  
3793 Dollars (\$500.00) shall apply if the failure is the result of a  
3794 conspiracy between the employer and employee to not supply the  
3795 required report or to supply a false or incomplete report. The  
3796 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).  
3797 Appeal shall be as provided in Section 43-19-58.

3798           **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is  
3799 reenacted as follows:

3800           **[For businesses or industries that received or applied for**  
3801 **incentive payments prior to July 1, 2005, this section shall read**  
3802 **as follows:]**

3803           57-62-5. As used in this chapter, the following words and  
3804 phrases shall have the meanings ascribed in this section unless  
3805 the context clearly indicates otherwise:

3806           (a) "Qualified business or industry" means any  
3807 corporation, limited liability company, partnership, sole  
3808 proprietorship, business trust or other legal entity and subunits  
3809 or affiliates thereof, pursuant to rules and regulations of the  
3810 MDA, which provides an average annual salary, excluding benefits  
3811 which are not subject to Mississippi income taxes, of at least one  
3812 hundred twenty-five percent (125%) of the most recently published  
3813 state average annual wage or the most recently published average  
3814 annual wage of the county in which the qualified business or  
3815 industry is located as determined by the Mississippi Department of  
3816 Employment Security, whichever is the lesser. An establishment  
3817 shall not be considered to be a qualified business or industry  
3818 unless it offers, or will offer within one hundred eighty (180)  
3819 days of the date it receives the first incentive payment pursuant  
3820 to the provisions of this chapter, a basic health benefits plan to  
3821 the individuals it employs in new direct jobs in this state which  
3822 is approved by the MDA. Qualified business or industry does not  
3823 include retail business or gaming business;

3824           (b) "New direct job" means full-time employment in this  
3825 state in a qualified business or industry that has qualified to  
3826 receive an incentive payment pursuant to this chapter, which  
3827 employment did not exist in this state before the date of approval  
3828 by the MDA of the application of the qualified business or  
3829 industry pursuant to the provisions of this chapter. "New direct  
3830 job" shall include full-time employment in this state of employees

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

3836 (c) "Full-time job" means a job of at least thirty-five  
3837 (35) hours per week;

3838 (d) "Estimated direct state benefits" means the tax  
3839 revenues projected by the MDA to accrue to the state as a result  
3840 of the qualified business or industry;

3841 (e) "Estimated direct state costs" means the costs  
3842 projected by the MDA to accrue to the state as a result of the  
3843 qualified business or industry;

3844 (f) "Estimated net direct state benefits" means the  
3845 estimated direct state benefits less the estimated direct state  
3846 costs;

3847 (g) "Net benefit rate" means the estimated net direct  
3848 state benefits computed as a percentage of gross payroll, provided  
3849 that:

3850 (i) Except as otherwise provided in this paragraph  
3851 (g), the net benefit rate may be variable and shall not exceed  
3852 four percent (4%) of the gross payroll; and shall be set in the  
3853 sole discretion of the MDA;

3854 (ii) In no event shall incentive payments,  
3855 cumulatively, exceed the estimated net direct state benefits;

3856 (h) "Gross payroll" means wages for new direct jobs of  
3857 the qualified business or industry; and

3858 (i) "MDA" means the Mississippi Development Authority.

3859 **[For businesses or industries that apply for incentive**  
3860 **payments from and after July 1, 2005, this section shall read as**  
3861 **follows:]**

3862           57-62-5. As used in this chapter, the following words and  
3863 phrases shall have the meanings ascribed in this section unless  
3864 the context clearly indicates otherwise:

3865           (a) "Qualified business or industry" means any  
3866 corporation, limited liability company, partnership, sole  
3867 proprietorship, business trust or other legal entity and subunits  
3868 or affiliates thereof, pursuant to rules and regulations of the  
3869 MDA, which:

3870           (i) Is a data/information processing enterprise  
3871 meeting minimum criteria established by the MDA that provides an  
3872 average annual salary, excluding benefits which are not subject to  
3873 Mississippi income taxes, of at least one hundred percent (100%)  
3874 of the most recently published state average annual wage or the  
3875 most recently published average annual wage of the county in which  
3876 the qualified business or industry is located as determined by the  
3877 Mississippi Department of Employment Security, whichever is the  
3878 lesser, and creates not less than two hundred (200) new direct  
3879 jobs if the enterprise is located in a Tier One or Tier Two area  
3880 (as such areas are designated in accordance with Section  
3881 57-73-21), or which creates not less than one hundred (100) new  
3882 jobs if the enterprise is located in a Tier Three area (as such  
3883 areas are designated in accordance with Section 57-73-21);

3884           (ii) Is a manufacturing or distribution enterprise  
3885 meeting minimum criteria established by the MDA that provides an  
3886 average annual salary, excluding benefits which are not subject to  
3887 Mississippi income taxes, of at least one hundred ten percent  
3888 (110%) of the most recently published state average annual wage or  
3889 the most recently published average annual wage of the county in  
3890 which the qualified business or industry is located as determined  
3891 by the Mississippi Department of Employment Security, whichever is  
3892 the lesser, invests not less than Twenty Million Dollars  
3893 (\$20,000,000.00) in land, buildings and equipment, and creates not  
3894 less than fifty (50) new direct jobs if the enterprise is located

3895 in a Tier One or Tier Two area (as such areas are designated in  
3896 accordance with Section 57-73-21), or which creates not less than  
3897 twenty (20) new jobs if the enterprise is located in a Tier Three  
3898 area (as such areas are designated in accordance with Section  
3899 57-73-21);

3900 (iii) Is a corporation, limited liability company,  
3901 partnership, sole proprietorship, business trust or other legal  
3902 entity and subunits or affiliates thereof, pursuant to rules and  
3903 regulations of the MDA, which provides an average annual salary,  
3904 excluding benefits which are not subject to Mississippi income  
3905 taxes, of at least one hundred twenty-five percent (125%) of the  
3906 most recently published state average annual wage or the most  
3907 recently published average annual wage of the county in which the  
3908 qualified business or industry is located as determined by the  
3909 Mississippi Department of Employment Security, whichever is the  
3910 lesser, and creates not less than twenty-five (25) new direct jobs  
3911 if the enterprise is located in a Tier One or Tier Two area (as  
3912 such areas are designated in accordance with Section 57-73-21), or  
3913 which creates not less than ten (10) new jobs if the enterprise is  
3914 located in a Tier Three area (as such areas are designated in  
3915 accordance with Section 57-73-21). An establishment shall not be  
3916 considered to be a qualified business or industry unless it  
3917 offers, or will offer within one hundred eighty (180) days of the  
3918 date it receives the first incentive payment pursuant to the  
3919 provisions of this chapter, a basic health benefits plan to the  
3920 individuals it employs in new direct jobs in this state which is  
3921 approved by the MDA. Qualified business or industry does not  
3922 include retail business or gaming business; or

3923 (iv) Is a research and development or a technology  
3924 intensive enterprise meeting minimum criteria established by the  
3925 MDA that provides an average annual salary, excluding benefits  
3926 which are not subject to Mississippi income taxes, of at least one  
3927 hundred fifty percent (150%) of the most recently published state



3928 average annual wage or the most recently published average annual  
3929 wage of the county in which the qualified business or industry is  
3930 located as determined by the Mississippi Department of Employment  
3931 Security, whichever is the lesser, and creates not less than ten  
3932 (10) new direct jobs.

3933 An establishment shall not be considered to be a qualified  
3934 business or industry unless it offers, or will offer within one  
3935 hundred eighty (180) days of the date it receives the first  
3936 incentive payment pursuant to the provisions of this chapter, a  
3937 basic health benefits plan to the individuals it employs in new  
3938 direct jobs in this state which is approved by the MDA. Qualified  
3939 business or industry does not include retail business or gaming  
3940 business.

3941 (b) "New direct job" means full-time employment in this  
3942 state in a qualified business or industry that has qualified to  
3943 receive an incentive payment pursuant to this chapter, which  
3944 employment did not exist in this state before the date of approval  
3945 by the MDA of the application of the qualified business or  
3946 industry pursuant to the provisions of this chapter. "New direct  
3947 job" shall include full-time employment in this state of employees  
3948 who are employed by an entity other than the establishment that  
3949 has qualified to receive an incentive payment and who are leased  
3950 to the qualified business or industry, if such employment did not  
3951 exist in this state before the date of approval by the MDA of the  
3952 application of the establishment.

3953 (c) "Full-time job" or "full-time employment" means a  
3954 job of at least thirty-five (35) hours per week.

3955 (d) "Estimated direct state benefits" means the tax  
3956 revenues projected by the MDA to accrue to the state as a result  
3957 of the qualified business or industry.

3958 (e) "Estimated direct state costs" means the costs  
3959 projected by the MDA to accrue to the state as a result of the  
3960 qualified business or industry.

3961 (f) "Estimated net direct state benefits" means the  
3962 estimated direct state benefits less the estimated direct state  
3963 costs.

3964 (g) "Net benefit rate" means the estimated net direct  
3965 state benefits computed as a percentage of gross payroll, provided  
3966 that:

3967 (i) Except as otherwise provided in this paragraph  
3968 (g), the net benefit rate may be variable and shall not exceed  
3969 four percent (4%) of the gross payroll; and shall be set in the  
3970 sole discretion of the MDA;

3971 (ii) In no event shall incentive payments,  
3972 cumulatively, exceed the estimated net direct state benefits.

3973 (h) "Gross payroll" means wages for new direct jobs of  
3974 the qualified business or industry.

3975 (i) "MDA" means the Mississippi Development Authority.

3976 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is  
3977 reenacted as follows:

3978 **[For businesses or industries that received or applied for**  
3979 **incentive payments prior to July 1, 2005, this section shall read**  
3980 **as follows:]**

3981 57-62-9. (1) Except as otherwise provided in this section,  
3982 a qualified business or industry that meets the qualifications  
3983 specified in the Mississippi Advantage Jobs Act may receive  
3984 quarterly incentive payments for a period not to exceed ten (10)  
3985 years from the State Tax Commission pursuant to the provisions of  
3986 the Mississippi Advantage Jobs Act in an amount which shall be  
3987 equal to the net benefit rate multiplied by the actual gross  
3988 payroll of new direct jobs for a calendar quarter as verified by  
3989 the Mississippi Department of Employment Security, but not to  
3990 exceed the amount of money previously paid into the fund by the  
3991 employer. A qualified business or industry that is a project as  
3992 defined in Section 57-75-5(f)(iv)1 may elect the date upon which  
3993 the ten-year period will begin. Such date may not be later than

3994 sixty (60) months after the date the business or industry applied  
3995 for incentive payments.

3996 (2) (a) A qualified business or industry that is a project  
3997 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
3998 receive incentive payments for an additional period not to exceed  
3999 five (5) years beyond the expiration date of the initial ten-year  
4000 period if:

4001 (i) The qualified business or industry creates at  
4002 least three thousand (3,000) new direct jobs within five (5) years  
4003 after the date the business or industry commences commercial  
4004 production;

4005 (ii) Within five (5) years after the date the  
4006 business or industry commences commercial production, the average  
4007 annual wage of the jobs is at least one hundred fifty percent  
4008 (150%) of the most recently published state average annual wage or  
4009 the most recently published average annual wage of the county in  
4010 which the qualified business or industry is located as determined  
4011 by the Mississippi Department of Employment Security, whichever is  
4012 the lesser. The criteria for the average annual wage requirement  
4013 shall be based upon the state average annual wage or the average  
4014 annual wage of the county whichever is appropriate, at the time of  
4015 creation of the minimum number of jobs, and the threshold  
4016 established at that time will remain constant for the duration of  
4017 the additional period; and

4018 (iii) The qualified business or industry meets and  
4019 maintains the job and wage requirements of subparagraphs (i) and  
4020 (ii) of this paragraph (a) for four (4) consecutive calendar  
4021 quarters.

4022 (b) A qualified business or industry that is a project  
4023 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
4024 incentive payments for the additional period provided in paragraph  
4025 (a) of this subsection (2) may apply to the MDA to receive  
4026 incentive payments for an additional period not to exceed ten (10)

4027 years beyond the expiration date of the additional period provided  
4028 in paragraph (a) of this subsection (2) if:

4029           (i) The qualified business or industry creates at  
4030 least four thousand (4,000) new direct jobs after qualifying for  
4031 the additional incentive period provided in paragraph (a) of this  
4032 subsection (2) but before the expiration of the additional period.  
4033 For purposes of determining whether the business or industry meets  
4034 the minimum jobs requirement of this subparagraph (i), the number  
4035 of jobs the business or industry created in order to meet the  
4036 minimum jobs requirement of paragraph (a) of this subsection (2)  
4037 shall be subtracted from the minimum jobs requirement of this  
4038 subparagraph (i);

4039           (ii) The average annual wage of the jobs is at  
4040 least one hundred fifty percent (150%) of the most recently  
4041 published state average annual wage or the most recently published  
4042 average annual wage of the county in which the qualified business  
4043 or industry is located as determined by the Mississippi Department  
4044 of Employment Security, whichever is the lesser. The criteria for  
4045 the average annual wage requirement shall be based upon the state  
4046 average annual wage or the average annual wage of the county  
4047 whichever is appropriate, at the time of creation of the minimum  
4048 number of jobs, and the threshold established at that time will  
4049 remain constant for the duration of the additional period; and

4050           (iii) The qualified business or industry meets and  
4051 maintains the job and wage requirements of subparagraphs (i) and  
4052 (ii) of this paragraph (b) for four (4) consecutive calendar  
4053 quarters.

4054           (3) In order to receive incentive payments, an establishment  
4055 shall apply to the MDA. The application shall be on a form  
4056 prescribed by the MDA and shall contain such information as may be  
4057 required by the MDA to determine if the applicant is qualified.

4058           (4) In order to qualify to receive such payments, the  
4059 establishment applying shall be required to:

4060           (a) Be engaged in a qualified business or industry;

4061           (b) Provide an average salary, excluding benefits which  
4062 are not subject to Mississippi income taxes, of at least one  
4063 hundred twenty-five percent (125%) of the most recently published  
4064 state average annual wage or the most recently published average  
4065 annual wage of the county in which the qualified business or  
4066 industry is located as determined by the Mississippi Department of  
4067 Employment Security, whichever is the lesser. The criteria for  
4068 this requirement shall be based upon the state average annual wage  
4069 or the average annual wage of the county whichever is appropriate,  
4070 at the time of application, and the threshold established upon  
4071 application will remain constant for the duration of the project;

4072           (c) The business or industry must create and maintain a  
4073 minimum of ten (10) full-time jobs in counties that have an  
4074 average unemployment rate over the previous twelve-month period  
4075 which is at least one hundred fifty percent (150%) of the most  
4076 recently published state unemployment rate, as determined by the  
4077 Mississippi Department of Employment Security or in Tier Three  
4078 counties as determined under Section 57-73-21. In all other  
4079 counties, the business or industry must create and maintain a  
4080 minimum of twenty-five (25) full-time jobs. The criteria for this  
4081 requirement shall be based on the designation of the county at the  
4082 time of the application. The threshold established upon the  
4083 application will remain constant for the duration of the project.  
4084 The business or industry must meet its job creation commitment  
4085 within twenty-four (24) months of the application approval.  
4086 However, if the qualified business or industry is applying for  
4087 incentive payments for an additional period under subsection (2)  
4088 of this section, the business or industry must comply with the  
4089 applicable job and wage requirements of subsection (2) of this  
4090 section.

4091           (5) The MDA shall determine if the applicant is qualified to  
4092 receive incentive payments. If the applicant is determined to be

4093 qualified by the MDA, the MDA shall conduct a cost/benefit  
4094 analysis to determine the estimated net direct state benefits and  
4095 the net benefit rate applicable for a period not to exceed ten  
4096 (10) years and to estimate the amount of gross payroll for the  
4097 period. If the applicant is determined to be qualified to receive  
4098 incentive payments for an additional period under subsection (2)  
4099 of this section, the MDA shall conduct a cost/benefit analysis to  
4100 determine the estimated net direct state benefits and the net  
4101 benefit rate applicable for the appropriate additional period and  
4102 to estimate the amount of gross payroll for the additional period.  
4103 In conducting such cost/benefit analysis, the MDA shall consider  
4104 quantitative factors, such as the anticipated level of new tax  
4105 revenues to the state along with the cost to the state of the  
4106 qualified business or industry, and such other criteria as deemed  
4107 appropriate by the MDA, including the adequacy of retirement  
4108 benefits that the business or industry provides to individuals it  
4109 employs in new direct jobs in this state. In no event shall  
4110 incentive payments, cumulatively, exceed the estimated net direct  
4111 state benefits. Once the qualified business or industry is  
4112 approved by the MDA, an agreement shall be deemed to exist between  
4113 the qualified business or industry and the State of Mississippi,  
4114 requiring the continued incentive payment to be made as long as  
4115 the qualified business or industry retains its eligibility.

4116 (6) Upon approval of such an application, the MDA shall  
4117 notify the State Tax Commission and shall provide it with a copy  
4118 of the approved application and the estimated net direct state  
4119 benefits. The State Tax Commission may require the qualified  
4120 business or industry to submit such additional information as may  
4121 be necessary to administer the provisions of this chapter. The  
4122 qualified business or industry shall report to the State Tax  
4123 Commission periodically to show its continued eligibility for  
4124 incentive payments. The qualified business or industry may be  
4125 audited by the State Tax Commission to verify such eligibility.

4126           **[For businesses or industries that apply for incentive**  
4127 **payments from and after July 1, 2005, this section shall read as**  
4128 **follows:]**

4129           57-62-9. (1) (a) Except as otherwise provided in this  
4130 section, a qualified business or industry that meets the  
4131 qualifications specified in the Mississippi Advantage Jobs Act may  
4132 receive quarterly incentive payments for a period not to exceed  
4133 ten (10) years from the State Tax Commission pursuant to the  
4134 provisions of the Mississippi Advantage Jobs Act in an amount  
4135 which shall be equal to the net benefit rate multiplied by the  
4136 actual gross payroll of new direct jobs for a calendar quarter as  
4137 verified by the Mississippi Department of Employment Security, but  
4138 not to exceed:

4139                   (i) Ninety percent (90%) of the amount of money  
4140 previously paid into the fund by the employer if the employer  
4141 provides an average annual salary, excluding benefits which are  
4142 not subject to Mississippi income taxes, of at least one hundred  
4143 seventy-five percent (175%) of the most recently published state  
4144 average annual wage or the most recently published average annual  
4145 wage of the county in which the qualified business or industry is  
4146 located as determined by the Mississippi Department of Employment  
4147 Security, whichever is the lesser;

4148                   (ii) Eighty percent (80%) of the amount of money  
4149 previously paid into the fund by the employer if the employer  
4150 provides an average annual salary, excluding benefits which are  
4151 not subject to Mississippi income taxes, of at least one hundred  
4152 twenty-five percent (125%) but less than one hundred seventy-five  
4153 percent (175%) of the most recently published state average annual  
4154 wage or the most recently published average annual wage of the  
4155 county in which the qualified business or industry is located as  
4156 determined by the Mississippi Department of Employment Security,  
4157 whichever is the lesser; or

4158                   (iii) Seventy percent (70%) of the amount of money  
4159 previously paid into the fund by the employer if the employer  
4160 provides an average annual salary, excluding benefits which are  
4161 not subject to Mississippi income taxes, of less than one hundred  
4162 twenty-five percent (125%) of the most recently published state  
4163 average annual wage or the most recently published average annual  
4164 wage of the county in which the qualified business or industry is  
4165 located as determined by the Mississippi Department of Employment  
4166 Security, whichever is the lesser.

4167                   (b) A qualified business or industry that is a project  
4168 as defined in Section 57-75-5(f)(iv)1 may elect the date upon  
4169 which the ten-year period will begin. Such date may not be later  
4170 than sixty (60) months after the date the business or industry  
4171 applied for incentive payments.

4172                   (2) (a) A qualified business or industry that is a project  
4173 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
4174 receive incentive payments for an additional period not to exceed  
4175 five (5) years beyond the expiration date of the initial ten-year  
4176 period if:

4177                               (i) The qualified business or industry creates at  
4178 least three thousand (3,000) new direct jobs within five (5) years  
4179 after the date the business or industry commences commercial  
4180 production;

4181                               (ii) Within five (5) years after the date the  
4182 business or industry commences commercial production, the average  
4183 annual wage of the jobs is at least one hundred fifty percent  
4184 (150%) of the most recently published state average annual wage or  
4185 the most recently published average annual wage of the county in  
4186 which the qualified business or industry is located as determined  
4187 by the Mississippi Department of Employment Security, whichever is  
4188 the lesser. The criteria for the average annual wage requirement  
4189 shall be based upon the state average annual wage or the average  
4190 annual wage of the county whichever is appropriate, at the time of



4191 creation of the minimum number of jobs, and the threshold  
4192 established at that time will remain constant for the duration of  
4193 the additional period; and

4194 (iii) The qualified business or industry meets and  
4195 maintains the job and wage requirements of subparagraphs (i) and  
4196 (ii) of this paragraph (a) for four (4) consecutive calendar  
4197 quarters.

4198 (b) A qualified business or industry that is a project  
4199 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
4200 incentive payments for the additional period provided in paragraph  
4201 (a) of this subsection (2) may apply to the MDA to receive  
4202 incentive payments for an additional period not to exceed ten (10)  
4203 years beyond the expiration date of the additional period provided  
4204 in paragraph (a) of this subsection (2) if:

4205 (i) The qualified business or industry creates at  
4206 least four thousand (4,000) new direct jobs after qualifying for  
4207 the additional incentive period provided in paragraph (a) of this  
4208 subsection (2) but before the expiration of the additional period.  
4209 For purposes of determining whether the business or industry meets  
4210 the minimum jobs requirement of this subparagraph (i), the number  
4211 of jobs the business or industry created in order to meet the  
4212 minimum jobs requirement of paragraph (a) of this subsection (2)  
4213 shall be subtracted from the minimum jobs requirement of this  
4214 subparagraph (i);

4215 (ii) The average annual wage of the jobs is at  
4216 least one hundred fifty percent (150%) of the most recently  
4217 published state average annual wage or the most recently published  
4218 average annual wage of the county in which the qualified business  
4219 or industry is located as determined by the Mississippi Department  
4220 of Employment Security, whichever is the lesser. The criteria for  
4221 the average annual wage requirement shall be based upon the state  
4222 average annual wage or the average annual wage of the county  
4223 whichever is appropriate, at the time of creation of the minimum

4224 number of jobs, and the threshold established at that time will  
4225 remain constant for the duration of the additional period; and

4226 (iii) The qualified business or industry meets and  
4227 maintains the job and wage requirements of subparagraphs (i) and  
4228 (ii) of this paragraph (b) for four (4) consecutive calendar  
4229 quarters.

4230 (3) In order to receive incentive payments, an establishment  
4231 shall apply to the MDA. The application shall be on a form  
4232 prescribed by the MDA and shall contain such information as may be  
4233 required by the MDA to determine if the applicant is qualified.

4234 (4) (a) In order to qualify to receive such payments, the  
4235 establishment applying shall be required to meet the definition of  
4236 the term "qualified business or industry";

4237 (b) The criteria for the average annual salary  
4238 requirement shall be based upon the state average annual wage or  
4239 the average annual wage of the county whichever is appropriate, at  
4240 the time of application, and the threshold established upon  
4241 application will remain constant for the duration of the project;

4242 (c) The business or industry must meet its job creation  
4243 commitment within twenty-four (24) months of the application  
4244 approval. However, if the qualified business or industry is  
4245 applying for incentive payments for an additional period under  
4246 subsection (2) of this section, the business or industry must  
4247 comply with the applicable job and wage requirements of subsection  
4248 (2) of this section.

4249 (5) (a) The MDA shall determine if the applicant is  
4250 qualified to receive incentive payments. If the applicant is  
4251 determined to be qualified by the MDA, the MDA shall:

4252 (i) Conduct a cost/benefit analysis to determine  
4253 the estimated net direct state benefits and the net benefit rate  
4254 applicable for a period not to exceed ten (10) years and to  
4255 estimate the amount of gross payroll for the period; and

4256 (ii) Require the applicant to execute a  
4257 performance agreement with the MDA that specifies the manner in  
4258 which the applicant will utilize the incentive payments made to it  
4259 under this chapter.

4260 (b) If the applicant is determined to be qualified to  
4261 receive incentive payments for an additional period under  
4262 subsection (2) of this section, the MDA shall conduct a  
4263 cost/benefit analysis to determine the estimated net direct state  
4264 benefits and the net benefit rate applicable for the appropriate  
4265 additional period and to estimate the amount of gross payroll for  
4266 the additional period. In conducting such cost/benefit analysis,  
4267 the MDA shall consider quantitative factors, such as the  
4268 anticipated level of new tax revenues to the state along with the  
4269 cost to the state of the qualified business or industry, and such  
4270 other criteria as deemed appropriate by the MDA, including the  
4271 adequacy of retirement benefits that the business or industry  
4272 provides to individuals it employs in new direct jobs in this  
4273 state. In no event shall incentive payments, cumulatively, exceed  
4274 the estimated net direct state benefits. Once the qualified  
4275 business or industry is approved by the MDA, an agreement shall be  
4276 deemed to exist between the qualified business or industry and the  
4277 State of Mississippi, requiring the continued incentive payment to  
4278 be made as long as the qualified business or industry retains its  
4279 eligibility.

4280 (6) Upon approval of such an application, the MDA shall  
4281 notify the State Tax Commission and shall provide it with a copy  
4282 of the approved application and the estimated net direct state  
4283 benefits. The State Tax Commission may require the qualified  
4284 business or industry to submit such additional information as may  
4285 be necessary to administer the provisions of this chapter. The  
4286 qualified business or industry shall report to the State Tax  
4287 Commission periodically to show its continued eligibility for

4288 incentive payments. The qualified business or industry may be  
4289 audited by the State Tax Commission to verify such eligibility.

4290 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is  
4291 reenacted as follows:

4292 57-75-5. Words and phrases used in this chapter shall have  
4293 meanings as follows, unless the context clearly indicates a  
4294 different meaning:

4295 (a) "Act" means the Mississippi Major Economic Impact  
4296 Act as originally enacted or as hereafter amended.

4297 (b) "Authority" means the Mississippi Major Economic  
4298 Impact Authority created pursuant to the act.

4299 (c) "Bonds" means general obligation bonds, interim  
4300 notes and other evidences of debt of the State of Mississippi  
4301 issued pursuant to this chapter.

4302 (d) "Facility related to the project" means and  
4303 includes any of the following, as the same may pertain to the  
4304 project within the project area: (i) facilities to provide  
4305 potable and industrial water supply systems, sewage and waste  
4306 disposal systems and water, natural gas and electric transmission  
4307 systems to the site of the project; (ii) airports, airfields and  
4308 air terminals; (iii) rail lines; (iv) port facilities; (v)  
4309 highways, streets and other roadways; (vi) public school  
4310 buildings, classrooms and instructional facilities, training  
4311 facilities and equipment, including any functionally related  
4312 facilities; (vii) parks, outdoor recreation facilities and  
4313 athletic facilities; (viii) auditoriums, pavilions, campgrounds,  
4314 art centers, cultural centers, folklore centers and other public  
4315 facilities; (ix) health care facilities, public or private; and  
4316 (x) fire protection facilities, equipment and elevated water  
4317 tanks.

4318 (e) "Person" means any natural person, corporation,  
4319 association, partnership, receiver, trustee, guardian, executor,  
4320 administrator, fiduciary, governmental unit, public agency,

4321 political subdivision, or any other group acting as a unit, and  
4322 the plural as well as the singular.

4323 (f) "Project" means:

4324 (i) Any industrial, commercial, research and  
4325 development, warehousing, distribution, transportation,  
4326 processing, mining, United States government or tourism enterprise  
4327 together with all real property required for construction,  
4328 maintenance and operation of the enterprise with an initial  
4329 capital investment of not less than Three Hundred Million Dollars  
4330 (\$300,000,000.00) from private or United States government sources  
4331 together with all buildings, and other supporting land and  
4332 facilities, structures or improvements of whatever kind required  
4333 or useful for construction, maintenance and operation of the  
4334 enterprise; or with an initial capital investment of not less than  
4335 One Hundred Fifty Million Dollars (\$150,000,000.00) from private  
4336 or United States government sources together with all buildings  
4337 and other supporting land and facilities, structures or  
4338 improvements of whatever kind required or useful for construction,  
4339 maintenance and operation of the enterprise and which creates at  
4340 least one thousand (1,000) net new full-time jobs; or which  
4341 creates at least one thousand (1,000) net new full-time jobs which  
4342 provides an average salary, excluding benefits which are not  
4343 subject to Mississippi income taxation, of at least one hundred  
4344 twenty-five percent (125%) of the most recently published average  
4345 annual wage of the state as determined by the Mississippi  
4346 Department of Employment Security. "Project" shall include any  
4347 addition to or expansion of an existing enterprise if such  
4348 addition or expansion has an initial capital investment of not  
4349 less than Three Hundred Million Dollars (\$300,000,000.00) from  
4350 private or United States government sources, or has an initial  
4351 capital investment of not less than One Hundred Fifty Million  
4352 Dollars (\$150,000,000.00) from private or United States government  
4353 sources together with all buildings and other supporting land and

4354 facilities, structures or improvements of whatever kind required  
4355 or useful for construction, maintenance and operation of the  
4356 enterprise and which creates at least one thousand (1,000) net new  
4357 full-time jobs; or which creates at least one thousand (1,000) net  
4358 new full-time jobs which provides an average salary, excluding  
4359 benefits which are not subject to Mississippi income taxation, of  
4360 at least one hundred twenty-five percent (125%) of the most  
4361 recently published average annual wage of the state as determined  
4362 by the Mississippi Department of Employment Security. "Project"  
4363 shall also include any ancillary development or business resulting  
4364 from the enterprise, of which the authority is notified, within  
4365 three (3) years from the date that the enterprise entered into  
4366 commercial production, that the project area has been selected as  
4367 the site for the ancillary development or business.

4368                   (ii) 1. Any major capital project designed to  
4369 improve, expand or otherwise enhance any active duty or reserve  
4370 United States armed services bases and facilities or any major  
4371 Mississippi National Guard training installations, their support  
4372 areas or their military operations, upon designation by the  
4373 authority that any such base was or is at risk to be recommended  
4374 for closure or realignment pursuant to the Defense Base Closure  
4375 and Realignment Act of 1990, as amended, or other applicable  
4376 federal law; or any major development project determined by the  
4377 authority to be necessary to acquire or improve base properties  
4378 and to provide employment opportunities through construction of  
4379 projects as defined in Section 57-3-5, which shall be located on  
4380 or provide direct support service or access to such military  
4381 installation property in the event of closure or reduction of  
4382 military operations at the installation.

4383                   2. Any major study or investigation related  
4384 to such a facility, installation or base, upon a determination by  
4385 the authority that the study or investigation is critical to the

4386 expansion, retention or reuse of the facility, installation or  
4387 base.

4388                                 3. Any project as defined in Section 57-3-5,  
4389 any business or enterprise determined to be in the furtherance of  
4390 the public purposes of this act as determined by the authority or  
4391 any facility related to such project each of which shall be,  
4392 directly or indirectly, related to any military base or other  
4393 military-related facility no longer operated by the United States  
4394 armed services or the Mississippi National Guard.

4395                                 (iii) Any enterprise to be maintained, improved or  
4396 constructed in Tishomingo County by or for a National Aeronautics  
4397 and Space Administration facility in such county.

4398                                 (iv) 1. Any major capital project with an initial  
4399 capital investment from private sources of not less than Seven  
4400 Hundred Fifty Million Dollars (\$750,000,000.00) which will create  
4401 at least three thousand (3,000) jobs meeting criteria established  
4402 by the Mississippi Development Authority.

4403                                 2. "Project" shall also include any ancillary  
4404 development or business resulting from an enterprise operating a  
4405 project as defined in item 1 of this paragraph (f)(iv), of which  
4406 the authority is notified, within three (3) years from the date  
4407 that the enterprise entered into commercial production, that the  
4408 state has been selected as the site for the ancillary development  
4409 or business.

4410                                 (v) Any manufacturing, processing or industrial  
4411 project determined by the authority, in its sole discretion, to  
4412 contribute uniquely and significantly to the economic growth and  
4413 development of the state, and which meets the following criteria:

4414                                 1. The project shall create at least two  
4415 thousand (2,000) net new full-time jobs meeting criteria  
4416 established by the authority, which criteria shall include, but  
4417 not be limited to, the requirement that such jobs must be held by

4418 persons eligible for employment in the United States under  
4419 applicable state and federal law.

4420                   2. The project and any facility related to  
4421 the project shall include a total investment from private sources  
4422 of not less than Sixty Million Dollars (\$60,000,000.00), or from  
4423 any combination of sources of not less than Eighty Million Dollars  
4424 (\$80,000,000.00).

4425                   (vi) Any real property owned or controlled by the  
4426 National Aeronautics and Space Administration, the United States  
4427 government, or any agency thereof, which is legally conveyed to  
4428 the State of Mississippi or to the State of Mississippi for the  
4429 benefit of the Mississippi Major Economic Impact Authority, its  
4430 successors and assigns pursuant to Section 212 of Public Law  
4431 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4432                   (vii) Any major capital project related to the  
4433 establishment, improvement, expansion and/or other enhancement of  
4434 any active duty military installation and having a minimum capital  
4435 investment from any source or combination of sources other than  
4436 the State of Mississippi of at least Forty Million Dollars  
4437 (\$40,000,000.00), and which will create at least four hundred  
4438 (400) military installation related full-time jobs, which jobs may  
4439 be military jobs, civilian jobs or a combination of military and  
4440 civilian jobs. The authority shall require that binding  
4441 commitments be entered into requiring that the minimum  
4442 requirements for the project provided for in this subparagraph  
4443 shall be met not later than July 1, 2008.

4444                   (viii) Any major capital project with an initial  
4445 capital investment from any source or combination of sources of  
4446 not less than Ten Million Dollars (\$10,000,000.00) which will  
4447 create at least eighty (80) full-time jobs which provide an  
4448 average annual salary, excluding benefits which are not subject to  
4449 Mississippi income taxes, of at least one hundred thirty-five  
4450 percent (135%) of the most recently published average annual wage



4451 of the state or the most recently published average annual wage of  
4452 the county in which the project is located as determined by the  
4453 Mississippi Department of Employment Security, whichever is the  
4454 lesser. The authority shall require that binding commitments be  
4455 entered into requiring that:

4456 1. The minimum requirements for the project  
4457 provided for in this subparagraph shall be met; and

4458 2. That if such commitments are not met, all  
4459 or a portion of the funds provided by the state for the project as  
4460 determined by the authority shall be repaid.

4461 (ix) Any regional retail shopping mall with an  
4462 initial capital investment from private sources in excess of One  
4463 Hundred Fifty Million Dollars (\$150,000,000.00), with a square  
4464 footage in excess of eight hundred thousand (800,000) square feet,  
4465 which will create at least seven hundred (700) full-time jobs with  
4466 an average hourly wage of Eleven Dollars (\$11.00) per hour. The  
4467 authority shall require that binding commitments be entered into  
4468 requiring that:

4469 1. The minimum requirements for the project  
4470 provided for in this subparagraph shall be met; and

4471 2. That if such commitments are not met, all  
4472 or a portion of the funds provided by the state for the project as  
4473 determined by the authority shall be repaid.

4474 (x) Any major capital project with an initial  
4475 capital investment from any source or combination of sources of  
4476 not less than Seventy-five Million Dollars (\$75,000,000.00) which  
4477 will create at least one hundred twenty-five (125) full-time jobs  
4478 which provide an average annual salary, excluding benefits which  
4479 are not subject to Mississippi income taxes, of at least one  
4480 hundred thirty-five percent (135%) of the most recently published  
4481 average annual wage of the state or the most recently published  
4482 average annual wage of the county in which the project is located  
4483 as determined by the Mississippi Department of Employment

4484 Security, whichever is the greater. The authority shall require  
4485 that binding commitments be entered into requiring that:

4486 1. The minimum requirements for the project  
4487 provided for in this subparagraph shall be met; and

4488 2. That if such commitments are not met, all  
4489 or a portion of the funds provided by the state for the project as  
4490 determined by the authority shall be repaid.

4491 (xi) Any potential major capital project that the  
4492 authority has determined is feasible to recruit.

4493 (xii) Any project built according to the  
4494 specifications and federal provisions set forth by the National  
4495 Aeronautics and Space Administration Center Operations Directorate  
4496 at Stennis Space Center for the purpose of consolidating common  
4497 services from National Aeronautics and Space Administration  
4498 centers in human resources, procurement, financial management and  
4499 information technology located on land owned or controlled by the  
4500 National Aeronautics and Space Administration, which will create  
4501 at least four hundred seventy (470) full-time jobs.

4502 (xiii) Any major capital project with an initial  
4503 capital investment from any source or combination of sources of  
4504 not less than Ten Million Dollars (\$10,000,000.00) which will  
4505 create at least two hundred fifty (250) full-time jobs. The  
4506 authority shall require that binding commitments be entered into  
4507 requiring that:

4508 1. The minimum requirements for the project  
4509 provided for in this subparagraph shall be met; and

4510 2. That if such commitments are not met, all  
4511 or a portion of the funds provided by the state for the project as  
4512 determined by the authority shall be repaid.

4513 (xiv) Any major pharmaceutical facility with a  
4514 capital investment of not less than Fifty Million Dollars  
4515 (\$50,000,000.00) made after July 1, 2002, through four (4) years  
4516 after the initial date of any loan or grant made by the authority

4517 for such project, which will maintain at least seven hundred fifty  
4518 (750) full-time employees. The authority shall require that  
4519 binding commitments be entered into requiring that:

4520                   1. The minimum requirements for the project  
4521 provided for in this subparagraph shall be met; and

4522                   2. That if such commitments are not met, all  
4523 or a portion of the funds provided by the state for the project as  
4524 determined by the authority shall be repaid.

4525                   (xv) Any pharmaceutical manufacturing, packaging  
4526 and distribution facility with an initial capital investment from  
4527 any local or federal sources of not less than Five Hundred  
4528 Thousand Dollars (\$500,000.00) which will create at least ninety  
4529 (90) full-time jobs. The authority shall require that binding  
4530 commitments be entered into requiring that:

4531                   1. The minimum requirements for the project  
4532 provided for in this subparagraph shall be met; and

4533                   2. That if such commitments are not met, all  
4534 or a portion of the funds provided by the state for the project as  
4535 determined by the authority shall be repaid.

4536                   (xvi) Any major industrial wood processing  
4537 facility with an initial capital investment of not less than One  
4538 Hundred Million Dollars (\$100,000,000.00) which will create at  
4539 least one hundred twenty-five (125) full-time jobs which provide  
4540 an average annual salary, excluding benefits which are not subject  
4541 to Mississippi income taxes, of at least Thirty Thousand Dollars  
4542 (\$30,000.00). The authority shall require that binding  
4543 commitments be entered into requiring that:

4544                   1. The minimum requirements for the project  
4545 provided for in this subparagraph shall be met; and

4546                   2. That if such commitments are not met, all  
4547 or a portion of the funds provided by the state for the project as  
4548 determined by the authority shall be repaid.

4549                   (xvii) Any technical, engineering,  
4550 manufacturing-logistic service provider with an initial capital  
4551 investment of not less than One Million Dollars (\$1,000,000.00)  
4552 which will create at least ninety (90) full-time jobs. The  
4553 authority shall require that binding commitments be entered into  
4554 requiring that:

4555                             1. The minimum requirements for the project  
4556 provided for in this subparagraph shall be met; and

4557                             2. That if such commitments are not met, all  
4558 or a portion of the funds provided by the state for the project as  
4559 determined by the authority shall be repaid.

4560                   (xviii) Any major capital project with an initial  
4561 capital investment from any source or combination of sources other  
4562 than the State of Mississippi of not less than Six Hundred Million  
4563 Dollars (\$600,000,000.00) which will create at least four hundred  
4564 fifty (450) full-time jobs with an average annual salary,  
4565 excluding benefits which are not subject to Mississippi income  
4566 taxes, of at least Seventy Thousand Dollars (\$70,000.00). The  
4567 authority shall require that binding commitments be entered into  
4568 requiring that:

4569                             1. The minimum requirements for the project  
4570 provided for in this subparagraph shall be met; and

4571                             2. That if such commitments are not met, all  
4572 or a portion of the funds provided by the state for the project as  
4573 determined by the authority shall be repaid.

4574                   (xix) Any major coal and/or petroleum coke  
4575 gasification project with an initial capital investment from any  
4576 source or combination of sources other than the State of  
4577 Mississippi of not less than Eight Hundred Million Dollars  
4578 (\$800,000,000.00), which will create at least two hundred (200)  
4579 full-time jobs with an average annual salary, excluding benefits  
4580 which are not subject to Mississippi income taxes, of at least

4581 Forty-five Thousand Dollars (\$45,000.00). The authority shall  
4582 require that binding commitments be entered into requiring that:

4583 1. The minimum requirements for the project  
4584 provided for in this subparagraph shall be met; and

4585 2. That if such commitments are not met, all  
4586 or a portion of the funds provided by the state for the project as  
4587 determined by the authority shall be repaid.

4588 (xx) Any planned mixed use development located on  
4589 not less than four thousand (4,000) acres of land that will  
4590 consist of commercial, recreational, resort, tourism and  
4591 residential development with a capital investment from private  
4592 sources of not less than Four Hundred Seventy-five Million Dollars  
4593 (\$475,000,000.00) in the aggregate in any one (1) or any  
4594 combination of tourism projects that will create at least three  
4595 thousand five hundred (3,500) jobs in the aggregate. For the  
4596 purposes of this paragraph (f)(xx), the term "tourism project"  
4597 means and has the same definition as that term has in Section  
4598 57-28-1. In order to meet the minimum capital investment required  
4599 under this paragraph (f)(xx), at least Two Hundred Thirty-seven  
4600 Million Five Hundred Thousand Dollars (\$237,500,000.00) of such  
4601 investment must be made not later than three (3) years after the  
4602 date that construction for the initial phase of development of the  
4603 project begins, or June 1, 2010, whichever date is earlier; and  
4604 the remainder of the minimum capital investment must be made not  
4605 later than five (5) years after the date that construction for the  
4606 initial phase of development of the project begins, or June 1,  
4607 2012, whichever date is earlier. In order to meet the minimum  
4608 number of jobs required to be created under this paragraph  
4609 (f)(xx), at least one thousand seven hundred fifty (1,750) of such  
4610 jobs must be created not later than three (3) years after the date  
4611 that construction for the initial phase of development of the  
4612 project begins, or June 1, 2010, whichever date is earlier; and  
4613 the remainder of the jobs must be created not later than five (5)

4614 years after the date that construction for the initial phase of  
4615 development of the project begins, or June 1, 2012, whichever date  
4616 is earlier. The authority shall require that binding commitments  
4617 be entered into requiring that:

4618                   1. The minimum requirements for the project  
4619 provided for in this subparagraph shall be met; and

4620                   2. That if such commitments are not met, all  
4621 or a portion of the funds provided by the state for the project as  
4622 determined by the authority shall be repaid.

4623           (g) "Project area" means the project site, together  
4624 with any area or territory within the state lying within  
4625 sixty-five (65) miles of any portion of the project site whether  
4626 or not such area or territory be contiguous; however, for the  
4627 project defined in paragraph (f)(iv) of this section the term  
4628 "project area" means any area or territory within the state. The  
4629 project area shall also include all territory within a county if  
4630 any portion of such county lies within sixty-five (65) miles of  
4631 any portion of the project site. "Project site" means the real  
4632 property on which the principal facilities of the enterprise will  
4633 operate.

4634           (h) "Public agency" means:

4635                   (i) Any department, board, commission, institution  
4636 or other agency or instrumentality of the state;

4637                   (ii) Any city, town, county, political  
4638 subdivision, school district or other district created or existing  
4639 under the laws of the state or any public agency of any such city,  
4640 town, county, political subdivision or district or any other  
4641 public entity created or existing under local and private  
4642 legislation;

4643                   (iii) Any department, commission, agency or  
4644 instrumentality of the United States of America; and

4645 (iv) Any other state of the United States of  
4646 America which may be cooperating with respect to location of the  
4647 project within the state, or any agency thereof.

4648 (i) "State" means State of Mississippi.

4649 (j) "Fee-in-lieu" means a negotiated fee to be paid by  
4650 the project in lieu of any franchise taxes imposed on the project  
4651 by Chapter 13, Title 27, Mississippi Code of 1972. The  
4652 fee-in-lieu shall not be less than Twenty-five Thousand Dollars  
4653 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an  
4654 enterprise operating an existing project defined in Section  
4655 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated  
4656 for other existing enterprises that fall within the definition of  
4657 the term "project."

4658 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is  
4659 reenacted as follows:

4660 57-80-7. (1) From and after December 31, 2000, and until  
4661 December 31, 2010, the following counties may apply to the MDA for  
4662 the issuance of a certificate of public convenience and necessity:

4663 (a) Any county of this state which has an annualized  
4664 unemployment rate that is at least two hundred percent (200%) of  
4665 the state's unemployment rate as of December 31 of any year from  
4666 2000 through 2010, as determined by the Mississippi Department of  
4667 Employment Security's most recently published data;

4668 (b) Any county of this state in which thirty percent  
4669 (30%) or more of the population of the county is at or below the  
4670 federal poverty level according to the official data compiled by  
4671 the United States Census Bureau as of August 30, 2000, for  
4672 counties that apply before December 31, 2002, or the most recent  
4673 official data compiled by the United States Census Bureau for  
4674 counties that apply from and after December 31, 2002; or

4675 (c) Any county of this state having an eligible  
4676 supervisors district.

4677           (2) The application, at a minimum, must contain (a) the  
4678 Mississippi Department of Employment Security's most recently  
4679 published figures that reflect the annualized unemployment rate of  
4680 the applying county as of December 31 or the most recent official  
4681 data by the United States Census Bureau required by subsection (1)  
4682 of this section, as the case may be, and (b) an order or  
4683 resolution of the county consenting to the designation of the  
4684 county as a growth and prosperity county.

4685           (3) Any municipality of a designated growth and prosperity  
4686 county or within an eligible supervisors district and not more  
4687 than eight (8) miles from the boundary of the county that meets  
4688 the criteria of subsection (1)(b) of this section may by order or  
4689 resolution of the municipality consent to participation in the  
4690 Growth and Prosperity Program.

4691           (4) No incentive or tax exemption shall be given under this  
4692 chapter without the consent of the affected county or  
4693 municipality.

4694           **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is  
4695 reenacted as follows:

4696           69-2-5. (1) The Mississippi Cooperative Extension Service  
4697 shall act as a clearinghouse for the dissemination of information  
4698 regarding programs and services which may be available to help  
4699 those persons and businesses which have been adversely affected by  
4700 the present emergency in the agricultural community. The  
4701 Cooperative Extension Service shall develop a plan of assistance  
4702 which shall identify all programs and services available within  
4703 the state which can be of assistance to those affected by the  
4704 present emergency. The Department of Agriculture and Commerce,  
4705 the Department of Finance and Administration, Department of Human  
4706 Services, Department of Mental Health, State Department of Health,  
4707 Board of Trustees of State Institutions of Higher Learning, State  
4708 Board for Community and Junior Colleges, Research and Development  
4709 Center, Mississippi Development Authority, Department of



4710 Employment Security, Office of the Governor, Board of Vocational  
4711 and Technical Education, Mississippi Authority for Educational  
4712 Television, and other agencies of the state which have programs  
4713 and services that can be of assistance to those affected by the  
4714 present emergency, shall provide information regarding their  
4715 programs and services to the Cooperative Extension Service for use  
4716 in the clearinghouse. The types of programs and services shall  
4717 include, but not be limited to, financial counseling, farm and  
4718 small business management, employment services, labor market  
4719 information, job re-training, vocational and technical training,  
4720 food stamp programs, personal counseling, health services, and  
4721 free or low cost legal services. The clearinghouse shall provide  
4722 a single contact point to provide program information and referral  
4723 services to individuals interested or needing services from state  
4724 funded assistance programs affecting agriculture, horticulture,  
4725 aquaculture and other agribusinesses or related industries. Such  
4726 assistance information shall identify all monies available under  
4727 the Small Business Financing Act, the Business Investment Act, the  
4728 Emerging Crop Fund legislation and any other sources which may be  
4729 used singularly or combined, to provide a comprehensive financing  
4730 package. The provisions of this section in establishing a single  
4731 contact point for information and referral services shall not be  
4732 construed to authorize the hiring of additional personnel.

4733 (2) The Cooperative Extension Service may accept monetary or  
4734 in-kind contributions, gifts and grants for the establishment or  
4735 operation of the clearinghouse.

4736 (3) The Cooperative Extension Service shall establish a  
4737 method for the dissemination of information to those who can be  
4738 benefited by the existing programs and services of the state.

4739 (4) The Cooperative Extension Service shall file an annual  
4740 report with the Governor, Lieutenant Governor and Speaker of the  
4741 House of Representatives regarding the efforts which have been  
4742 made in the clearinghouse operation. The report shall also

4743 recommend any additional measures, including legislation, which  
4744 may be needed or desired in providing programs and benefits to  
4745 those affected by the agricultural emergency.

4746         **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is  
4747 reenacted as follows:

4748         7-1-355. (1) The Mississippi Department of Employment  
4749 Security, Office of the Governor, is designated as the sole  
4750 administrator of all programs for which the state is the prime  
4751 sponsor under Title 1(B) of Public Law 105-220, Workforce  
4752 Investment Act of 1998, and the regulations promulgated  
4753 thereunder, and may take all necessary action to secure to this  
4754 state the benefits of that legislation. The Mississippi  
4755 Department of Employment Security, Office of the Governor, may  
4756 receive and disburse funds for those programs that become  
4757 available to it from any source.

4758         (2) The Mississippi Department of Employment Security,  
4759 Office of the Governor, shall establish guidelines on the amount  
4760 and/or percentage of indirect and/or administrative expenses by  
4761 the local fiscal agent or the Workforce Development Center  
4762 operator. The Mississippi Department of Employment Security,  
4763 Office of the Governor, shall develop an accountability system and  
4764 make an annual report to the Legislature before December 31 of  
4765 each year on Workforce Investment Act activities. The report  
4766 shall include, but is not limited to, the following:

4767                 (a) The total number of individuals served through the  
4768 Workforce Development Centers and the percentage and number of  
4769 individuals for which a quarterly follow up is provided;

4770                 (b) The number of individuals who receive core services  
4771 by each center;

4772                 (c) The number of individuals who receive intensive  
4773 services by each center;

4774                 (d) The number of Workforce Investment Act vouchers  
4775 issued by the Workforce Development Centers including:

4776 (i) A list of schools and colleges to which these  
4777 vouchers were issued and the average cost per school of the  
4778 vouchers; and

4779 (ii) A list of the types of programs for which  
4780 these vouchers were issued;

4781 (e) The number of individuals placed in a job through  
4782 Workforce Development Centers;

4783 (f) The monies and the amount retained for  
4784 administrative and other costs received from Workforce Investment  
4785 Act funds for each agency or organization that Workforce  
4786 Investment Act funds flow through as a percentage and actual  
4787 dollar amount of all Workforce Investment Act funds received.

4788 **SECTION 58.** Section 60 of Chapter 572, Laws of 2004, which  
4789 is the automatic repealer on the statutes transferring the  
4790 Mississippi Employment Security Commission to the Mississippi  
4791 Department of Employment Security, Office of the Governor, is  
4792 hereby repealed.

4793 **SECTION 59.** This act shall take effect and be in force from  
4794 and after July 1, 2007.