

By: Senator(s) Fillingane

To: Finance

SENATE BILL NO. 2604
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 37-153-1 THROUGH 37-153-13,
2 MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE THE MISSISSIPPI
3 COMPREHENSIVE WORKFORCE TRAINING AND EDUCATION CONSOLIDATION ACT
4 OF 2004; TO REENACT SECTIONS 71-5-5, 71-5-11 AND 71-5-19,
5 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE MISSISSIPPI
6 EMPLOYMENT SECURITY LAW; TO AMEND REENACTED SECTION 71-5-19,
7 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A PENALTY FOR OVERPAID
8 UNEMPLOYMENT BENEFITS WHICH HAVE BEEN OBTAINED AND/OR RECEIVED
9 THROUGH FRAUD; TO PROVIDE FOR THE DEPOSIT OF SUCH PENALTIES INTO
10 CERTAIN FUNDS AND THE PURPOSES FOR WHICH SUCH PENALTIES MAY BE
11 USED; TO REENACT SECTIONS 71-5-101 AND 71-5-107 THROUGH 71-5-143,
12 MISSISSIPPI CODE OF 1972, WHICH TRANSFER THE POWERS AND
13 RESPONSIBILITIES OF THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION
14 TO THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY IN THE OFFICE
15 OF THE GOVERNOR AND PRESCRIBE THE DEPARTMENT'S POWERS AND DUTIES;
16 TO AMEND REENACTED SECTION 71-5-114, MISSISSIPPI CODE OF 1972, TO
17 AUTHORIZE THE DEPOSIT INTO THE SPECIAL UNEMPLOYMENT SECURITY FUND
18 OF PENALTIES COLLECTED FOR OVERPAID UNEMPLOYMENT BENEFITS WHICH
19 HAVE BEEN OBTAINED AND/OR RECEIVED THROUGH FRAUD OR FAILURE TO
20 REPORT EARNINGS WHILE FILING FOR BENEFITS AND TO PROVIDE THAT
21 MONEY IN THE FUND MAY BE EXPENDED FOR ADMINISTRATION OF ANY
22 PROGRAMS FOR WHICH THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT
23 SECURITY HAS ADMINISTRATIVE RESPONSIBILITY; TO REENACT SECTION
24 71-5-201, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES THE
25 MISSISSIPPI STATE EMPLOYMENT SERVICE WITHIN THE DEPARTMENT OF
26 EMPLOYMENT SECURITY; TO REENACT SECTIONS 71-5-357 AND 71-5-359,
27 MISSISSIPPI CODE OF 1972, WHICH PRESCRIBE REGULATIONS GOVERNING
28 NONPROFIT ORGANIZATIONS, STATE AGENCIES AND POLITICAL SUBDIVISIONS
29 UNDER THE EMPLOYMENT SECURITY LAW; TO REENACT SECTIONS 71-5-451
30 AND 71-5-457, MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE
31 UNEMPLOYMENT COMPENSATION FUND AND THE UNEMPLOYMENT TRUST FUND; TO
32 AMEND SECTION 71-5-503, MISSISSIPPI CODE OF 1972, TO REMOVE THE
33 JULY 1, 2014, REPEAL DATE ON THE PROVISION OF LAW THAT ESTABLISHES
34 THE WEEKLY UNEMPLOYMENT COMPENSATION BENEFIT; TO REENACT SECTIONS
35 71-5-511, 71-5-513, 71-5-517, 71-5-519, 71-5-523, 71-5-525,
36 71-5-529, 71-5-531 AND 71-5-541, MISSISSIPPI CODE OF 1972, WHICH
37 PROVIDE FOR THE PAYMENT OF UNEMPLOYMENT COMPENSATION BENEFITS; TO
38 REENACT AND AMEND SECTION 71-5-513, MISSISSIPPI CODE OF 1972, TO
39 PROVIDE THAT AN INDIVIDUAL WHO IS NOT HIRED FOR AN OTHERWISE
40 SUITABLE POSITION DUE TO A POSITIVE TEST FOR ILLEGAL SUBSTANCES,
41 INCLUDING DRUGS, SHALL, FOR PURPOSES OF THE MISSISSIPPI EMPLOYMENT
42 SECURITY LAW, BE DEEMED TO HAVE FAILED TO ACCEPT SUITABLE WORK
43 WHEN OFFERED HIM AND AS SUCH SUBJECT TO DISQUALIFICATION FROM
44 RECEIVING EMPLOYMENT COMPENSATION BENEFITS; TO PROVIDE THAT A
45 DISQUALIFIED INDIVIDUAL MAY PROVIDE INFORMATION TO END THE
46 DISQUALIFICATION PERIOD EARLY BY SUBMITTING ACCEPTABLE PROOF TO



47 THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY OF A NEGATIVE
48 TEST RESULT FROM A TESTING FACILITY APPROVED BY THE DEPARTMENT; TO
49 PROVIDE THAT AT ANY TIME DURING OR AFTER THE ASSESSED
50 DISQUALIFICATION PERIOD, THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT
51 SECURITY MAY REQUIRE THE INDIVIDUAL TO SUBMIT ACCEPTABLE PROOF TO
52 THE DEPARTMENT OF A NEGATIVE TEST RESULT FROM A TESTING FACILITY
53 APPROVED BY THE DEPARTMENT IN ORDER TO REINSTATE THE INDIVIDUAL
54 AND RESUME THE ISSUANCE OF BENEFITS UNDER MISSISSIPPI EMPLOYMENT
55 SECURITY LAW; TO PROVIDE THAT NO PERSON ELIGIBLE FOR UNEMPLOYMENT
56 BENEFITS SHALL BE DENIED BENEFITS FOR CERTAIN REASONS FOR ANY WEEK
57 IN WHICH THEY ARE ENGAGED IN THE SELF-EMPLOYMENT ASSISTANCE
58 PROGRAM; TO AUTHORIZE ANY INDIVIDUAL WHO IS RECEIVING UNEMPLOYMENT
59 BENEFITS TO PARTICIPATE IN A PROGRAM TO GAIN SKILLS THAT MAY LEAD
60 TO EMPLOYMENT WHILE CONTINUING TO RECEIVE UNEMPLOYMENT BENEFITS IF
61 AUTHORIZATION FOR PARTICIPATION IS GRANTED BY THE DEPARTMENT AND
62 PARTICIPATION IS CERTIFIED WEEKLY; TO PROVIDE THAT WHILE
63 PARTICIPATING IN SUCH A PROGRAM, AVAILABILITY AND WORK SEARCH
64 REQUIREMENTS WILL BE WAIVED; TO LIMIT THE AMOUNT OF TIME THAT AN
65 INDIVIDUAL MAY PARTICIPATE IN SUCH A PROGRAM; TO REENACT SECTION
66 73-30-25, MISSISSIPPI CODE OF 1972, WHICH EXCLUDES CERTAIN
67 PROFESSIONALS FROM REGULATION UNDER THE LAWS GOVERNING LICENSED
68 PROFESSIONAL COUNSELORS; TO REENACT SECTION 43-1-30, MISSISSIPPI
69 CODE OF 1972, WHICH CREATES THE MISSISSIPPI TANF IMPLEMENTATION
70 COUNCIL AND PRESCRIBES ITS POWERS AND DUTIES; TO AMEND SECTION
71 43-17-5, MISSISSIPPI CODE OF 1972, TO REMOVE THE REPEAL DATE ON
72 THE PROVISION OF LAW WHICH PROVIDES THE AMOUNT OF TEMPORARY
73 ASSISTANCE TO NEEDY FAMILIES; TO REENACT SECTION 43-19-45,
74 MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE CHILD SUPPORT UNIT
75 ESTABLISHED BY THE DEPARTMENT OF HUMAN SERVICES TO ESTABLISH A
76 STATE PARENT LOCATOR SERVICE; TO REENACT SECTIONS 57-62-5,
77 57-62-9, 57-75-5 AND 57-80-7, MISSISSIPPI CODE OF 1972, WHICH
78 RELATE TO THE MISSISSIPPI ADVANTAGE JOBS ACT, THE MISSISSIPPI
79 MAJOR ECONOMIC IMPACT ACT, AND THE GROWTH AND PROSPERITY ACT,
80 RESPECTIVELY; TO REENACT SECTION 69-2-5, MISSISSIPPI CODE OF 1972,
81 WHICH PRESCRIBES CERTAIN DUTIES OF THE MISSISSIPPI COOPERATIVE
82 EXTENSION SERVICE RELATING TO THE DISSEMINATION OF INFORMATION TO
83 THE AGRICULTURAL COMMUNITY; TO REENACT SECTION 7-1-355,
84 MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE DEPARTMENT OF
85 EMPLOYMENT SECURITY, OFFICE OF THE GOVERNOR, TO MAKE AN ANNUAL
86 REPORT TO THE LEGISLATURE ON WORKFORCE INVESTMENT ACTIVITIES; TO
87 AMEND REENACTED SECTIONS 37-153-7, 43-19-45 AND 71-5-357,
88 MISSISSIPPI CODE OF 1972, TO INFORM THE CODE PUBLISHER OF CERTAIN
89 NONSUBSTANTIVE LANGUAGE THAT SHOULD BE REVISED; TO AMEND SECTION
90 60, CHAPTER 572, LAWS OF 2004, AS AMENDED BY SECTION 58, CHAPTER
91 30, LAWS OF THE FIRST EXTRAORDINARY SESSION OF 2008, AS AMENDED BY
92 SECTION 58, CHAPTER 559, LAWS OF 2010 REGULAR SESSION, AS AMENDED
93 BY CHAPTER 471, LAWS OF 2011, TO EXTEND UNTIL JULY 1, 2019, THE
94 REPEAL DATE ON THOSE STATUTES THAT ESTABLISH AND PRESCRIBE THE
95 MEMBERSHIP OF THE MISSISSIPPI WORKFORCE INVESTMENT BOARD AND
96 TRANSFER THE POWERS AND RESPONSIBILITIES OF THE MISSISSIPPI
97 EMPLOYMENT SECURITY COMMISSION TO THE MISSISSIPPI DEPARTMENT OF
98 EMPLOYMENT SECURITY; TO CODIFY SECTION 71-5-545, MISSISSIPPI CODE
99 OF 1972, TO ESTABLISH A SELF-EMPLOYMENT ASSISTANCE PROGRAM (SEAP)
100 UNDER THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY (MDES); TO
101 PROVIDE ELIGIBILITY AND STANDARDS FOR THE PROGRAM AND TO PROVIDE
102 FOR THE AMOUNT OF SELF-EMPLOYMENT ASSISTANCE ALLOWANCE; TO PROVIDE
103 FOR A SEAP STEERING COMMITTEE; TO AUTHORIZE THE MDES TO ISSUE
104 REGULATIONS TO ADMINISTER THE PROGRAM; TO AMEND SECTION 71-5-355,



105 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FROM AND AFTER JANUARY
106 1, 2012, ACCRUAL RULES SHALL APPLY FOR PURPOSES OF COMPUTING
107 CONTRIBUTION RATES UNDER THE MISSISSIPPI EMPLOYMENT SECURITY LAW
108 INCLUDING ASSOCIATED FUNCTIONS, AND TO PROVIDE THAT FOR ANY TAX
109 YEAR, WHEN THE RESERVE RATIO OF THE UNEMPLOYMENT COMPENSATION FUND
110 ON THE PRECEDING NOVEMBER 16 EQUALS OR EXCEEDS 3%, THE MODIFIED
111 RATES OF EMPLOYER CONTRIBUTIONS SHALL BE IN EFFECT; AND FOR
112 RELATED PURPOSES.

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

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

116 37-153-1. This chapter shall be known and may be cited as
117 the "Mississippi Comprehensive Workforce Training and Education
118 Consolidation Act of 2004."

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

121 37-153-3. It is the intent of the Legislature by the passage
122 of Chapter 572, Laws of 2004, to establish one (1) comprehensive
123 workforce development system in the State of Mississippi that is
124 focused on achieving results, using resources efficiently and
125 ensuring that workers and employers can easily access needed
126 services. This system shall reflect a consolidation of the
127 Mississippi Workforce Development Advisory Council and the
128 Mississippi State Workforce Investment Act Board. The purpose of
129 Chapter 572, Laws of 2004, is to provide workforce activities,
130 through a statewide system that maximizes cooperation among state
131 agencies, that increase the employment, retention and earnings of
132 participants, and increase occupational skill attainment by
133 participants and as a result, improve the quality of the
134 workforce, reduce welfare dependency and enhance the productivity
135 and competitiveness of the State of Mississippi.

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

138 37-153-5. For purposes of this chapter, the following words
139 and phrases shall have the meanings respectively ascribed in this
140 section unless the context clearly indicates otherwise:



141 (a) "State board" means the Mississippi State Workforce
142 Investment Board;

143 (b) "District councils" means the Local Workforce
144 Development Councils;

145 (c) "Local workforce investment board" means the board
146 that oversees the workforce development activities of local
147 workforce areas under the federal Workforce Investment Act.

148 **SECTION 4.** Section 37-153-7, Mississippi Code of 1972, is
149 reenacted and amended as follows:

150 37-153-7. (1) There is created the Mississippi State
151 Workforce Investment Board. The Mississippi State Workforce
152 Investment Board shall be composed of thirty-nine (39) voting
153 members, of which a majority shall be representatives of business
154 and industry in accordance with the federal Workforce Investment
155 Act.

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

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

160 (ii) The Executive Director of the Mississippi
161 Municipal League;

162 (iii) One (1) elected mayor;

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

164 (v) Two (2) representatives of labor
165 organizations, who have been nominated by state labor federations;

166 (vi) Two (2) representatives of individuals and
167 organizations that have experience with respect to youth
168 activities;

169 (vii) One (1) representative of the Mississippi
170 Association of Planning and Development Districts;

171 (viii) One (1) representative from each of the
172 four (4) workforce areas in the state, who has been nominated by
173 the community colleges in each respective area, with the consent



174 of the elected county supervisors within the respective workforce
175 area; and

176 (ix) Nineteen (19) representatives of business
177 owners nominated by business and industry organizations, which may
178 include representatives of the various planning and development
179 districts in Mississippi.

180 (b) The following state officials shall be members of
181 the board:

182 (i) The Executive Director of the Mississippi
183 Department of Employment Security;

184 (ii) The Executive Director of the Department of
185 Rehabilitation Services;

186 (iii) The State Superintendent of Public
187 Education;

188 (iv) The Executive Director of the Mississippi
189 Development Authority;

190 (v) The Executive Director of the Mississippi
191 Department of Human Services;

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

194 (c) The Governor, or his designee, shall serve as a
195 member.

196 (d) Four (4) legislators, who shall serve in a
197 nonvoting capacity, two (2) of whom shall be appointed by the
198 Lieutenant Governor from the membership of the Mississippi Senate,
199 and two (2) of whom shall be appointed by the Speaker of the House
200 from the membership of the Mississippi House of Representatives.

201 (e) The membership of the board shall reflect the
202 diversity of the State of Mississippi.

203 (f) The Governor shall designate the Chairman of the
204 Mississippi State Workforce Investment Board from among the voting
205 members of the board, and a quorum of the board shall consist of a
206 majority of the voting members of the board.



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

211 (h) The Mississippi Department of Employment Security
212 shall be responsible for providing necessary administrative,
213 clerical and budget support for the State Workforce Investment
214 Board.

215 (2) The Mississippi Department of Employment Security shall
216 establish limits on administrative costs for each portion of
217 Mississippi's workforce development system consistent with the
218 federal Workforce Investment Act or any future federal workforce
219 legislation.

220 (3) The Mississippi State Workforce Investment Board shall
221 have the following duties:

222 (a) Develop and submit to the Governor a strategic plan
223 for an integrated state workforce development system that aligns
224 resources and structures the system to more effectively and
225 efficiently meet the demands of Mississippi's employers and job
226 seekers. This plan will comply with the federal Workforce
227 Investment Act of 1998, as amended;

228 (b) Assist the Governor in the development and
229 continuous improvement of the statewide workforce investment
230 system that shall include:

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

233 (ii) Review local workforce development plans that
234 reflect the use of funds from the federal Workforce Investment
235 Act, Wagner-Peyser Act and the Mississippi Comprehensive Workforce
236 Training and Education Consolidation Act;

237 (c) Recommend the designation of local workforce
238 investment areas as required in Section 116 of the federal
239 Workforce Investment Act of 1998. There shall be four (4)



240 workforce investment areas that are generally aligned with the
241 planning and development district structure in Mississippi.
242 Planning and development districts will serve as the fiscal agents
243 to manage Workforce Investment Act funds, oversee and support the
244 local workforce investment boards aligned with the area and the
245 local programs and activities as delivered by the one-stop
246 employment and training system. The planning and development
247 districts will perform this function through the provisions of the
248 county cooperative service districts created under Sections
249 19-3-101 through 19-3-115; however, planning and development
250 districts currently performing this function under the Interlocal
251 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
252 continue to do so;

253 (d) Assist the Governor in the development of an
254 allocation formula for the distribution of funds for adult
255 employment and training activities and youth activities to local
256 workforce investment areas;

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

260 (f) Assist the Governor in the establishment and
261 management of a one-stop employment and training system conforming
262 to the requirements of the federal Workforce Investment Act of
263 1998, as amended, recommending policy for implementing the
264 Governor's approved plan for employment and training activities
265 and services within the state. In developing this one-stop career
266 operating system, the Mississippi State Workforce Investment
267 Board, in conjunction with local workforce investment boards,
268 shall:

269 (i) Design broad guidelines for the delivery of
270 workforce development programs;

271 (ii) Identify all existing delivery agencies and
272 other resources;



273 (iii) Define appropriate roles of the various
274 agencies to include an analysis of service providers' strengths
275 and weaknesses;

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

278 (v) Develop a financial plan to support the
279 delivery system that shall, at a minimum, include an
280 accountability system;

281 (g) Assist the Governor in reducing duplication of
282 services by urging the local workforce investment boards to
283 designate the local community/junior college as the operator of
284 the WIN Job Center. Incentive grants of Two Hundred Thousand
285 Dollars (\$200,000.00) from federal Workforce Investment Act funds
286 may be awarded to the local workforce boards where the
287 community/junior college district is designated as the WIN Job
288 Center. These grants must be provided to the community and junior
289 colleges for the extraordinary costs of coordinating with the
290 Workforce Investment Act, advanced technology centers and advanced
291 skills centers. In no case shall these funds be used to supplant
292 state resources being used for operation of workforce development
293 programs;

294 (h) To provide authority, in accordance with any
295 executive order of the Governor, for developing the necessary
296 collaboration among state agencies at the highest level for
297 accomplishing the purposes of this chapter;

298 (i) To monitor the effectiveness of the workforce
299 development centers and WIN job centers;

300 (j) To advise the Governor, public schools,
301 community/junior colleges and institutions of higher learning on
302 effective school-to-work transition policies and programs that
303 link students moving from high school to higher education and
304 students moving between community colleges and four-year
305 institutions in pursuit of academic and technical skills training;



306 (k) To work with industry to identify barriers that
307 inhibit the delivery of quality workforce education and the
308 responsiveness of educational institutions to the needs of
309 industry;

310 (l) To provide periodic assessments on effectiveness
311 and results of the overall Mississippi comprehensive workforce
312 development system and district councils; and

313 (m) To assist the Governor in carrying out any other
314 responsibility required by the federal Workforce Investment Act of
315 1998, as amended.

316 (4) The Mississippi State Workforce Investment Board shall
317 coordinate all training programs and funds in the State of
318 Mississippi.

319 Each state agency director responsible for workforce training
320 activities shall advise the Mississippi State Workforce Investment
321 Board of appropriate federal and state requirements. Each such
322 state agency director shall remain responsible for the actions of
323 his agency; however, each state agency and director shall work
324 cooperatively, and shall be individually and collectively
325 responsible to the Governor for the successful implementation of
326 the statewide workforce investment system. The Governor, as the
327 Chief Executive Officer of the state, shall have complete
328 authority to enforce cooperation among all entities within the
329 state that utilize federal or state funding for the conduct of
330 workforce development activities.

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

333 37-153-9. (1) In accordance with the federal Workforce
334 Investment Act of 1998, there shall be established, for each of
335 the four (4) state workforce areas prescribed in Section 37-153-3
336 (2)(c), a local workforce investment board to set policy for the
337 portion of the state workforce investment system within the local
338 area and carry out the provisions of the Workforce Investment Act.



339 (2) Each community college district shall have an affiliated
340 District Workforce Development Council. The district council
341 shall be composed of a diverse group of fifteen (15) persons
342 appointed by the board of trustees of the affiliated public
343 community or junior college. The members of each district council
344 shall be selected from persons recommended by the chambers of
345 commerce, employee groups, industrial foundations, community
346 organizations and local governments located in the community
347 college district of the affiliated community college with one (1)
348 appointee being involved in basic literacy training. However, at
349 least eight (8) members of each district council shall be chief
350 executive officers, plant managers that are representatives of
351 employers in that district or service sector executives. The
352 District Workforce Development Council affiliated with each
353 respective community or junior college shall advise the president
354 of the community or junior college on the operation of its
355 workforce development center/one-stop center.

356 The Workforce Development Council shall have the following
357 advisory duties:

358 (a) To develop an integrated and coordinated district
359 workforce investment strategic plan that:

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

362 (ii) Sets short-term and long-term goals for
363 industry-specific training and upgrading and for general
364 development of the workforce; and

365 (iii) Provides for coordination of all training
366 programs, including ABE/GED, Skills Enhancement and Industrial
367 Services, and shall work collaboratively with the State Literacy
368 Resource Center;

369 (b) To coordinate and integrate delivery of training as
370 provided by the workforce development plan;



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

373 (d) To encourage continuous improvement through
374 evaluation and assessment; and

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

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

379 37-153-11. (1) There are created workforce development
380 centers to provide assessment, training and placement services to
381 individuals needing retraining, training and upgrading for small
382 business and local industry. Each workforce development center
383 shall be affiliated with a separate public community or junior
384 college district.

385 (2) Each workforce development center shall be staffed and
386 organized locally by the affiliated community college. The
387 workforce development center shall serve as staff to the
388 affiliated district council.

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

393 (a) For individuals needing training and retraining:

394 (i) Recruiting, assessing, counseling and
395 referring to training or jobs;

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

398 (iii) Basic literacy skills training and high
399 school equivalency education;

400 (iv) Vocational and technical training, full-time
401 or part-time; and



402 (v) Short-term skills training for educationally
403 and economically disadvantaged adults in cooperation with
404 federally established employment and training programs;

405 (b) For specific small businesses, industries or firms
406 within the district:

407 (i) Job analysis, testing and curriculum
408 development;

409 (ii) Development of specific long-range training
410 plans;

411 (iii) Industry or firm-related preemployment
412 training;

413 (iv) Workplace basic skills and literacy training;

414 (v) Customized skills training;

415 (vi) Assistance in developing the capacity for
416 total quality management training;

417 (vii) Technology transfer information and referral
418 services to business of local applications of new research in
419 cooperation with the University Research Center, the state's
420 universities and other laboratories; and

421 (viii) Development of business plans;

422 (c) For public schools within the district technical
423 assistance to secondary schools in curriculum coordination,
424 development of tech prep programs, instructional development and
425 resource coordination; and

426 (d) For economic development, a local forum and
427 resource center for all local industrial development groups to
428 meet and promote regional economic development.

429 (4) Each workforce development center shall compile and make
430 accessible to the Mississippi Workforce Investment Board necessary
431 information for use in evaluating outcomes of its efforts and in
432 improving the quality of programs at each community college, and
433 shall include information on literacy initiatives. Each workforce
434 development center shall, through an interagency management



435 information system, maintain records on new small businesses,
436 placement, length of time on the job after placement and wage
437 rates of those placed in a form containing such information as
438 established by the state council.

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

441 37-153-13. The State Board for Community and Junior Colleges
442 is designated as the primary support agency to the workforce
443 development centers. The State Board for Community and Junior
444 Colleges may exercise the following powers:

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

447 (b) To provide the workforce development centers
448 consistent standards and benchmarks to guide development of the
449 local workforce development system and to provide a means by which
450 the outcomes of local services can be measured;

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

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

456 (ii) Establishing rigorous and comprehensive local
457 preemployment training programs;

458 (iii) Developing local institutional capacity to
459 deliver total quality management training;

460 (iv) Developing local institutional capacity to
461 transfer new technologists into the marketplace;

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

464 (vi) Developing data for strategic planning;

465 (d) To collaborate with the Mississippi Development
466 Authority and other economic development organizations to increase
467 the community college systems' economic development potential;



468 (e) To administer presented and approved certification
469 programs by the community colleges for tax credits and partnership
470 funding for corporate training;

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

476 (g) To develop internal capacity to provide services
477 and to contract for services from universities and other providers
478 directly to local institutions;

479 (h) To develop and administer an incentive
480 certification program;

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

483 (j) To collaborate, partner and contract for services
484 with community-based organizations and disadvantaged businesses in
485 the delivery of workforce training and career information
486 especially to youth, as defined by the federal Workforce
487 Investment Act, and to those adults who are in low income jobs or
488 whose individual skill levels are so low as to be unable initially
489 to be aided by a workforce development center. Community-based
490 organizations and disadvantaged businesses must meet
491 performance-based certification requirements set by the State
492 Board for Community and Junior Colleges.

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

495 71-5-5. The Legislature finds and declares that the
496 existence and continued operation of a federal tax upon employers,
497 against which some portion of the contributions required under
498 this chapter may be credited, will protect Mississippi employers
499 from undue disadvantages in their competition with employers in
500 other states. If at any time, upon a formal complaint to the



501 Governor, he shall find that Title IX of the Social Security Act
502 has been amended or repealed by Congress or has been held
503 unconstitutional by the Supreme Court of the United States, and
504 that, as a result thereof, the provisions of this chapter
505 requiring Mississippi employers to pay contributions will subject
506 them to a serious competitive disadvantage in relation to
507 employers in other states, he shall publish such findings and
508 proclaim that the operation of the provisions of this chapter
509 requiring the payment of contributions and benefits shall be
510 suspended for a period of not more than six (6) months. The
511 Department of Employment Security shall thereupon requisition from
512 the Unemployment Trust Fund all monies therein standing to its
513 credit, and shall direct the State Treasurer to deposit such
514 monies, together with any other monies in the Unemployment
515 Compensation Fund, as a special fund in any banks or public
516 depositories in this state in which general funds of the state may
517 be deposited.

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

520 If within the aforesaid six-month period the Governor shall
521 find that other federal legislation has been enacted which avoids
522 the competitive disadvantage herein described, he shall forthwith
523 publicly so proclaim, and upon the date of such proclamation, the
524 provisions of this chapter requiring the payment of contributions
525 and benefits shall again become fully operative as of the date of
526 such suspension with the same effect as if such suspension had not
527 occurred. If within such six-month period no such other federal
528 legislation is enacted or the Legislature of this state has not
529 otherwise prescribed, the Department of Employment Security shall,
530 under regulations prescribed by it, refund, without interest, to
531 each employer by whom contributions have been paid his pro rata
532 share of the total contributions paid under this chapter. Any
533 interest or earnings of the fund shall be available to the



534 Department of Employment Security to pay for the costs of making
535 such refunds. When the Department of Employment Security shall
536 have executed the duties herein prescribed and performed such
537 other acts as are incidental to the termination of its duties
538 under this chapter, the Governor shall, by public proclamation,
539 declare that the provisions of this chapter, in their entirety,
540 shall cease to be operative.

541 **SECTION 9.** Section 71-5-11, Mississippi Code of 1972, is
542 reenacted as follows:

543 71-5-11. As used in this chapter, unless the context clearly
544 requires otherwise:

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

548 B. "Benefits" means the money payments payable to an
549 individual, as provided in this chapter, with respect to his
550 unemployment.

551 C. "Benefit year" with respect to any individual means the
552 period beginning with the first day of the first week with respect
553 to which he first files a valid claim for benefits, and ending
554 with the day preceding the same day of the same month in the next
555 calendar year; and, thereafter, the period beginning with the
556 first day of the first week with respect to which he next files
557 his valid claim for benefits, and ending with the day preceding
558 the same day of the same month in the next calendar year. Any
559 claim for benefits made in accordance with Section 71-5-515 shall
560 be deemed to be a "valid claim" for purposes of this subsection if
561 the individual has been paid the wages for insured work required
562 under Section 71-5-511(e).

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



565 E. "Calendar quarter" means the period of three (3)
566 consecutive calendar months ending on March 31, June 30, September
567 30, or December 31.

568 F. "Department" or "commission" means the Mississippi
569 Department of Employment Security, Office of the Governor.

570 G. "Executive director" means the Executive Director of the
571 Mississippi Department of Employment Security, Office of the
572 Governor, appointed under Section 71-5-107.

573 H. "Employing unit" means this state or another state or any
574 instrumentalities or any political subdivisions thereof or any of
575 their instrumentalities or any instrumentality of more than one
576 (1) of the foregoing or any instrumentality of any of the
577 foregoing and one or more other states or political subdivisions,
578 any Indian tribe as defined in Section 3306(u) of the Federal
579 Unemployment Tax Act (FUTA), which includes any subdivision,
580 subsidiary or business enterprise wholly owned by such Indian
581 tribe, any individual or type of organization, including any
582 partnership, association, trust, estate, joint-stock company,
583 insurance company, or corporation, whether domestic or foreign, or
584 the receiver, trustee in bankruptcy, trustee or successor thereof,
585 or the legal representative of a deceased person, which has or had
586 in its employ one or more individuals performing services for it
587 within this state. All individuals performing services within
588 this state for any employing unit which maintains two (2) or more
589 separate establishments within this state shall be deemed to be
590 employed by a single employing unit for all the purposes of this
591 chapter. Each individual employed to perform or to assist in
592 performing the work of any agent or employee of an employing unit
593 shall be deemed to be employed by such employing unit for all
594 purposes of this chapter, whether such individual was hired or
595 paid directly by such employing unit or by such agent or employee,
596 provided the employing unit had actual or constructive knowledge
597 of the work. All individuals performing services in the employ of



598 an elected fee-paid county official, other than those related by
599 blood or marriage within the third degree computed by the rule of
600 the civil law to such fee-paid county official, shall be deemed to
601 be employed by such county as the employing unit for all the
602 purposes of this chapter. For purposes of defining an "employing
603 unit" which shall pay contributions on remuneration paid to
604 individuals, if two (2) or more related corporations concurrently
605 employ the same individual and compensate such individual through
606 a common paymaster which is one (1) of such corporations, then
607 each such corporation shall be considered to have paid as
608 remuneration to such individual only the amounts actually
609 disbursed by it to such individual and shall not be considered to
610 have paid as remuneration to such individual such amounts actually
611 disbursed to such individual by another of such corporations.

612 I. "Employer" means:

613 (1) Any employing unit which,

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

618 (b) For some portion of a day in each of twenty
619 (20) different calendar weeks, whether or not such weeks were
620 consecutive, in either the current or the preceding calendar year
621 had in employment at least one (1) individual (irrespective of
622 whether the same individual was in employment in each such day),
623 except as provided in paragraph (9) of this subsection;

624 (2) Any employing unit for which service in employment,
625 as defined in subsection J(3) of this section, is performed;

626 (3) Any employing unit for which service in employment,
627 as defined in subsection J(4) of this section, is performed;

628 (4) (a) Any employing unit for which agricultural
629 labor, as defined in subsection J(6) of this section, is
630 performed;



631 (b) Any employing unit for which domestic service
632 in employment, as defined in subsection J(7) of this section, is
633 performed;

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

638 (6) Any individual or employing unit which acquired its
639 organization, trade, business, or substantially all the assets
640 thereof, from another employing unit, if the employment record of
641 the acquiring individual or employing unit subsequent to such
642 acquisition, together with the employment record of the acquired
643 organization, trade, or business prior to such acquisition, both
644 within the same calendar year, would be sufficient to constitute
645 an employing unit as an employer subject to this chapter under
646 paragraph (1) or (3) of this subsection;

647 (7) Any employing unit which, having become an employer
648 under paragraph (1), (3), (5) or (6) of this subsection or under
649 any other provisions of this chapter, has not, under Section
650 71-5-361, ceased to be an employer subject to this chapter;

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

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

659 (b) In determining whether or not an employing
660 unit for which service other than agricultural labor is also
661 performed is an employer under paragraph (1) or (4)(b) of this
662 subsection, the wages earned or the employment of an employee
663 performing services in agricultural labor, shall not be taken into



664 account. If an employing unit is determined an employer of
665 agricultural labor, such employing unit shall be determined an
666 employer for purposes of paragraph (1) of this subsection;

667 (10) All entities utilizing the services of any
668 employee leasing firm shall be considered the employer of the
669 individuals leased from the employee leasing firm. Temporary help
670 firms shall be considered the employer of the individuals they
671 provide to perform services for other individuals or
672 organizations.

673 J. "Employment" means and includes:

674 (1) Any service performed, which was employment as
675 defined in this section and, subject to the other provisions of
676 this subsection, including service in interstate commerce,
677 performed for wages or under any contract of hire, written or
678 oral, express or implied.

679 (2) Services performed for remuneration for a
680 principal:

681 (a) As an agent-driver or commission-driver
682 engaged in distributing meat products, vegetable products, fruit
683 products, bakery products, beverages (other than milk), or laundry
684 or dry cleaning services;

685 (b) As a traveling or city salesman, other than as
686 an agent-driver or commission-driver, engaged upon a full-time
687 basis in the solicitation on behalf of, and the transmission to, a
688 principal (except for sideline sales activities on behalf of some
689 other person) of orders from wholesalers, retailers, contractors,
690 or operator of hotels, restaurants, or other similar
691 establishments for merchandise for resale or supplies for use in
692 their business operations.

693 However, for purposes of this subsection, the term
694 "employment" shall include services described in subsection
695 J(2) (a) and (b) of this section, only if:



696 (i) The contract of service contemplates that
697 substantially all of the services are to be performed personally
698 by such individual;

699 (ii) The individual does not have a
700 substantial investment in facilities used in connection with the
701 performance of the services (other than in facilities for
702 transportation); and

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

706 (3) Service performed in the employ of this state or
707 any of its instrumentalities or any political subdivision thereof
708 or any of its instrumentalities or any instrumentality of more
709 than one (1) of the foregoing or any instrumentality of any of the
710 foregoing and one or more other states or political subdivisions
711 or any Indian tribe as defined in Section 3306(u) of the Federal
712 Unemployment Tax Act (FUTA), which includes any subdivision,
713 subsidiary or business enterprise wholly owned by such Indian
714 tribe; however, such service is excluded from "employment" as
715 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)
716 of that act and is not excluded from "employment" under subsection
717 J(5) of this section.

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

722 (b) The organization had four (4) or more
723 individuals in employment for some portion of a day in each of
724 twenty (20) different weeks, whether or not such weeks were
725 consecutive, within the current or preceding calendar year,
726 regardless of whether they were employed at the same moment of
727 time.



728 (5) For the purposes of subsection J(3) and (4) of this
729 section, the term "employment" does not apply to service
730 performed:

731 (a) In the employ of:

732 (i) A church or convention or association of
733 churches; or

734 (ii) An organization which is operated
735 primarily for religious purposes and which is operated,
736 supervised, controlled, or principally supported by a church or
737 convention or association of churches; or

738 (b) By a duly ordained, commissioned, or licensed
739 minister of a church in the exercise of his ministry, or by a
740 member of a religious order in the exercise of duties required by
741 such order; or

742 (c) In the employ of a governmental entity
743 referred to in subsection J(3), if such service is performed by an
744 individual in the exercise of duties:

745 (i) As an elected official;

746 (ii) As a member of a legislative body, or a
747 member of the judiciary, of a state or political subdivision or a
748 member of an Indian tribal council;

749 (iii) As a member of the State National Guard
750 or Air National Guard;

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

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

757 1. A major nontenured policy-making or
758 advisory position, or



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

762 (d) In a facility conducted for the purpose of
763 carrying out a program of rehabilitation for individuals whose
764 earning capacity is impaired by age or physical or mental
765 deficiency or injury, or providing remunerative work for
766 individuals who because of their impaired physical or mental
767 capacity cannot be readily absorbed in the competitive labor
768 market, by an individual receiving such rehabilitation or
769 remunerative work; or

770 (e) By an inmate of a custodial or penal
771 institution; or

772 (f) As part of an unemployment work-relief or
773 work-training program assisted or financed in whole or in part by
774 any federal agency or agency of a state or political subdivision
775 thereof or of an Indian tribe, by an individual receiving such
776 work relief or work training, unless coverage of such service is
777 required by federal law or regulation.

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

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

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

785 (ii) For some portion of a day in each of
786 twenty (20) different calendar weeks, whether or not such weeks
787 were consecutive, in either the current or the preceding calendar
788 year, employed in agricultural labor ten (10) or more individuals,
789 regardless of whether they were employed at the same moment of
790 time.



791 (b) For the purposes of subsection J(6) any
792 individual who is a member of a crew furnished by a crew leader to
793 perform service in agricultural labor for any other person shall
794 be treated as an employee of such crew leader:

795 (i) If such crew leader holds a valid
796 certificate of registration under the Farm Labor Contractor
797 Registration Act of 1963; or substantially all the members of such
798 crew operate or maintain tractors, mechanized harvesting or crop
799 dusting equipment, or any other mechanized equipment, which is
800 provided by such crew leader; and

801 (ii) If such individual is not an employee of
802 such other person within the meaning of subsection J(1).

803 (c) For the purpose of subsection J(6), in the
804 case of any individual who is furnished by a crew leader to
805 perform service in agricultural labor for any other person and who
806 is not treated as an employee of such crew leader under paragraph
807 (6)(b) of this subsection:

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

810 (ii) Such other person shall be treated as
811 having paid cash remuneration to such individual in an amount
812 equal to the amount of cash remuneration paid to such individual
813 by the crew leader (either on his own behalf or on behalf of such
814 other person) for the service in agricultural labor performed for
815 such other person.

816 (d) For the purposes of subsection J(6) the term
817 "crew leader" means an individual who:

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

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



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

826 (7) The term "employment" shall include domestic
827 service in a private home, local college club or local chapter of
828 a college fraternity or sorority performed for an employing unit
829 which paid cash remuneration of One Thousand Dollars (\$1,000.00)
830 or more in any calendar quarter in the current or the preceding
831 calendar year to individuals employed in such domestic service.
832 For the purpose of this subsection, the term "employment" does not
833 apply to service performed as a "sitter" at a hospital in the
834 employ of an individual.

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

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

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

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

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

847 (9) Services not covered under paragraph (8) of this
848 subsection and performed entirely without this state, with respect
849 to no part of which contributions are required and paid under an
850 unemployment compensation law of any other state or of the federal
851 government, shall be deemed to be employment subject to this
852 chapter if the individual performing such services is a resident
853 of this state and the department approves the election of the
854 employing unit for whom such services are performed that the



855 entire service of such individual shall be deemed to be employment
856 subject to this chapter.

857 (10) Service shall be deemed to be localized within a
858 state if:

859 (a) The service is performed entirely within such
860 state; or

861 (b) The service is performed both within and
862 without such state, but the service performed without such state
863 is incidental to the individual's service within the state; for
864 example, is temporary or transitory in nature or consists of
865 isolated transactions.

866 (11) The services of an individual who is a citizen of
867 the United States, performed outside the United States (except in
868 Canada), in the employ of an American employer (other than service
869 which is deemed "employment" under the provisions of paragraph
870 (8), (9) or (10) of this subsection or the parallel provisions of
871 another state's law), if:

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

874 (b) The employer has no place of business in the
875 United States; but

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

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

880 (iii) The employer is a partnership or a
881 trust and the number of the partners or trustees who are residents
882 of this state is greater than the number who are residents of any
883 one (1) other state; or

884 (c) None of the criteria of subparagraphs (a) and
885 (b) of this paragraph are met but the employer has elected
886 coverage in this state or, the employer having failed to elect



887 coverage in any state, the individual has filed a claim for
888 benefits, based on such service, under the law of this state; or

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

891 (i) An individual who is a resident of the
892 United States; or

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

895 (iii) A trust if all of the trustees are
896 residents of the United States; or

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

899 (12) All services performed by an officer or member of
900 the crew of an American vessel on or in connection with such
901 vessel, if the operating office from which the operations of such
902 vessel operating on navigable waters within, or within and
903 without, the United States are ordinarily and regularly
904 supervised, managed, directed and controlled, is within this
905 state, notwithstanding the provisions of subsection J(8).

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

913 (14) Services performed by an individual for wages
914 shall be deemed to be employment subject to this chapter unless
915 and until it is shown to the satisfaction of the department that
916 such individual has been and will continue to be free from control
917 and direction over the performance of such services both under his
918 contract of service and in fact; and the relationship of employer



919 and employee shall be determined in accordance with the principles
920 of the common law governing the relation of master and servant.

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

922 (a) Agricultural labor, except as provided in
923 subsection J(6) of this section. The term "agricultural labor"
924 includes all services performed:

925 (i) On a farm or in a forest in the employ of
926 any employing unit in connection with cultivating the soil, in
927 connection with cutting, planting, deadening, marking or otherwise
928 improving timber, or in connection with raising or harvesting any
929 agricultural or horticultural commodity, including the raising,
930 shearing, feeding, caring for, training, and management of
931 livestock, bees, poultry, fur-bearing animals and wildlife;

932 (ii) In the employ of the owner or tenant or
933 other operator of a farm, in connection with the operation,
934 management, conservation, improvement or maintenance of such farm
935 and its tools and equipment, or in salvaging timber or clearing
936 land of brush and other debris left by a hurricane, if the major
937 part of such service is performed on a farm;

938 (iii) In connection with the production or
939 harvesting of naval stores products or any commodity defined in
940 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),
941 or in connection with the raising or harvesting of mushrooms, or
942 in connection with the ginning of cotton, or in connection with
943 the operation or maintenance of ditches, canals, reservoirs, or
944 waterways not owned or operated for profit, used exclusively for
945 supplying and storing water for farming purposes;

946 (iv) (A) In the employ of the operator of a
947 farm in handling, planting, drying, packing, packaging,
948 processing, freezing, grading, storing or delivering to storage or
949 to market or to a carrier for transportation to market, in its
950 unmanufactured state, any agricultural or horticultural commodity;



951 but only if such operator produced more than one-half (1/2) of the
952 commodity with respect to which such service is performed;

953 (B) In the employ of a group of
954 operators of farms (or a cooperative organization of which such
955 operators are members) in the performance of service described in
956 subitem (A), but only if such operators produced more than
957 one-half (1/2) of the commodity with respect to which such service
958 is performed;

959 (C) The provisions of subitems (A) and
960 (B) shall not be deemed to be applicable with respect to service
961 performed in connection with commercial canning or commercial
962 freezing or in connection with any agricultural or horticultural
963 commodity after its delivery to a terminal market for distribution
964 for consumption;

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

967 (vi) As used in paragraph (15)(a) of this
968 subsection, the term "farm" includes stock, dairy, poultry, fruit,
969 fur-bearing animals, and truck farms, plantations, ranches,
970 nurseries, ranges, greenhouses, or other similar structures used
971 primarily for the raising of agricultural or horticultural
972 commodities, and orchards.

973 (b) Domestic service in a private home, local
974 college club, or local chapter of a college fraternity or
975 sorority, except as provided in subsection J(7) of this section,
976 or service performed as a "sitter" at a hospital in the employ of
977 an individual.

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

980 (d) Service performed by an individual in the
981 employ of his son, daughter, or spouse, and service performed by a
982 child under the age of twenty-one (21) in the employ of his father
983 or mother.



984 (e) Service performed in the employ of the United
985 States government or of an instrumentality wholly owned by the
986 United States; except that if the Congress of the United States
987 shall permit states to require any instrumentalities of the United
988 States to make payments into an unemployment fund under a state
989 unemployment compensation act, then to the extent permitted by
990 Congress and from and after the date as of which such permission
991 becomes effective, all of the provisions of this chapter shall be
992 applicable to such instrumentalities and to services performed by
993 employees for such instrumentalities in the same manner, to the
994 same extent, and on the same terms as to all other employers and
995 employing units. If this state should not be certified under the
996 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any
997 year, then the payment required by such instrumentality with
998 respect to such year shall be deemed to have been erroneously
999 collected and shall be refunded by the department from the fund in
1000 accordance with the provisions of Section 71-5-383.

1001 (f) Service performed in the employ of an
1002 "employer" as defined by the Railroad Unemployment Insurance Act,
1003 45 USCS Section 351(a), or as an "employee representative" as
1004 defined by the Railroad Unemployment Insurance Act, 45 USCS
1005 Section 351(f), and service with respect to which unemployment
1006 compensation is payable under an unemployment compensation system
1007 for maritime employees, or under any other unemployment
1008 compensation system established by an act of Congress; however,
1009 the department is authorized and directed to enter into agreements
1010 with the proper agencies under such act or acts of Congress, which
1011 agreements shall become effective ten (10) days after publication
1012 thereof in the manner provided in Section 71-5-117 for general
1013 rules, to provide reciprocal treatment to individuals who have,
1014 after acquiring potential rights to benefits under this chapter,
1015 acquired rights to unemployment compensation under such act or
1016 acts of Congress or who have, after acquiring potential rights to



1017 unemployment compensation under such act or acts of Congress,
1018 acquired rights to benefits under this chapter.

1019 (g) Service performed in any calendar quarter in
1020 the employ of any organization exempt from income tax under the
1021 Internal Revenue Code, 26 USCS Section 501(a) (other than an
1022 organization described in 26 USCS Section 401(a)), or exempt from
1023 income tax under 26 USCS Section 521 if the remuneration for such
1024 service is less than Fifty Dollars (\$50.00).

1025 (h) Service performed in the employ of a school,
1026 college, or university if such service is performed:

1027 (i) By a student who is enrolled and is
1028 regularly attending classes at such school, college or university,
1029 or

1030 (ii) By the spouse of such a student if such
1031 spouse is advised, at the time such spouse commences to perform
1032 such service, that

1033 (A) The employment of such spouse to
1034 perform such service is provided under a program to provide
1035 financial assistance to such student by such school, college, or
1036 university, and

1037 (B) Such employment will not be covered
1038 by any program of unemployment insurance.

1039 (i) Service performed by an individual under the
1040 age of twenty-two (22) who is enrolled at a nonprofit or public
1041 educational institution which normally maintains a regular faculty
1042 and curriculum and normally has a regularly organized body of
1043 students in attendance at the place where its educational
1044 activities are carried on, as a student in a full-time program
1045 taken for credit at such institution, which combines academic
1046 instruction with work experience, if such service is an integral
1047 part of such program and such institution has so certified to the
1048 employer, except that this subparagraph shall not apply to service



1049 performed in a program established for or on behalf of an employer
1050 or group of employers.

1051 (j) Service performed in the employ of a hospital,
1052 if such service is performed by a patient of the hospital, as
1053 defined in subsection N of this section.

1054 (k) Service performed as a student nurse in the
1055 employ of a hospital or a nurses' training school by an individual
1056 who is enrolled and is regularly attending classes in a nurses'
1057 training school chartered or approved pursuant to state law; and
1058 services performed as an intern in the employ of a hospital by an
1059 individual who has completed a four-year course in a medical
1060 school chartered or approved pursuant to state law.

1061 (l) Service performed by an individual as an
1062 insurance agent or as an insurance solicitor, if all such service
1063 performed by such individual is performed for remuneration solely
1064 by way of commission.

1065 (m) Service performed by an individual under the
1066 age of eighteen (18) in the delivery or distribution of newspapers
1067 or shopping news, not including delivery or distribution to any
1068 point for subsequent delivery or distribution.

1069 (n) If the services performed during one-half
1070 (1/2) or more of any pay period by an employee for the employing
1071 unit employing him constitute employment, all the services of such
1072 employee for such period shall be deemed to be employment; but if
1073 the services performed during more than one-half (1/2) of any such
1074 pay period by an employee for the employing unit employing him do
1075 not constitute employment, then none of the services of such
1076 employee for such period shall be deemed to be employment. As
1077 used in this subsection, the term "pay period" means a period (of
1078 not more than thirty-one (31) consecutive days) for which a
1079 payment of remuneration is ordinarily made to the employee by the
1080 employing unit employing him.



1081 (o) Service performed by a barber or beautician
1082 whose work station is leased to him or her by the owner of the
1083 shop in which he or she works and who is compensated directly by
1084 the patrons he or she serves and who is free from direction and
1085 control by the lessor.

1086 K. "Employment office" means a free public employment office
1087 or branch thereof, operated by this state or maintained as a part
1088 of the state controlled system of public employment offices.

1089 L. "Public employment service" means the operation of a
1090 program that offers free placement and referral services to
1091 applicants and employers, including job development.

1092 M. "Fund" means the Unemployment Compensation Fund
1093 established by this chapter, to which all contributions required
1094 and from which all benefits provided under this chapter shall be
1095 paid.

1096 N. "Hospital" means an institution which has been licensed,
1097 certified, or approved by the State Department of Health as a
1098 hospital.

1099 O. "Institution of higher learning," for the purposes of
1100 this section, means an educational institution which:

1101 (1) Admits as regular students only individuals having
1102 a certificate of graduation from a high school, or the recognized
1103 equivalent of such a certificate;

1104 (2) Is legally authorized in this state to provide a
1105 program of education beyond high school;

1106 (3) Provides an educational program for which it awards
1107 a bachelor's or higher degree, or provides a program which is
1108 acceptable for full credit toward such a degree, a program of
1109 postgraduate or postdoctoral studies, or a program of training to
1110 prepare students for gainful employment in a recognized
1111 occupation;

1112 (4) Is a public or other nonprofit institution;



1113 (5) Notwithstanding any of the foregoing provisions of
1114 this subsection, all colleges and universities in this state are
1115 institutions of higher learning for purposes of this section.

1116 P. (1) "State" includes, in addition to the states of the
1117 United States of America, the District of Columbia, Commonwealth
1118 of Puerto Rico and the Virgin Islands.

1119 (2) The term "United States" when used in a
1120 geographical sense includes the states, the District of Columbia,
1121 Commonwealth of Puerto Rico and the Virgin Islands.

1122 (3) The provisions of paragraphs (1) and (2) of
1123 subsection P, as including the Virgin Islands, shall become
1124 effective on the day after the day on which the United States
1125 Secretary of Labor approves for the first time under Section
1126 3304(a) of the Internal Revenue Code of 1954 an unemployment
1127 compensation law submitted to the secretary by the Virgin Islands
1128 for such approval.

1129 Q. "Unemployment."

1130 (1) An individual shall be deemed "unemployed" in any
1131 week during which he performs no services and with respect to
1132 which no wages are payable to him, or in any week of less than
1133 full-time work if the wages payable to him with respect to such
1134 week are less than his weekly benefit amount as computed and
1135 adjusted in Section 71-5-505. The department shall prescribe
1136 regulations applicable to unemployed individuals, making such
1137 distinctions in the procedure as to total unemployment, part-total
1138 unemployment, partial unemployment of individuals attached to
1139 their regular jobs, and other forms of short-time work, as the
1140 department deems necessary.

1141 (2) An individual's week of total unemployment shall be
1142 deemed to commence only after his registration at an employment
1143 office, except as the department may by regulation otherwise
1144 prescribe.



1145 R. (1) "Wages" means all remuneration for personal
1146 services, including commissions and bonuses and the cash value of
1147 all remuneration in any medium other than cash, except that
1148 "wages," for purposes of determining employer's coverage and
1149 payment of contributions for agricultural and domestic service
1150 means cash remuneration only. The reasonable cash value of
1151 remuneration in any medium other than cash shall be estimated and
1152 determined in accordance with rules prescribed by the department;
1153 however, that the term "wages" shall not include:

1154 (a) The amount of any payment made to, or on
1155 behalf of, an employee under a plan or system established by an
1156 employer which makes provision for his employees generally or for
1157 a class or classes of his employees (including any amount paid by
1158 an employer for insurance or annuities, or into a fund, to provide
1159 for any such payment), on account of:

1160 (i) Retirement, or
1161 (ii) Sickness or accident disability, or
1162 (iii) Medical or hospitalization expenses in
1163 connection with sickness or actual disability, or

1164 (iv) Death, provided the employee:

1165 (A) Has not the option to receive,
1166 instead of provision for such death benefit, any part of such
1167 payment or, if such death benefit is insured, any part of the
1168 premiums (or contributions to premiums) paid by his employer, and

1169 (B) Has not the right, under the
1170 provisions of the plan or system or policy of insurance providing
1171 for such death benefit, to assign such benefit or to receive a
1172 cash consideration in lieu of such benefit, either upon his
1173 withdrawal from the plan or system providing for such benefit or
1174 upon termination of such plan or system or policy of insurance or
1175 of his employment with such employer;

1176 (b) Dismissal payments which the employer is not
1177 legally required to make;



1178 (c) Payment by an employer (without deduction from
1179 the remuneration of an employee) of the tax imposed by the
1180 Internal Revenue Code, 26 USCS Section 3101;

1181 (d) From and after January 1, 1992, the amount of
1182 any payment made to or on behalf of an employee for a "cafeteria"
1183 plan, which meets the following requirements:

1184 (i) Qualifies under Section 125 of the
1185 Internal Revenue Code;

1186 (ii) Covers only employees;

1187 (iii) Covers only noncash benefits;

1188 (iv) Does not include deferred compensation
1189 plans.

1190 (2) [Not enacted].

1191 S. "Week" means calendar week or such period of seven (7)
1192 consecutive days as the department may by regulation prescribe.
1193 The department may by regulation prescribe that a week shall be
1194 deemed to be in, within, or during any benefit year which includes
1195 any part of such week.

1196 T. "Insured work" means "employment" for "employers."

1197 U. The term "includes" and "including," when used in a
1198 definition contained in this chapter, shall not be deemed to
1199 exclude other things otherwise within the meaning of the term
1200 defined.

1201 V. "Employee leasing arrangement" means any agreement
1202 between an employee leasing firm and a client, whereby specified
1203 client responsibilities such as payment of wages, reporting of
1204 wages for unemployment insurance purposes, payment of unemployment
1205 insurance contributions and other such administrative duties are
1206 to be performed by an employee leasing firm, on an ongoing basis.

1207 W. "Employee leasing firm" means any entity which provides
1208 specified duties for a client company such as payment of wages,
1209 reporting of wages for unemployment insurance purposes, payment of
1210 unemployment insurance contributions and other administrative



1211 duties, in connection with the client's employees, that are
1212 directed and controlled by the client and that are providing
1213 ongoing services for the client.

1214 X. (1) "Temporary help firm" means an entity which hires
1215 its own employees and provides those employees to other
1216 individuals or organizations to perform some service, to support
1217 or supplement the existing workforce in special situations such as
1218 employee absences, temporary skill shortages, seasonal workloads
1219 and special assignments and projects, with the expectation that
1220 the worker's position will be terminated upon the completion of
1221 the specified task or function.

1222 (2) "Temporary employee" means an employee assigned to
1223 work for the clients of a temporary help firm.

1224 Y. For the purposes of this chapter, the term "notice" shall
1225 include any official communication, statement or other
1226 correspondence required under the administration of this chapter,
1227 and sent by the department through the United States Postal
1228 Service or electronic or digital transfer, via modem or the
1229 Internet.

1230 **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is
1231 reenacted and amended as follows:

1232 71-5-19. (1) Whoever makes a false statement or
1233 representation knowing it to be false, or knowingly fails to
1234 disclose a material fact, to obtain or increase any benefit or
1235 other payment under this chapter or under an employment security
1236 law of any other state, of the federal government or of a foreign
1237 government, either for himself or for any other person, shall be
1238 punished by a fine of not less than One Hundred Dollars (\$100.00)
1239 nor more than Five Hundred Dollars (\$500.00), or by imprisonment
1240 for not longer than thirty (30) days, or by both such fine and
1241 imprisonment; and each such false statement or representation or
1242 failure to disclose a material fact shall constitute a separate
1243 offense.



1244 (2) Any employing unit, any officer or agent of an employing
1245 unit or any other person who makes a false statement or
1246 representation knowing it to be false, or who knowingly fails to
1247 disclose a material fact, to prevent or reduce the payment of
1248 benefits to any individual entitled thereto, or to avoid becoming
1249 or remaining subject hereto, or to avoid or reduce any
1250 contribution or other payment required from any employing unit
1251 under this chapter, or who willfully fails or refuses to make any
1252 such contribution or other payment, or to furnish any reports
1253 required hereunder or to produce or permit the inspection or
1254 copying of records as required hereunder, shall be punished by a
1255 fine of not less than One Hundred Dollars (\$100.00) nor more than
1256 One Thousand Dollars (\$1,000.00), or by imprisonment for not
1257 longer than sixty (60) days, or by both such fine and
1258 imprisonment; and each such false statement, or representation, or
1259 failure to disclose a material fact, and each day of such failure
1260 or refusal shall constitute a separate offense. In lieu of such
1261 fine and imprisonment, the employing unit or representative, or
1262 both employing unit and representative, if such representative is
1263 an employing unit in this state and is found to be a party to such
1264 violation, shall not be eligible for a contributions rate of less
1265 than five and four-tenths percent (5.4%) for the tax year in which
1266 such violation is discovered by the department and for the next
1267 two (2) succeeding tax years.

1268 (3) Any person who shall willfully violate any provision of
1269 this chapter or any other rule or regulation thereunder, the
1270 violation of which is made unlawful or the observance of which is
1271 required under the terms of this chapter and for which a penalty
1272 is neither prescribed herein nor provided by any other applicable
1273 statute, shall be punished by a fine of not less than One Hundred
1274 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),
1275 or by imprisonment for not longer than sixty (60) days, or by both
1276 such fine and imprisonment; and each day such violation continues



1277 shall be deemed to be a separate offense. In lieu of such fine
1278 and imprisonment, the employing unit or representative, or both
1279 employing unit and representative, if such representative is an
1280 employing unit in this state and is found to be a party to such
1281 violation, shall not be eligible for a contributions rate of less
1282 than five and four-tenths percent (5.4%) for the tax year in which
1283 the violation is discovered by the department and for the next two
1284 (2) succeeding tax years.

1285 (4) (a) An overpayment of benefits occurs when a person
1286 receives benefits under this chapter:

1287 (i) While any conditions for the receipt of
1288 benefits imposed by this chapter were not fulfilled in his case;

1289 (ii) While he was disqualified from receiving
1290 benefits; or

1291 (iii) When such person receives benefits and is
1292 later found to be disqualified or ineligible for any reason,
1293 including, but not limited to, a redetermination or reversal by
1294 the department or the courts of a previous decision to award such
1295 person benefits.

1296 (b) Any person receiving an overpayment shall, in the
1297 discretion of the department, be liable to have such sum deducted
1298 from any future benefits payable to him under this chapter and
1299 shall be liable to repay to the department for the Unemployment
1300 Compensation Fund a sum equal to the overpayment amount so
1301 received by him; and such sum shall be collectible in the manner
1302 provided in Sections 71-5-363 through 71-5-383 for the collection
1303 of past-due contributions. In addition to Sections 71-5-363
1304 through 71-5-383, the following shall apply to cases involving
1305 damages for overpaid unemployment benefits which have been
1306 obtained and/or received through fraud as defined by department
1307 regulations and laws governing the department. By definition,
1308 fraud can include failure to report earnings while filing for
1309 unemployment benefits. In the event of fraud, a penalty of twenty



1310 percent (20%) of the amount of the overpayment shall be assessed.
1311 Three-fourths (3/4) of that twenty percent (20%) penalty shall be
1312 deposited into the unemployment trust fund and shall be used only
1313 for the purpose of payment of unemployment benefits. The
1314 remainder of that twenty percent (20%) penalty shall be deposited
1315 into the Special Employment Security Administrative Fund.
1316 Interest on the overpayment balance shall accrue at a rate of one
1317 percent (1%) per month on the unpaid balance until repaid and
1318 shall be deposited into the Special Employment Security
1319 Administration Fund. All interest, penalties and damages
1320 deposited into the Special Employment Security Administration Fund
1321 shall be used by the department for administration of the
1322 Mississippi Department of Employment Security.

1323 (c) Any such judgment against such person for
1324 collection of such overpayment shall be in the form of a
1325 seven-year renewable lien. Unless action be brought thereon prior
1326 to expiration of the lien, the department must refile the notice
1327 of the lien prior to its expiration at the end of seven (7) years.
1328 There shall be no limit upon the number of times the department
1329 may refile notices of liens for collection of overpayments.

1330 (5) The department, by agreement with another state or the
1331 United States, as provided under Section 303(g) of the Social
1332 Security Act, may recover any overpayment of benefits paid to any
1333 individual under the laws of this state or of another state or
1334 under an unemployment benefit program of the United States. Any
1335 overpayments subject to this subsection may be deducted from any
1336 future benefits payable to the individual under the laws of this
1337 state or of another state or under an unemployment program of the
1338 United States.

1339 **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is
1340 reenacted as follows:

1341 71-5-101. There is established the Mississippi Department of
1342 Employment Security, Office of the Governor. The Department of



1343 Employment Security shall be the Mississippi Employment Security
1344 Commission and shall retain all powers and duties as granted to
1345 the Mississippi Employment Security Commission. Wherever the term
1346 "Employment Security Commission" appears in any law, the same
1347 shall mean the Mississippi Department of Employment Security,
1348 Office of the Governor. The Executive Director of the Department
1349 of Employment Security may assign to the appropriate offices such
1350 powers and duties deemed appropriate to carry out the lawful
1351 functions of the department.

1352 **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is
1353 reenacted as follows:

1354 71-5-107. The department shall administer this chapter
1355 through a full-time salaried executive director, to be appointed
1356 by the Governor, with the advice and consent of the Senate. He
1357 shall be responsible for the administration of this chapter under
1358 authority delegated to him by the Governor.

1359 **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is
1360 reenacted as follows:

1361 71-5-109. There is created a Board of Review consisting of
1362 three (3) members to be appointed by the executive director. The
1363 executive director shall designate one (1) member of the Board of
1364 Review as chairman. Each member shall be paid a salary or per
1365 diem at a rate to be determined by the executive director, and
1366 such expenses as may be allowed by the executive director. All
1367 salaries, per diem and expenses of the Board of Review shall be
1368 paid from the Employment Security Administration Fund.

1369 **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is
1370 reenacted as follows:

1371 71-5-111. There is created in the State Treasury a special
1372 fund to be known as the Employment Security Administration Fund.
1373 All monies which are deposited or paid into this fund are
1374 appropriated and made available to the department. All monies in
1375 this fund shall be expended solely for the purpose of defraying



1376 the cost of administration of this chapter, and for no other
1377 purpose whatsoever. The fund shall consist of all monies
1378 appropriated by this state and all monies received from the United
1379 States of America, or any agency thereof, or from any other source
1380 for such purpose. Notwithstanding any provision of this section,
1381 all monies requisitioned and deposited in this fund pursuant to
1382 Section 71-5-457 shall remain part of the Employment Security
1383 Administration Fund and shall be used only in accordance with the
1384 conditions specified in that section. All monies in this fund
1385 shall be deposited, administered and disbursed in the same manner
1386 and under the same conditions and requirements as is provided by
1387 law for other special funds in the State Treasury. The State
1388 Treasurer shall be liable on his official bond for the faithful
1389 performance of his duties in connection with the Employment
1390 Security Administration Fund under this chapter.

1391 **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is
1392 reenacted as follows:

1393 71-5-112. All funds received by the Mississippi Department
1394 of Employment Security shall clear through the State Treasury as
1395 provided and required by Sections 71-5-111 and 71-5-453. All
1396 expenditures from the administration fund of the department
1397 authorized by Section 71-5-111 shall be expended only pursuant to
1398 appropriation approved by the Legislature and as provided by law.

1399 **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is
1400 reenacted as follows:

1401 71-5-113. All monies received from the Social Security Board
1402 or its successors for the administration of this chapter shall be
1403 expended solely for the purposes and in the amounts found
1404 necessary by the Social Security Board or its successors for the
1405 proper and efficient administration of this chapter.

1406 It shall be the duty of the department to take appropriate
1407 action with respect to the replacement, within a reasonable time,
1408 of any monies received from the Social Security Board, or its



1409 successors, for the administration of this chapter, and monies
1410 used to match grants pursuant to the provisions of the
1411 Wagner-Peyser Act, which the board, or its successors, find,
1412 because of any action or contingency, have been lost or have been
1413 expended for purposes other than, or in amounts in excess of those
1414 found necessary by the Social Security Board, or its successors,
1415 for the proper administration of this chapter. Funds which have
1416 been expended by the department or its agents in accordance with
1417 the budget approved by the Social Security Board, or its
1418 successors, or in accordance with the general standards and
1419 limitations promulgated by the Social Security Board, or its
1420 successors, prior to such expenditure (where proposed expenditures
1421 have not been specifically disapproved by the Social Security
1422 Board, or its successors), shall not be deemed to require
1423 replacement. To effectuate the purposes of this paragraph, it
1424 shall be the duty of the department to take such action to
1425 safeguard the expenditure of the funds referred to herein as it
1426 deems necessary. In the event of a loss of such funds or an
1427 improper expenditure thereof as herein defined, it shall be the
1428 duty of the department to notify the Governor of any such loss or
1429 improper expenditure and submit to him a request for an
1430 appropriation in the amount thereof. The Governor shall transmit
1431 to the next regular session of the Legislature following such
1432 notification, the department's request for an appropriation in an
1433 amount necessary to replace funds which have been lost or
1434 improperly expended as defined above. Such request of the
1435 department for an appropriation shall not be subject to the
1436 provisions of Sections 27-103-101 through 27-103-139. The
1437 Legislature recognizes its obligation to replace such funds as may
1438 be necessary and shall make necessary appropriations in accordance
1439 with such requests.

1440 **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is
1441 reenacted and amended as follows:



1442 71-5-114. There is created in the State Treasury a special
1443 fund, to be known as the "Special Employment Security
1444 Administration Fund," into which shall be deposited or transferred
1445 all interest, penalties and damages collected on and after July 1,
1446 1982, pursuant to Sections 71-5-363 through 71-5-379 and all
1447 interest and penalties required to be deposited into the fund
1448 pursuant to Section 71-5-19(4)(b). Interest, penalties and
1449 damages collected on delinquent payments deposited during any
1450 calendar quarter in the clearing account in the Unemployment Trust
1451 Fund shall, as soon as practicable after the close of such
1452 calendar quarter, be transferred to the Special Employment
1453 Security Administration Fund. All monies in this fund shall be
1454 deposited, administered and disbursed in the same manner and under
1455 the same conditions and requirements as is provided by law for
1456 other special funds in the State Treasury. The State Treasurer
1457 shall be liable on his official bond for the faithful performance
1458 of his duties in connection with the Special Employment Security
1459 Administration Fund under this chapter. Those monies may be
1460 expended for any programs for which the department has
1461 administrative responsibility but shall not be expended or made
1462 available for expenditure in any manner which would permit their
1463 substitution for (or permit a corresponding reduction in) federal
1464 funds which would, in the absence of those monies, be available to
1465 finance expenditures for the administration of the state
1466 unemployment compensation and employment service laws or any other
1467 laws directing the administration of any programs for which the
1468 department has the administrative responsibility. Nothing in this
1469 section shall prevent those monies in this fund from being used as
1470 a revolving fund to cover expenditures necessary and proper under
1471 the law for which federal funds have been duly requested but not
1472 yet received, subject to the charging of such expenditures against
1473 such funds when necessary. The monies in this fund may be used by
1474 the department for the payment of costs of administration of the



1475 employment security laws of this state which are found not to be
1476 or not to have been properly and validly chargeable against funds
1477 obtained from federal sources. All monies in this Special
1478 Employment Security Administration Fund shall be continuously
1479 available to the department for expenditure in accordance with the
1480 provisions of this chapter, and shall not lapse at any time. The
1481 monies in this fund are specifically made available to replace, as
1482 contemplated by Section 71-5-113, expenditures from the Employment
1483 Security Administration Fund established by Section 71-5-111,
1484 which have been found, because of any action or contingency, to
1485 have been lost or improperly expended.

1486 The department, whenever it is of the opinion that the money
1487 in the Special Employment Security Administration Fund is more
1488 than ample to pay for all foreseeable needs for which such special
1489 fund is set up, may, by written order, order the transfer
1490 therefrom to the Unemployment Compensation Fund of such amount of
1491 money in the Special Employment Security Administration Fund as it
1492 deems proper, and the same shall thereupon be immediately
1493 transferred to the Unemployment Compensation Fund.

1494 **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is
1495 reenacted as follows:

1496 71-5-115. It shall be the duty of the executive director to
1497 administer this chapter; and the executive director shall have the
1498 power and authority to adopt, amend or rescind such rules and
1499 regulations, to employ such persons, make such expenditures,
1500 require such reports, make such investigations, and take such
1501 other action as he deems necessary or suitable to that end. Such
1502 rules and regulations shall be effective upon publication in the
1503 manner, not inconsistent with the provisions of this chapter,
1504 which the executive director shall prescribe. The executive
1505 director shall determine the department's own organization and
1506 methods of procedure in accordance with the provisions of this
1507 chapter, and shall have an official seal which shall be judicially



1508 noticed. Not later than the first day of February in each year,
1509 the executive director shall submit to the Governor a report
1510 covering the administration and operation of this chapter during
1511 the preceding fiscal year and shall make such recommendations for
1512 amendments to this chapter as the executive director deems proper.
1513 Whenever the executive director believes that a change in
1514 contribution or benefit rates will become necessary to protect the
1515 solvency of the fund, he shall promptly so inform the Governor and
1516 the Legislature, and make recommendations with respect thereto.

1517 **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is
1518 reenacted as follows:

1519 71-5-117. General rules may be adopted, amended or rescinded
1520 by the executive director only after public hearing or opportunity
1521 to be heard thereon, of which proper notice has been given.
1522 General rules shall become effective ten (10) days after filing
1523 with the Secretary of State and publication in one or more
1524 newspapers of general circulation in this state. Regulations may
1525 be adopted, amended or rescinded by the executive director and
1526 shall become effective in the manner and at the time prescribed by
1527 the executive director.

1528 **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is
1529 reenacted as follows:

1530 71-5-119. The department shall cause to be available for
1531 distribution to the public the text of this chapter, its
1532 regulations and general rules, its reports to the Governor, and
1533 any other material it deems relevant and suitable, and shall
1534 furnish the same to any person upon application therefor.

1535 **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is
1536 reenacted as follows:

1537 71-5-121. Subject to other provisions of this chapter, the
1538 executive director is authorized to appoint, fix the compensation,
1539 and prescribe the duties and powers of such officers, accountants,
1540 attorneys, experts and other persons as may be necessary in the



1541 performance of department duties; however, all personnel who were
1542 former members of the Armed Forces of the United States of America
1543 shall be given credit regardless of rate, rank or commission. All
1544 positions shall be filled by persons selected and appointed on a
1545 nonpartisan merit basis, in accordance with Section 25-9-101 et
1546 seq., that provides for a state service personnel system. The
1547 executive director shall not employ any person who is an officer
1548 or committee member of any political party organization. The
1549 executive director may delegate to any such person so appointed
1550 such power and authority as he deems reasonable and proper for the
1551 effective administration of this chapter, and may in his
1552 discretion bond any person handling monies or signing checks
1553 hereunder. The veteran status of an individual shall be
1554 considered and preference given in accordance with the provisions
1555 of the State Personnel Board.

1556 The department and its employees are exempt from Sections
1557 25-15-101 and 25-15-103.

1558 The department may use federal granted funds to provide such
1559 group health, life, accident and hospitalization insurance for its
1560 employees as may be agreed upon by the department and the federal
1561 granting authorities.

1562 The department shall adopt a "layoff formula" to be used
1563 wherever it is determined that, because of reduced workload,
1564 budget reductions or in order to effect a more economical
1565 operation, a reduction in force shall occur in any group.

1566 In establishing this formula, the department shall give
1567 effect to the principle of seniority and shall provide that
1568 seniority points may be added for disabled veterans and veterans,
1569 with due regard to the efficiency of the service. Any such layoff
1570 formula shall be implemented according to the policies, rules and
1571 regulations of the State Personnel Board.

1572 **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is
1573 reenacted as follows:



1574 71-5-123. The executive director shall retain all powers and
1575 duties as granted to the state advisory council appointed by the
1576 former Employment Security Commission. The executive director may
1577 appoint local advisory councils, composed in each case of an equal
1578 number of employer representatives and employee representatives
1579 who may fairly be regarded as representative because of their
1580 vocation, employment or affiliations, and of such members
1581 representing the general public as the executive director may
1582 designate. Such councils shall aid the department in formulating
1583 policies and discussing problems related to the administration of
1584 this chapter and in assuring impartiality and freedom from
1585 political influence in the solution of such problems. Members of
1586 the advisory councils shall receive a per diem in accordance with
1587 Section 25-3-69 for attendance upon meetings of the council, and
1588 shall be reimbursed for actual and necessary traveling expenses.
1589 The per diem and expenses herein authorized shall be paid from the
1590 Employment Security Administration Fund.

1591 **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is
1592 reenacted as follows:

1593 71-5-125. The department shall take all appropriate steps to
1594 reduce and prevent unemployment; to encourage and assist in the
1595 adoption of practical methods of vocational training, retraining
1596 and vocational guidance; to investigate, recommend, advise and
1597 assist in the establishment and operation, by municipalities,
1598 counties, school districts and the state, of reserves for public
1599 works to be used in times of business depression and unemployment;
1600 to promote the reemployment of unemployed workers throughout the
1601 state in every other way that may be feasible; and to these ends
1602 to carry on and publish the results of investigation and research
1603 studies.

1604 **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is
1605 reenacted as follows:



1606 71-5-127. (1) Any information or records concerning an
1607 individual or employing unit obtained by the department pursuant
1608 to the administration of this chapter or any other federally
1609 funded programs for which the department has responsibility shall
1610 be private and confidential, except as otherwise provided in this
1611 article or by regulation. Information or records may be released
1612 by the department when the release is required by the federal
1613 government in connection with, or as a condition of funding for, a
1614 program being administered by the department.

1615 (2) Each employing unit shall keep true and accurate work
1616 records, containing such information as the department may
1617 prescribe. Such records shall be open to inspection and be
1618 subject to being copied by the department or its authorized
1619 representatives at any reasonable time and as often as may be
1620 necessary. The department, Board of Review and any referee may
1621 require from any employing unit any sworn or unsworn reports with
1622 respect to persons employed by it which they or any of them deem
1623 necessary for the effective administration of this chapter.
1624 Information, statements, transcriptions of proceedings,
1625 transcriptions of recordings, electronic recordings, letters,
1626 memoranda, and other documents and reports thus obtained or
1627 obtained from any individual pursuant to the administration of
1628 this chapter shall, except to the extent necessary for the proper
1629 administration of this chapter, be held confidential and shall not
1630 be published or be opened to public inspection (other than to
1631 public employees in the performance of their public duties) in any
1632 manner revealing the individual's or employing unit's identity.

1633 (3) Any claimant or his legal representative at a hearing
1634 before an appeal tribunal or the Board of Review shall be supplied
1635 with information from such records to the extent necessary for the
1636 proper presentation of his claim in any proceeding pursuant to
1637 this chapter.



1638 (4) Any employee or member of the Board of Review or any
1639 employee of the department who violates any provisions of this
1640 section shall be fined not less than Twenty Dollars (\$20.00) nor
1641 more than Two Hundred Dollars (\$200.00), or imprisoned for not
1642 longer than ninety (90) days, or both.

1643 (5) The department may make the state's records relating to
1644 the administration of this chapter available to the Railroad
1645 Retirement Board, and may furnish the Railroad Retirement Board,
1646 at the expense of such board, such copies thereof as the Railroad
1647 Retirement Board deems necessary for its purposes. The department
1648 may afford reasonable cooperation with every agency of the United
1649 States charged with the administration of any unemployment
1650 insurance law.

1651 **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is
1652 reenacted as follows:

1653 71-5-129. Records hereinafter designated, which are found by
1654 the department to be useless, may be disposed of in accordance
1655 with approved records control schedules.

1656 (a) Records which have been preserved by it for not
1657 less than three (3) years:

- 1658 (1) Initial claims for benefits,
- 1659 (2) Continued claims for benefits,
- 1660 (3) Correspondence and master index cards in
1661 connection with such claims for benefits, and
- 1662 (4) Individual wage slips filed by employers
1663 subject to the provisions of the Unemployment Compensation Law.

1664 (b) Records which have been preserved by it for not
1665 less than six (6) months after becoming inactive:

- 1666 (1) Work applications,
- 1667 (2) Cross-index cards for work applications,
- 1668 (3) Test records,
- 1669 (4) Employer records,
- 1670 (5) Work orders,



- 1671 (6) Clearance records,
1672 (7) Counseling records,
1673 (8) Farm placement records, and
1674 (9) Correspondence relating to all such records.

1675 Nothing herein contained shall be construed as authorizing
1676 the destruction or disposal of basic fiscal records reflecting the
1677 financial operations of the department and no records may be
1678 destroyed without the approval of the Director of the Department
1679 of Archives and History.

1680 **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is
1681 reenacted as follows:

1682 71-5-131. All letters, reports, communications, or any other
1683 matters, either oral or written, from the employer or employee to
1684 each other or to the department or any of its agents,
1685 representatives or employees, which shall have been written, sent,
1686 delivered or made in connection with the requirements and
1687 administration of this chapter shall be absolutely privileged and
1688 shall not be made the subject matter or basis of any suit for
1689 slander or libel in any court of the State of Mississippi unless
1690 the same be false in fact and maliciously written, sent, delivered
1691 or made for the purpose of causing a denial of benefits under this
1692 chapter.

1693 **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is
1694 reenacted as follows:

1695 71-5-133. In any case where an employing unit or any
1696 officer, member or agent thereof, or any other person having
1697 possession of the records thereof, shall fail or refuse upon
1698 demand by the department or its duly appointed agents to produce
1699 or permit the examination or copying of any book, paper, account,
1700 record or other data pertaining to payrolls or employment or
1701 ownership of interests or stock in any employing unit, or bearing
1702 upon the correctness of any report, or for the purpose of making a
1703 report as required by this chapter where none has been made, then



1704 and in that event the department or its duly authorized agents
1705 may, by the issuance of a subpoena, require the attendance of such
1706 employing unit or any officer, member or agent thereof, or any
1707 other person having possession of the records thereof, and take
1708 testimony with respect to any such matter and may require any such
1709 person to produce any books or records specified in such subpoena.
1710 The department or its authorized agents at any such hearing shall
1711 have power to administer oaths to any such person or persons.
1712 When any person called as a witness by a subpoena signed by the
1713 department or its agents and served upon him by the sheriff of a
1714 county of which such person is a resident, or wherein is located
1715 the principal office of such employing unit or wherein such
1716 records are located or kept, shall fail to obey such subpoena to
1717 appear before the department or its authorized agent, or shall
1718 refuse to testify or to answer any questions or to produce any
1719 book, record, paper or other data when required to do so, such
1720 failure or refusal shall be reported to the Attorney General, who
1721 shall thereupon institute proceedings by the filing of a petition
1722 in the name of the State of Mississippi, on the relation of the
1723 department, in the circuit court or other court of competent
1724 jurisdiction of the county where such witness resides, or wherein
1725 such records are located or kept, to compel the obedience of such
1726 witness. Such petition shall set forth the facts and
1727 circumstances of the demand for and refusal or failure to permit
1728 the examination or copying of such records, or the failure or
1729 refusal of such witness to testify in answer to such subpoena or
1730 to produce the records so required by such subpoena. Such court,
1731 upon the filing and docketing of such petition, shall thereupon
1732 promptly issue an order to the defendants named in the petition to
1733 produce forthwith in such court, or at a place in such county
1734 designated in such order for the examination or copying by the
1735 department or its duly appointed agents, the records, books or
1736 documents so described, and to testify concerning matters



1737 described in such petition. Unless such defendants to such
1738 petition shall appear in the court upon a day specified in such
1739 order, which day shall be not more than ten (10) days after the
1740 date of issuance of such order, and offer, under oath, good and
1741 sufficient reasons why such examination or copying should not be
1742 permitted, or why such subpoena should not be obeyed, such court
1743 shall thereupon deliver to the department or its agents, for
1744 examination or copying, the records, books and documents so
1745 described in the petition and so produced in such court, and shall
1746 order the defendants to appear in answer to the subpoena of the
1747 department or its agents, and to testify concerning matters
1748 inquired about by the department. Any employing unit or any
1749 officer, member or agent thereof, or any other person having
1750 possession of the records thereof, who shall willfully disobey
1751 such order of the court after the same shall have been served upon
1752 him shall be guilty of indirect contempt of such court from which
1753 such order shall have issued, and may be adjudged in contempt of
1754 the court and punished therefor as provided by law.

1755 **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is
1756 reenacted as follows:

1757 71-5-135. If any employing unit fails to make any report
1758 required by this chapter, the department or its authorized agents
1759 shall give notice to such employing unit to make and file such
1760 report within fifteen (15) days from the date of such notice. If
1761 such employing unit, by its proper members, officers or agents,
1762 shall fail or refuse to make and file such reports within such
1763 time, then and in that event such report shall be made by the
1764 department or its authorized agents from the best information
1765 available, and the amount of contributions due shall be computed
1766 thereon; and such report shall be prima facie correct for the
1767 purposes of this chapter.

1768 **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is
1769 reenacted as follows:



1770 71-5-137. In the discharge of the duties imposed by this
1771 chapter, the department, any referee, the members of the Board of
1772 Review, and any duly authorized representative of any of them
1773 shall have power to administer oaths and affirmations, to take
1774 depositions, certify to official acts, and issue subpoenas to
1775 compel the attendance of witnesses and the production of books,
1776 papers, correspondence, memoranda and other records deemed
1777 necessary as evidence in connection with a disputed claim or the
1778 administration of this chapter.

1779 **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is
1780 reenacted as follows:

1781 71-5-139. In case of contumacy or refusal to obey a subpoena
1782 issued to any person, any court in this state within the
1783 jurisdiction of which the inquiry is carried on, or within the
1784 jurisdiction of which the person guilty of contumacy or refusal to
1785 obey is found or resides or transacts business, upon application
1786 by the department, the Board of Review, any referee, or any duly
1787 authorized representative of any of them, shall have jurisdiction
1788 to issue to such person an order requiring such person to appear
1789 before the department, the Board of Review, any referee, or any
1790 duly authorized representative of any of them, there to produce
1791 evidence if so ordered or there to give testimony touching the
1792 matter under investigation or in question. Any failure to obey
1793 such order of the court may be punished by the court as a contempt
1794 thereof. Any person who shall, without just cause, fail or refuse
1795 to attend and testify or to answer any lawful inquiry or to
1796 produce books, papers, correspondence, memoranda and other records
1797 if it is in his power so to do, in obedience to a subpoena of the
1798 department, the Board of Review, any referee, or any duly
1799 authorized representative of any of them, shall be punished by a
1800 fine of not more than Two Hundred Dollars (\$200.00), or by
1801 imprisonment for not longer than sixty (60) days, or by both such



1802 fine and imprisonment; and each day such violation continues shall
1803 be deemed to be a separate offense.

1804 **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is
1805 reenacted as follows:

1806 71-5-141. No person shall be excused from attending and
1807 testifying or from producing books, papers, correspondence,
1808 memoranda and other records before the department, the Board of
1809 Review, any referee, or any duly authorized representative of any
1810 of them, or in obedience to the subpoena of any of them in any
1811 cause or proceeding before the department, the Board of Review or
1812 an appeal tribunal, on the ground that the testimony or evidence,
1813 documentary or otherwise, required of him may tend to incriminate
1814 him or subject him to a penalty or forfeiture; but no individual
1815 shall be prosecuted or subjected to any penalty or forfeiture for
1816 or on account of any transaction, matter or thing concerning which
1817 he is compelled, after having claimed his privilege against
1818 self-incrimination, to testify or produce evidence, documentary or
1819 otherwise, except that such individual so testifying shall not be
1820 exempt from prosecution and punishment for perjury committed in so
1821 testifying.

1822 **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is
1823 reenacted as follows:

1824 71-5-143. In the administration of this chapter, the
1825 department shall cooperate, to the fullest extent consistent with
1826 the provisions of this chapter, with the Social Security Board
1827 created by the Social Security Act, approved August 14, 1935, as
1828 amended; shall make such reports in such form and containing such
1829 information as the Social Security Board may from time to time
1830 require, and shall comply with such provisions as the Social
1831 Security Board may from time to time find necessary to assure the
1832 correctness and verification of such reports; and shall comply
1833 with the reasonable, valid and lawful regulations prescribed by
1834 the Social Security Board pursuant to and under the authority of



1835 the Social Security Act, governing the expenditures of such sums
1836 as may be allotted and paid to this state under Title III of the
1837 Social Security Act, as amended, for the purpose of assisting in
1838 the administration of this chapter.

1839 Upon request therefor, the department shall furnish to any
1840 agency of the United States charged with the administration of
1841 public works, or assistance through public employment, the name,
1842 address, ordinary occupation and employment status of each
1843 recipient of benefits, and such recipient's rights to further
1844 benefits under this chapter.

1845 **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is
1846 reenacted as follows:

1847 71-5-201. The Mississippi State Employment Service is
1848 established in the Mississippi Department of Employment Security,
1849 Office of the Governor. The department, in the conduct of such
1850 service, shall establish and maintain free public employment
1851 offices in such number and in such places as may be necessary for
1852 the proper administration of this article and for the purpose of
1853 performing such functions as are within the purview of the act of
1854 Congress entitled "An act to provide for the establishment of a
1855 national employment system and for cooperation with the states in
1856 the promotion of such system, and for other purposes" (29 USCS
1857 Section 49 et seq.). Any existing free public employment offices
1858 maintained by the state but not heretofore under the jurisdiction
1859 of the department shall be transferred to the jurisdiction of the
1860 department, and upon such transfer all duties and powers conferred
1861 upon any other department, agency or officers of this state
1862 relating to the establishment, maintenance and operation of free
1863 public employment offices shall be vested in the department. The
1864 Mississippi State Employment Service shall be administered by the
1865 department, which is charged with the duty to cooperate with any
1866 official or agency of the United States having powers or duties
1867 under the provisions of the act of Congress, as amended, and to do



1868 and perform all things necessary to secure to this state the
1869 benefits of that act of Congress, as amended, in the promotion and
1870 maintenance of a system of public employment offices. The
1871 provisions of that act of Congress, as amended, are accepted by
1872 this state, in conformity with 29 USCS Section 49c, and this state
1873 will observe and comply with the requirements thereof. The
1874 department is designated and constituted the agency of this state
1875 for the purposes of that act. The department may cooperate with
1876 or enter into agreements with the Railroad Retirement Board or
1877 veteran's organization with respect to the establishment,
1878 maintenance and use of free employment service facilities.

1879 **SECTION 34.** Section 71-5-357, Mississippi Code of 1972, is
1880 reenacted and amended as follows:

1881 71-5-357. Benefits paid to employees of nonprofit
1882 organizations shall be financed in accordance with the provisions
1883 of this section. For the purpose of this section, a nonprofit
1884 organization is an organization (or group of organizations)
1885 described in Section 501(c)(3) of the Internal Revenue Code of
1886 1954 which is exempt from income tax under Section 501(a) of such
1887 code (26 USCS Section 501).

1888 (a) Any nonprofit organization which, under Section
1889 71-5-11, subsection I(3), is or becomes subject to this chapter
1890 shall pay contributions under the provisions of Sections 71-5-351
1891 through 71-5-355 unless it elects, in accordance with this
1892 paragraph, to pay to the department for the unemployment fund an
1893 amount equal to the amount of regular benefits and one-half (1/2)
1894 of the extended benefits paid, that is attributable to service in
1895 the employ of such nonprofit organization, to individuals for
1896 weeks of unemployment which begin during the effective period of
1897 such election.

1898 (i) Any nonprofit organization which becomes
1899 subject to this chapter may elect to become liable for payments in
1900 lieu of contributions for a period of not less than twelve (12)



1901 months, beginning with the date on which such subjectivity begins,
1902 by filing a written notice of its election with the department not
1903 later than thirty (30) days immediately following the date of the
1904 determination of such subjectivity.

1905 (ii) Any nonprofit organization which makes an
1906 election in accordance with subparagraph (i) of this paragraph
1907 will continue to be liable for payments in lieu of contributions
1908 unless it files with the department a written termination notice
1909 not later than thirty (30) days prior to the beginning of the tax
1910 year for which such termination shall first be effective.

1911 (iii) Any nonprofit organization which has been
1912 paying contributions under this chapter may change to a
1913 reimbursable basis by filing with the department, not later than
1914 thirty (30) days prior to the beginning of any tax year, a written
1915 notice of election to become liable for payments in lieu of
1916 contributions. Such election shall not be terminable by the
1917 organization for that and the next tax year.

1918 (iv) The department may for good cause extend the
1919 period within which a notice of election or a notice of
1920 termination must be filed, and may permit an election to be
1921 retroactive.

1922 (v) The department, in accordance with such
1923 regulations as it may prescribe, shall notify each nonprofit
1924 organization of any determination which it may make of its status
1925 as an employer, of the effective date of any election which it
1926 makes and of any termination of such election. Such
1927 determinations shall be subject to reconsideration, appeal and
1928 review in accordance with the provisions of Sections 71-5-351
1929 through 71-5-355.

1930 (b) Payments in lieu of contributions shall be made in
1931 accordance with the provisions of subparagraph (i) of this
1932 paragraph.



1933 (i) At the end of each calendar quarter, or at the
1934 end of any other period as determined by the department, the
1935 department shall bill each nonprofit organization (or group of
1936 such organizations) which has elected to make payments in lieu of
1937 contributions, for an amount equal to the full amount of regular
1938 benefits plus one-half (1/2) of the amount of extended benefits
1939 paid during such quarter or other prescribed period that is
1940 attributable to service in the employ of such organization.

1941 (ii) Payment of any bill rendered under
1942 subparagraph (i) of this paragraph shall be made not later than
1943 forty-five (45) days after such bill was delivered to the
1944 nonprofit organization, unless there has been an application for
1945 review and redetermination in accordance with subparagraph (v) of
1946 this paragraph.

1947 1. All of the enforcement procedures for the
1948 collection of delinquent contributions contained in Sections
1949 71-5-363 through 71-5-383 shall be applicable in all respects for
1950 the collection of delinquent payments due by nonprofit
1951 organizations who have elected to become liable for payments in
1952 lieu of contributions.

1953 2. If any nonprofit organization is
1954 delinquent in making payments in lieu of contributions, the
1955 department may terminate such organization's election to make
1956 payments in lieu of contributions as of the beginning of the next
1957 tax year, and such termination shall be effective for the balance
1958 of such tax year.

1959 (iii) Payments made by any nonprofit organization
1960 under the provisions of this paragraph shall not be deducted or
1961 deductible, in whole or in part, from the remuneration of
1962 individuals in the employ of the organization.

1963 (iv) Payments due by employers who elect to
1964 reimburse the fund in lieu of contributions as provided in this
1965 paragraph may not be noncharged under any condition. The



1966 reimbursement must be on a dollar-for-dollar basis (One Dollar
1967 (\$1.00) reimbursement for each dollar paid in benefits) in every
1968 case, so that the trust fund shall be reimbursed in full, such
1969 reimbursement to include, but not be limited to, benefits or
1970 payments erroneously or incorrectly paid, or paid as a result of a
1971 determination of eligibility which is subsequently reversed, or
1972 paid as a result of claimant fraud. However, political
1973 subdivisions who are reimbursing employers may elect to pay to the
1974 fund an amount equal to five-tenths percent (.5%) through December
1975 31, 2010, and shall pay twenty-five one-hundredths percent (.25%)
1976 thereafter of the taxable wages paid during the calendar year with
1977 respect to employment, and those employers who so elect shall be
1978 relieved of liability for reimbursement of benefits paid under the
1979 same conditions that benefits are not charged to the
1980 experience-rating record of a contributing employer as provided in
1981 Section 71-5-355(2) (b) (ii) other than Clause 5 thereof. Benefits
1982 paid in such circumstances for which reimbursing employers are
1983 relieved of liability for reimbursement shall not be considered
1984 attributable to service in the employment of such reimbursing
1985 employer.

1986 (v) The amount due specified in any bill from the
1987 department shall be conclusive on the organization unless, not
1988 later than fifteen (15) days after the bill was delivered to it,
1989 the organization files an application for redetermination by the
1990 department, setting forth the grounds for such application or
1991 appeal. The department shall promptly review and reconsider the
1992 amount due specified in the bill and shall thereafter issue a
1993 redetermination in any case in which such application for
1994 redetermination has been filed. Any such redetermination shall be
1995 conclusive on the organization unless, not later than fifteen (15)
1996 days after the redetermination was delivered to it, the
1997 organization files an appeal to the Circuit Court of the First
1998 Judicial District of Hinds County, Mississippi, in accordance with



1999 the provisions of law with respect to review of civil causes by
2000 certiorari.

2001 (vi) Pastdue payments of amounts in lieu of
2002 contributions shall be subject to the same interest and penalties
2003 that, pursuant to Section 71-5-363, apply to pastdue
2004 contributions.

2005 (c) Each employer that is liable for payments in lieu
2006 of contributions shall pay to the department for the fund the
2007 amount of regular benefits plus the amount of one-half (1/2) of
2008 extended benefits paid are attributable to service in the employ
2009 of such employer. If benefits paid to an individual are based on
2010 wages paid by more than one (1) employer and one or more of such
2011 employers are liable for payments in lieu of contributions, the
2012 amount payable to the fund by each employer that is liable for
2013 such payments shall be determined in accordance with the
2014 provisions of subparagraph (i) or subparagraph (ii) of this
2015 paragraph.

2016 (i) If benefits paid to an individual are based on
2017 wages paid by one or more employers that are liable for payment in
2018 lieu of contributions and on wages paid by one or more employers
2019 who are liable for contributions, the amount of benefits payable
2020 by each employer that is liable for payments in lieu of
2021 contributions shall be an amount which bears the same ratio to the
2022 total benefits paid to the individual as the total base period
2023 wages paid to the individual by such employer bear to the total
2024 base period wages paid to the individual by all of his base period
2025 employers.

2026 (ii) If benefits paid to an individual are based
2027 on wages paid by two (2) or more employers that are liable for
2028 payments in lieu of contributions, the amount of benefits payable
2029 by each such employer shall be an amount which bears the same
2030 ratio to the total benefits paid to the individual as the total
2031 base period wages paid to the individual by such employer bear to



2032 the total base period wages paid to the individual by all of his
2033 base period employers.

2034 (d) In the discretion of the department, any nonprofit
2035 organization that elects to become liable for payments in lieu of
2036 contributions shall be required to execute and file with the
2037 department a surety bond approved by the department, or it may
2038 elect instead to deposit with the department money or securities.
2039 The amount of such bond or deposit shall be determined in
2040 accordance with the provisions of this paragraph.

2041 (i) The amount of the bond or deposit required by
2042 paragraph (d) shall be equal to two and seven-tenths percent
2043 (2.7%) thereafter to December 31, 2010, and one and thirty-five
2044 one-hundredths percent (1.35%) thereafter, of the organization's
2045 taxable wages paid for employment as defined in Section 71-5-11,
2046 subsection J(4), for the four (4) calendar quarters immediately
2047 preceding the effective date of the election, the renewal date in
2048 the case of a bond, or the biennial anniversary of the effective
2049 date of election in the case of a deposit of money or securities,
2050 whichever date shall be most recent and applicable. If the
2051 nonprofit organization did not pay wages in each of such four (4)
2052 calendar quarters, the amount of the bond or deposit shall be as
2053 determined by the department.

2054 (ii) Any bond deposited under paragraph (d) shall
2055 be in force for a period of not less than two (2) tax years and
2056 shall be renewed with the approval of the department at such times
2057 as the department may prescribe, but not less frequently than at
2058 intervals of two (2) years as long as the organization continues
2059 to be liable for payments in lieu of contributions. The
2060 department shall require adjustments to be made in a previously
2061 filed bond as it deems appropriate. If the bond is to be
2062 increased, the adjusted bond shall be filed by the organization
2063 within thirty (30) days of the date notice of the required
2064 adjustment was delivered to it. Failure by any organization



2065 covered by such bond to pay the full amount of payments in lieu of
2066 contributions when due, together with any applicable interest and
2067 penalties provided in paragraph (b) (v) of this section, shall
2068 render the surety liable on the bond to the extent of the bond, as
2069 though the surety was such organization.

2070 (iii) Any deposit of money or securities in
2071 accordance with paragraph (d) shall be retained by the department
2072 in an escrow account until liability under the election is
2073 terminated, at which time it shall be returned to the
2074 organization, less any deductions as hereinafter provided. The
2075 department may deduct from the money deposited under paragraph (d)
2076 by a nonprofit organization, or sell the securities it has so
2077 deposited, to the extent necessary to satisfy any due and unpaid
2078 payments in lieu of contributions and any applicable interest and
2079 penalties provided for in paragraph (b) (v) of this section. The
2080 department shall require the organization, within thirty (30) days
2081 following any deduction from a money deposit or sale of deposited
2082 securities under the provisions hereof, to deposit sufficient
2083 additional money or securities to make whole the organization's
2084 deposit at the prior level. Any cash remaining from the sale of
2085 such securities shall be a part of the organization's escrow
2086 account. The department may, at any time, review the adequacy of
2087 the deposit made by any organization. If, as a result of such
2088 review, it determines that an adjustment is necessary, it shall
2089 require the organization to make additional deposit within thirty
2090 (30) days of notice of its determination or shall return to it
2091 such portion of the deposit as it no longer considers necessary,
2092 whichever action is appropriate. Disposition of income from
2093 securities held in escrow shall be governed by the applicable
2094 provisions of the state law.

2095 (iv) If any nonprofit organization fails to file a
2096 bond or make a deposit, or to file a bond in an increased amount,
2097 or to increase or make whole the amount of a previously made



2098 deposit as provided under this subparagraph, the department may
2099 terminate such organization's election to make payments in lieu of
2100 contributions, and such termination shall continue for not less
2101 than the four (4) consecutive calendar-quarter periods beginning
2102 with the quarter in which such termination becomes effective;
2103 however, the department may extend for good cause the applicable
2104 filing, deposit or adjustment period by not more than thirty (30)
2105 days.

2106 (v) Group account shall be established according
2107 to regulations prescribed by the department.

2108 (e) Any employer which elects to make payments in lieu
2109 of contributions into the Unemployment Compensation Fund as
2110 provided in this paragraph shall not be liable to make such
2111 payments with respect to the benefits paid to any individual whose
2112 base period wages include wages for previously uncovered services
2113 as defined in Section 71-5-511(e) to the extent that the
2114 Unemployment Compensation Fund is reimbursed for such benefits
2115 pursuant to Section 121 of Public Law 94-566.

2116 **SECTION 35.** Section 71-5-359, Mississippi Code of 1972, is
2117 reenacted as follows:

2118 71-5-359. (1) The Department of Finance and Administration
2119 shall, in the manner provided in subsection (3) of this section,
2120 pay, upon notice issued by the department, to the department for
2121 the Unemployment Compensation Fund an amount equal to the regular
2122 benefits and one-half (1/2) of the extended benefits paid that are
2123 attributable to service in the employ of a state agency. The
2124 amount required to be reimbursed by a certain agency shall be
2125 billed to the Department of Finance and Administration and shall
2126 be paid from the Employment Compensation Revolving Fund pursuant
2127 to subsection (3) of this section not later than thirty (30) days
2128 after such bill was sent, unless there has been an application for
2129 review and redetermination in accordance with Section
2130 71-5-357(b) (v) .



2131 (2) The Department of Finance and Administration shall, in
2132 the manner provided in subsection (3) of this section, pay, upon a
2133 notice issued by the department, to the department for the
2134 Unemployment Compensation Fund an amount equal to the regular
2135 benefits and the extended benefits paid that are attributable to
2136 service in the employ of a state agency. The amount required to
2137 be reimbursed by a certain agency shall be billed to the
2138 Department of Finance and Administration and shall be paid from
2139 the Employment Compensation Revolving Fund pursuant to subsection
2140 (3) of this section not later than thirty (30) days after such
2141 bill was sent, unless there has been an application for review and
2142 redetermination in accordance with Section 71-5-357(b) (v).

2143 (3) Each agency of state government shall deposit monthly
2144 for a period of twenty-four (24) months an amount equal to
2145 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand
2146 Dollars (\$6,000.00) paid to each employee thereof during the next
2147 preceding year into the Employment Compensation Revolving Fund
2148 that is created in the State Treasury. The Department of Finance
2149 and Administration shall determine the percentage to be applied to
2150 the amount of covered wages paid in order to maintain a balance in
2151 the revolving fund of not less than the amount determined by an
2152 actuary through an annual actuarial evaluation. The State
2153 Treasurer shall invest all funds in the Employment Compensation
2154 Revolving Fund and all interest earned shall be credited to the
2155 Employment Compensation Revolving Fund.

2156 The reimbursement of benefits paid by the Mississippi
2157 Department of Employment Security shall be paid by the Department
2158 of Finance and Administration from the Employment Compensation
2159 Revolving Fund upon notice from the department; and the Department
2160 of Finance and Administration shall issue warrants or may contract
2161 for the performance of the duties prescribed by subsections (2)
2162 and (3) of this section, and other duties necessarily related
2163 thereto.



2164 (4) Any political subdivision of this state shall pay to the
2165 department for the unemployment compensation fund an amount equal
2166 to the regular benefits and the extended benefits paid that are
2167 attributable to service in the employ of such political
2168 subdivision unless it elects to make contributions to the
2169 unemployment fund as provided in subsection (9) of this section.
2170 The amount required to be reimbursed shall be billed and shall be
2171 paid as provided in Section 71-5-357, with respect to similar
2172 payments for nonprofit organizations.

2173 (5) Each political subdivision, unless it elects to make
2174 contributions to the unemployment compensation fund as provided in
2175 subsection (9) of this section, shall establish a revolving fund
2176 and deposit an amount equal to two percent (2%) of the first Six
2177 Thousand Dollars (\$6,000.00) paid to each employee thereof during
2178 the next preceding year. However, the department shall by
2179 regulation establish a procedure to allow reimbursing political
2180 subdivisions to elect to maintain the balance in the revolving
2181 fund as required under this paragraph or to annually execute a
2182 surety bond to be approved by the department in an amount not less
2183 than two percent (2%) of the covered wages paid during the next
2184 preceding year.

2185 (6) In the event any political subdivision becomes
2186 delinquent in payments due under this chapter, upon due notice,
2187 and upon certification of the delinquency by the department to the
2188 Department of Finance and Administration, the Department of
2189 Revenue, the Department of Environmental Quality and the
2190 Department of Insurance, or any of them, or any other agencies of
2191 the State of Mississippi that may be indebted to such delinquent
2192 political subdivision, such agencies shall direct the issuance of
2193 warrants which in the aggregate shall be the amount of such
2194 delinquency payable to the department and drawn upon any funds in
2195 the State Treasury which may be available to such political
2196 subdivision in satisfaction of any such delinquency. This remedy



2197 shall be in addition to any other collection remedies in this
2198 chapter or otherwise provided by law.

2199 (7) Payments made by any political subdivision under the
2200 provisions of this section shall not be deducted or deductible, in
2201 whole or in part, from the remuneration of individuals in the
2202 employ of the organization.

2203 (8) Any governmental entity shall not be liable to make
2204 payments to the unemployment fund with respect to the benefits
2205 paid to any individual whose base period wages include wages for
2206 previously uncovered services as defined in Section 71-5-511,
2207 subsection (e), to the extent that the Unemployment Compensation
2208 Fund is reimbursed for such benefits pursuant to Section 121 of
2209 Public Law 94-566.

2210 (9) Any political subdivision of this state may elect to
2211 make contributions to the unemployment fund instead of making
2212 reimbursement for benefits paid as provided in subsections (4) and
2213 (5) of this section. A political subdivision which makes this
2214 election shall so notify the department, not later than three (3)
2215 months after it is officially organized or is otherwise
2216 established, and shall be subject to the provisions of Section
2217 71-5-351, with regard to the payment of contributions. A
2218 political subdivision which makes this election shall pay
2219 contributions equal to two percent (2%) of taxable wages through
2220 calendar year 2010, and one percent (1%) of taxable wages
2221 thereafter paid by it during each calendar quarter it is subject
2222 to this chapter. The department shall by regulation establish a
2223 procedure to allow political subdivisions the option periodically
2224 to elect either the reimbursement or the contribution method of
2225 financing unemployment compensation coverage.

2226 **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is
2227 reenacted as follows:

2228 71-5-451. There is established as a special fund, separate
2229 and apart from all public monies or funds of this state, an



2230 Unemployment Compensation Fund, which shall be administered by the
2231 department exclusively for:

2232 (a) All contributions collected under this chapter;

2233 (b) Interest earned upon any monies in the fund;

2234 (c) Any property or securities acquired through the use
2235 of monies belonging to the fund;

2236 (d) All earnings of such property or securities;

2237 (e) All monies credited to this state's account in the
2238 Unemployment Trust Fund pursuant to the Social Security Act, 42
2239 USCS, Section 1104; and

2240 (f) By way of reimbursement in accordance with Section
2241 204 of the Federal-State Extended Unemployment Compensation Act of
2242 1970 (84 Stat. 711). All monies in the fund shall be mingled and
2243 undivided.

2244 **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is
2245 reenacted as follows:

2246 71-5-457. (1) Except as otherwise provided in subsection
2247 (5), money credited to the account of this state in the
2248 Unemployment Trust Fund by the Secretary of the Treasury of the
2249 United States of America pursuant to the Social Security Act, 42
2250 USCS Section 1103, may be requisitioned and used for the payment
2251 of expenses incurred for the administration of this law pursuant
2252 to a specific appropriation by the Legislature, provided that the
2253 expenses are incurred and the money is requisitioned after the
2254 enactment of an appropriation law which:

2255 (a) Specifies the purposes for which such money is
2256 appropriated and the amounts appropriated therefor;

2257 (b) Limits the period within which such money may be
2258 obligated to a period ending not more than two (2) years after the
2259 date of the enactment of the appropriation law; and

2260 (c) Limits the amount which may be obligated during a
2261 twelve-month period beginning on July 1 and ending on the next
2262 June 30 to an amount which does not exceed the amount by which:



2263 (i) The aggregate of the amounts credited to the
2264 account of this state pursuant to the Social Security Act, 42 USCS
2265 Section 1103, during the same twelve-month period and the
2266 thirty-four (34) preceding twelve-month periods exceeds.

2267 (ii) The aggregate of the amounts obligated
2268 pursuant to this section and charged against the amounts credited
2269 to the account of this state during such thirty-five (35)
2270 twelve-month periods.

2271 For the purposes of this section, amounts obligated during
2272 any such twelve-month period shall be charged against equivalent
2273 amounts which were first credited and which are not already so
2274 charged; except that no amount obligated for administration during
2275 any such twelve-month period may be charged against any amount
2276 credited during such a twelve-month period earlier than the
2277 thirty-fourth preceding such period.

2278 (2) Money credited to the account of this state pursuant to
2279 the Social Security Act, 42 USCS Section 1103, may not be
2280 withdrawn or used except for the payment of benefits and for the
2281 payment of expenses for the administration of this law and of
2282 public employment offices pursuant to this section.

2283 (3) Money appropriated as provided herein for the payment of
2284 expenses of administration shall be requisitioned as needed for
2285 the payment of obligations incurred under such appropriation and,
2286 upon requisition, shall be deposited in the Employment Security
2287 Administration Fund, from which such payments shall be made.
2288 Money so deposited shall, until expended, remain a part of the
2289 Unemployment Compensation Fund and, if it will not be expended,
2290 shall be returned promptly to the account of this state in the
2291 Unemployment Trust Fund.

2292 (4) The thirty-five-year limitation provided in this section
2293 is no longer in force, effective October 1, 1991.

2294 (5) Notwithstanding subsection (1), monies credited with
2295 respect to federal fiscal years 1999, 2000 and 2001 shall be used



2296 by the department solely for the administration of the
2297 unemployment compensation program.

2298 **SECTION 38.** Section 71-5-503, Mississippi Code of 1972, is
2299 amended as follows:

2300 71-5-503. An individual's weekly benefit amount for a
2301 benefit year shall be one-twenty-sixth (1/26) of his total wages
2302 for insured work paid during that quarter of his base period in
2303 which such total wages were highest, computed to the next lower
2304 multiple of One Dollar (\$1.00), if not a multiple of One Dollar
2305 (\$1.00).

2306 On or before June 15 of each year, the total wages reported
2307 on contribution reports for the preceding calendar year shall be
2308 divided by the average monthly number of insured workers
2309 (determined by dividing the total insured workers reported on
2310 contribution reports pursuant to the regulations of the department
2311 for the preceding year by twelve (12)). The average annual wage
2312 thus obtained shall be divided by fifty-two (52) and the average
2313 weekly wage thus determined rounded to the nearest cent. Sixty
2314 percent (60%) of this amount, rounded to the nearest dollar, shall
2315 constitute the maximum "weekly benefit amount" paid to any
2316 individual whose benefit year commences on or after July 1 of such
2317 year and prior to July 1 of the next following year; provided
2318 however, that the maximum weekly benefit amount shall not exceed
2319 Two Hundred Ten Dollars (\$210.00) for any benefit year that begins
2320 on or after July 1, 2002, and shall not exceed Two Hundred Thirty
2321 Dollars (\$230.00) for any benefit year that begins on or after
2322 July 1, 2008, and shall not exceed Two Hundred Thirty-five Dollars
2323 (\$235.00) for any benefit year that begins on or after July 1,
2324 2009. The minimum weekly benefit amount for the individual shall
2325 be Thirty Dollars (\$30.00). If an individual's weekly benefit
2326 amount would compute to less than the said minimum, then such
2327 individual would be entitled to no benefits.



2328 An individual's weekly benefit amount, as determined at the
2329 beginning of his benefit year, shall constitute his weekly benefit
2330 amount throughout such benefit year.

2331 The Mississippi Department of Employment Security, with the
2332 assistance of the United States Department of Labor, is directed
2333 to generate actuarially sound models for computation of weekly
2334 benefit amounts. Such models shall include scenarios for
2335 increasing the weekly benefit amounts at each increment from the
2336 minimum to the maximum amount and the impact such increments would
2337 have on the Unemployment Compensation Fund. Such report shall be
2338 provided to the Mississippi Legislature on or before December 31,
2339 2008.

2340 * * *

2341 **SECTION 39.** Section 71-5-511, Mississippi Code of 1972, is
2342 reenacted as follows:

2343 71-5-511. An unemployed individual shall be eligible to
2344 receive benefits with respect to any week only if the department
2345 finds that:

2346 (a) (i) He has registered for work at and thereafter
2347 has continued to report to the department in accordance with such
2348 regulations as the department may prescribe; except that the
2349 department may, by regulation, waive or alter either or both of
2350 the requirements of this subparagraph as to such types of cases or
2351 situations with respect to which it finds that compliance with
2352 such requirements would be oppressive or would be inconsistent
2353 with the purposes of this chapter; and

2354 (ii) He participates in reemployment services,
2355 such as job search assistance services, if, in accordance with a
2356 profiling system established by the department, it has been
2357 determined that he is likely to exhaust regular benefits and needs
2358 reemployment services, unless the department determines that:

2359 1. The individual has completed such
2360 services; or



2361 2. There is justifiable cause for the
2362 claimant's failure to participate in such services.

2363 (b) He has made a claim for benefits in accordance with
2364 the provisions of Section 71-5-515 and in accordance with such
2365 regulations as the department may prescribe thereunder.

2366 (c) He is able to work and is available for work.

2367 (d) He has been unemployed for a waiting period of one
2368 (1) week. No week shall be counted as a week of unemployment for
2369 the purposes of this subsection:

2370 (i) Unless it occurs within the benefit year which
2371 includes the week with respect to which he claims payment of
2372 benefits;

2373 (ii) If benefits have been paid with respect
2374 thereto;

2375 (iii) Unless the individual was eligible for
2376 benefits with respect thereto, as provided in Sections 71-5-511
2377 and 71-5-513, except for the requirements of this subsection.

2378 (e) For weeks beginning on or before July 1, 1982, he
2379 has, during his base period, been paid wages for insured work
2380 equal to not less than thirty-six (36) times his weekly benefit
2381 amount; he has been paid wages for insured work during at least
2382 two (2) quarters of his base period; and he has, during that
2383 quarter of his base period in which his total wages were highest,
2384 been paid wages for insured work equal to not less than sixteen
2385 (16) times the minimum weekly benefit amount. For benefit years
2386 beginning after July 1, 1982, he has, during his base period, been
2387 paid wages for insured work equal to not less than forty (40)
2388 times his weekly benefit amount; he has been paid wages for
2389 insured work during at least two (2) quarters of his base period,
2390 and he has, during that quarter of his base period in which his
2391 total wages were highest, been paid wages for insured work equal
2392 to not less than twenty-six (26) times the minimum weekly benefit
2393 amount. For purposes of this subsection, wages shall be counted



2394 as "wages for insured work" for benefit purposes with respect to
2395 any benefit year only if such benefit year begins subsequent to
2396 the date on which the employing unit by which such wages were paid
2397 has satisfied the conditions of Section 71-5-11, subsection I, or
2398 Section 71-5-361, subsection (3), with respect to becoming an
2399 employer.

2400 (f) No individual may receive benefits in a benefit
2401 year unless, subsequent to the beginning of the next preceding
2402 benefit year during which he received benefits, he performed
2403 service in "employment" as defined in Section 71-5-11, subsection
2404 J, and earned remuneration for such service in an amount equal to
2405 not less than eight (8) times his weekly benefit amount applicable
2406 to his next preceding benefit year.

2407 (g) Benefits based on service in employment defined in
2408 Section 71-5-11, subsection J(3) and J(4), and Section 71-5-361,
2409 subsection (4) shall be payable in the same amount, on the same
2410 terms, and subject to the same conditions as compensation payable
2411 on the basis of other service subject to this chapter, except that
2412 benefits based on service in an instructional, research or
2413 principal administrative capacity in an institution of higher
2414 learning (as defined in Section 71-5-11, subsection O) with
2415 respect to service performed prior to January 1, 1978, shall not
2416 be paid to an individual for any week of unemployment which begins
2417 during the period between two (2) successive academic years, or
2418 during a similar period between two (2) regular terms, whether or
2419 not successive, or during a period of paid sabbatical leave
2420 provided for in the individual's contract, if the individual has a
2421 contract or contracts to perform services in any such capacity for
2422 any institution or institutions of higher learning for both such
2423 academic years or both such terms.

2424 (h) Benefits based on service in employment defined in
2425 Section 71-5-11, subsection J(3) and J(4), shall be payable in the
2426 same amount, on the same terms and subject to the same conditions



2427 as compensation payable on the basis of other service subject to
2428 this chapter, except that:

2429 (i) With respect to service performed in an
2430 instructional, research or principal administrative capacity for
2431 an educational institution, benefits shall not be paid based on
2432 such services for any week of unemployment commencing during the
2433 period between two (2) successive academic years, or during a
2434 similar period between two (2) regular but not successive terms,
2435 or during a period of paid sabbatical leave provided for in the
2436 individual's contract, to any individual, if such individual
2437 performs such services in the first of such academic years or
2438 terms and if there is a contract or a reasonable assurance that
2439 such individual will perform services in any such capacity for any
2440 educational institution in the second of such academic years or
2441 terms, and provided that subsection (g) of this section shall
2442 apply with respect to such services prior to January 1, 1978. In
2443 no event shall benefits be paid unless the individual employee was
2444 terminated by the employer.

2445 (ii) With respect to services performed in any
2446 other capacity for an educational institution, benefits shall not
2447 be paid on the basis of such services to any individual for any
2448 week which commences during a period between two (2) successive
2449 academic years or terms, if such individual performs such services
2450 in the first of such academic years or terms and there is a
2451 reasonable assurance that such individual will perform such
2452 services in the second of such academic years or terms, except
2453 that if compensation is denied to any individual under this
2454 subparagraph and such individual was not offered an opportunity to
2455 perform such services for the educational institution for the
2456 second of such academic years or terms, such individual shall be
2457 entitled to a retroactive payment of compensation for each week
2458 for which the individual filed a timely claim for compensation and
2459 for which compensation was denied solely by reason of this clause.



2460 In no event shall benefits be paid unless the individual employee
2461 was terminated by the employer.

2462 (iii) With respect to services described in
2463 subsection (h) (i) and (ii), benefits shall not be payable on the
2464 basis of services in any such capacities to any individual for any
2465 week which commences during an established and customary vacation
2466 period or holiday recess if such individual performs such services
2467 in the first of such academic years or terms, or in the period
2468 immediately before such vacation period or holiday recess, and
2469 there is a reasonable assurance that such individual will perform
2470 such services in the period immediately following such vacation
2471 period or holiday recess.

2472 (iv) With respect to any services described in
2473 subsection (h) (i) and (ii), benefits shall not be payable on the
2474 basis of services in any such capacities as specified in
2475 subsection (h) (i), (ii) and (iii) to any individual who performed
2476 such services in an educational institution while in the employ of
2477 an educational service agency. For purposes of this subsection,
2478 the term "educational service agency" means a governmental agency
2479 or governmental entity which is established and operated
2480 exclusively for the purpose of providing such services to one or
2481 more educational institutions.

2482 (v) With respect to services to which Sections
2483 71-5-357 and 71-5-359 apply, if such services are provided to or
2484 on behalf of an educational institution, benefits shall not be
2485 payable under the same circumstances and subject to the same terms
2486 and conditions as described in subsection (h) (i), (ii), (iii) and
2487 (iv).

2488 (i) Subsequent to December 31, 1977, benefits shall not
2489 be paid to any individual on the basis of any services
2490 substantially all of which consist of participating in sports or
2491 athletic events or training or preparing to so participate, for
2492 any week which commences during the period between two (2)



2493 successive sports seasons (or similar periods) if such individual
2494 performs such services in the first of such seasons (or similar
2495 periods) and there is a reasonable assurance that such individual
2496 will perform such services in the later of such seasons (or
2497 similar periods).

2498 (j) (i) Subsequent to December 31, 1977, benefits
2499 shall not be payable on the basis of services performed by an
2500 alien, unless such alien is an individual who was lawfully
2501 admitted for permanent residence at the time such services were
2502 performed, was lawfully present for purposes of performing such
2503 services, or was permanently residing in the United States under
2504 color of law at the time such services were performed (including
2505 an alien who was lawfully present in the United States as a result
2506 of the application of the provisions of Section 203(a)(7) or
2507 Section 212(d)(5) of the Immigration and Nationality Act).

2508 (ii) Any data or information required of
2509 individuals applying for benefits to determine whether benefits
2510 are not payable to them because of their alien status shall be
2511 uniformly required from all applicants for benefits.

2512 (iii) In the case of an individual whose
2513 application for benefits would otherwise be approved, no
2514 determination that benefits to such individual are not payable
2515 because of his alien status shall be made, except upon a
2516 preponderance of the evidence.

2517 (k) An individual shall be deemed prima facie
2518 unavailable for work, and therefore ineligible to receive
2519 benefits, during any period which, with respect to his employment
2520 status, is found by the department to be a holiday or vacation
2521 period.

2522 (l) A temporary employee of a temporary help firm is
2523 considered to have left the employee's last work voluntarily
2524 without good cause connected with the work if the temporary
2525 employee does not contact the temporary help firm for reassignment



2526 on completion of an assignment. A temporary employee is not
2527 considered to have left work voluntarily without good cause
2528 connected with the work under this paragraph unless the temporary
2529 employee has been advised in writing:

2530 (i) That the temporary employee is obligated to
2531 contact the temporary help firm on completion of assignments; and

2532 (ii) That unemployment benefits may be denied if
2533 the temporary employee fails to do so.

2534 **SECTION 40.** Section 71-5-513, Mississippi Code of 1972, is
2535 reenacted and amended as follows:

2536 71-5-513. A. An individual shall be disqualified for
2537 benefits:

2538 (1) (a) For the week, or fraction thereof, which
2539 immediately follows the day on which he left work voluntarily
2540 without good cause, if so found by the department, and for each
2541 week thereafter until he has earned remuneration for personal
2542 services performed for an employer, as in this chapter defined,
2543 equal to not less than eight (8) times his weekly benefit amount,
2544 as determined in each case; however, marital, filial and domestic
2545 circumstances and obligations shall not be deemed good cause
2546 within the meaning of this subsection. Pregnancy shall not be
2547 deemed to be a marital, filial or domestic circumstance for the
2548 purpose of this subsection.

2549 (b) For the week, or fraction thereof, which
2550 immediately follows the day on which he was discharged for
2551 misconduct connected with his work, if so found by the department,
2552 and for each week thereafter until he has earned remuneration for
2553 personal services performed for an employer, as in this chapter
2554 defined, equal to not less than eight (8) times his weekly benefit
2555 amount, as determined in each case.

2556 (c) The burden of proof of good cause for leaving
2557 work shall be on the claimant, and the burden of proof of
2558 misconduct shall be on the employer.



2559 (2) For the week, or fraction thereof, with respect to
2560 which he willfully makes a false statement, a false representation
2561 of fact, or willfully fails to disclose a material fact for the
2562 purpose of obtaining or increasing benefits under the provisions
2563 of this law, if so found by the department, and such individual's
2564 maximum benefit allowance shall be reduced by the amount of
2565 benefits so paid to him during any such week of disqualification;
2566 and additional disqualification shall be imposed for a period not
2567 exceeding fifty-two (52) weeks, the length of such period of
2568 disqualification and the time when such period begins to be
2569 determined by the department, in its discretion, according to the
2570 circumstances in each case.

2571 (3) If the department finds that he has failed, without
2572 good cause, either to apply for available suitable work when so
2573 directed by the employment office or the department, to accept
2574 suitable work when offered him, or to return to his customary
2575 self-employment (if any) when so directed by the department, such
2576 disqualification shall continue for the week in which such failure
2577 occurred and for not more than the twelve (12) weeks which
2578 immediately follow such week, as determined by the department
2579 according to the circumstances in each case.

2580 (a) In determining whether or not any work is
2581 suitable for an individual, the department shall consider among
2582 other factors the degree of risk involved to his health, safety
2583 and morals, his physical fitness and prior training, his
2584 experience and prior earnings, his length of unemployment and
2585 prospects for securing local work in his customary occupation, and
2586 the distance of the available work from his residence; however,
2587 offered employment paying the minimum wage or higher, if such
2588 minimum or higher wage is that prevailing for his customary
2589 occupation or similar work in the locality, shall be deemed to be
2590 suitable employment after benefits have been paid to the
2591 individual for a period of eight (8) weeks.



2592 (b) Notwithstanding any other provisions of this
2593 chapter, no work shall be deemed suitable and benefits shall not
2594 be denied under this chapter to any otherwise eligible individual
2595 for refusing to accept new work under any of the following
2596 conditions:

2597 (i) If the position offered is vacant due
2598 directly to a strike, lockout or other labor dispute;

2599 (ii) If the wages, hours or other conditions
2600 of the work offered are substantially unfavorable or unreasonable
2601 to the individual's work. The department shall have the sole
2602 discretion to determine whether or not there has been an
2603 unfavorable or unreasonable condition placed on the individual's
2604 work. Moreover, the department may consider, but shall not be
2605 limited to a consideration of, whether or not the unfavorable
2606 condition was applied by the employer to all workers in the same
2607 or similar class or merely to this individual;

2608 (iii) If as a condition of being employed the
2609 individual would be required to join a company union or to resign
2610 from or refrain from joining any bona fide labor organization;

2611 (iv) If unsatisfactory or hazardous working
2612 conditions exist that could result in a danger to the physical or
2613 mental well-being of the worker. In any such determination the
2614 department shall consider, but shall not be limited to a
2615 consideration of, the following: the safety measures used or the
2616 lack thereof and the condition of equipment or lack of proper
2617 equipment. No work shall be considered hazardous if the working
2618 conditions surrounding a worker's employment are the same or
2619 substantially the same as the working conditions generally
2620 prevailing among workers performing the same or similar work for
2621 other employers engaged in the same or similar type of activity.

2622 (c) Pursuant to Section 303(1) of the Social
2623 Security Act (42 USCS 503), the department may conduct drug tests
2624 of applicants for unemployment compensation for the unlawful use



2625 of controlled substances as a condition for receiving such
2626 compensation, if such applicant:

2627 (i) Was terminated from employment with the
2628 claimant's most recent employer, as defined by Mississippi law,
2629 because of the unlawful use of controlled substances; or

2630 (ii) Is an individual for whom suitable work,
2631 as defined by Mississippi law, is only available in an occupation
2632 (as determined under regulations issued by the U.S. Secretary of
2633 Labor) that requires drug testing.

2634 The department may deny unemployment compensation to any
2635 applicant based on the result of a drug test conducted by the
2636 department in accordance with this subsection. A positive drug
2637 test result shall be deemed by the department to be a failure to
2638 accept suitable work, and shall subject the applicant to the
2639 disqualification provisions set forth in Section 71-5-513A(3).
2640 During the disqualification period imposed by the department under
2641 this subsection, the individual may provide information to end the
2642 disqualification period early by submitting acceptable proof to
2643 the department of a negative test result from a testing facility
2644 approved by the department.

2645 (iii) Pursuant to the provisions set forth in
2646 Section 71-5-513 A (3) (c) of this section, the department shall
2647 have the authority to institute a random drug testing program for
2648 all individuals who meet the requirements set forth in this
2649 section. Moreover, the department shall have the authority to
2650 create the necessary regulations, policies rules, guidelines and
2651 procedures to implement such a program.

2652 Any term or provision set forth in Section 71-5-513A(3) (c)
2653 that otherwise conflicts with federal or state law shall be
2654 disregarded but shall not, in any way, affect the remaining
2655 provisions.

2656 (4) For any week with respect to which the department
2657 finds that his total unemployment is due to a stoppage of work



2658 which exists because of a labor dispute at a factory,
2659 establishment or other premises at which he is or was last
2660 employed; however, this subsection shall not apply if it is shown
2661 to the satisfaction of the department:

2662 (a) He is unemployed due to a stoppage of work
2663 occasioned by an unjustified lockout, if such lockout was not
2664 occasioned or brought about by such individual acting alone or
2665 with other workers in concert; or

2666 (b) He is not participating in or directly
2667 interested in the labor dispute which caused the stoppage of work;
2668 and

2669 (c) He does not belong to a grade or class of
2670 workers of which, immediately before the commencement of stoppage,
2671 there were members employed at the premises at which the stoppage
2672 occurs, any of whom are participating in or directly interested in
2673 the dispute.

2674 If in any case separate branches of work which are commonly
2675 conducted as separate businesses in separate premises are
2676 conducted in separate departments of the same premises, each such
2677 department shall, for the purposes of this subsection, be deemed
2678 to be a separate factory, establishment or other premises.

2679 (5) For any week with respect to which he has received
2680 or is seeking unemployment compensation under an unemployment
2681 compensation law of another state or of the United States.
2682 However, if the appropriate agency of such other state or of the
2683 United States finally determines that he is not entitled to such
2684 unemployment compensation benefits, this disqualification shall
2685 not apply. Nothing in this subsection contained shall be
2686 construed to include within its terms any law of the United States
2687 providing unemployment compensation or allowances for honorably
2688 discharged members of the Armed Forces.

2689 (6) For any week with respect to which he is receiving
2690 or has received remuneration in the form of payments under any



2691 governmental or private retirement or pension plan, system or
2692 policy which a base-period employer is maintaining or contributing
2693 to or has maintained or contributed to on behalf of the
2694 individual; however, if the amount payable with respect to any
2695 week is less than the benefits which would otherwise be due under
2696 Section 71-5-501, he shall be entitled to receive for such week,
2697 if otherwise eligible, benefits reduced by the amount of such
2698 remuneration. However, on or after the first Sunday immediately
2699 following July 1, 2001, no social security payments, to which the
2700 employee has made contributions, shall be deducted from
2701 unemployment benefits paid for any period of unemployment
2702 beginning on or after the first Sunday following July 1, 2001.
2703 This one hundred percent (100%) exclusion shall not apply to any
2704 other governmental or private retirement or pension plan, system
2705 or policy. If benefits payable under this section, after being
2706 reduced by the amount of such remuneration, are not a multiple of
2707 One Dollar (\$1.00), they shall be adjusted to the next lower
2708 multiple of One Dollar (\$1.00).

2709 (7) For any week with respect to which he is receiving
2710 or has received remuneration in the form of a back pay award, or
2711 other compensation allocable to any week, whether by settlement or
2712 otherwise. Any benefits previously paid for weeks of unemployment
2713 with respect to which back pay awards, or other such compensation,
2714 are made shall constitute an overpayment and such amounts shall be
2715 deducted from the award by the employer prior to payment to the
2716 employee, and shall be transmitted promptly to the department by
2717 the employer for application against the overpayment and credit to
2718 the claimant's maximum benefit amount and prompt deposit into the
2719 fund; however, the removal of any charges made against the
2720 employer as a result of such previously paid benefits shall be
2721 applied to the calendar year and the calendar quarter in which the
2722 overpayment is transmitted to the department, and no attempt shall
2723 be made to relate such a credit to the period to which the award



2724 applies. Any amount of overpayment so deducted by the employer
2725 and not transmitted to the department shall be subject to the same
2726 procedures for collection as is provided for contributions by
2727 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
2728 deducted by the employer shall be established as an overpayment
2729 against the claimant and collected as provided above. It is the
2730 purpose of this paragraph to assure equity in the situations to
2731 which it applies, and it shall be construed accordingly.

2732 B. Notwithstanding any other provision in this chapter, no
2733 otherwise eligible individual shall be denied benefits for any
2734 week because he is in training with the approval of the
2735 department; nor shall such individual be denied benefits with
2736 respect to any week in which he is in training with the approval
2737 of the department by reason of the application of provisions in
2738 Section 71-5-511, subsection (c), relating to availability for
2739 work, or the provisions of subsection A(3) of this section,
2740 relating to failure to apply for, or a refusal to accept, suitable
2741 work.

2742 C. Notwithstanding any other provisions of this chapter, no
2743 otherwise eligible individual shall be denied benefits for any
2744 week because he or she is in training approved under Section
2745 236(a)(1) of the Trade Act of 1974, nor shall such individual be
2746 denied benefits by reason of leaving work to enter such training,
2747 provided the work left is not suitable employment, or because of
2748 the application to any such week in training of provisions in this
2749 law (or any applicable federal unemployment compensation law),
2750 relating to availability for work, active search for work or
2751 refusal to accept work.

2752 For purposes of this section, the term "suitable employment"
2753 means with respect to an individual, work of a substantially equal
2754 or higher skill level than the individual's past adversely
2755 affected employment (as defined for purposes of the Trade Act of
2756 1974), and wages for such work at not less than eighty percent



2757 (80%) of the individual's average weekly wage as determined for
2758 the purposes of the Trade Act of 1974.

2759 D. Notwithstanding any other provisions of this chapter, no
2760 otherwise eligible individual shall be denied benefits for any
2761 week in which they are engaged in the Self-Employment Assistance
2762 Program established in Section 71-5-545 by reason of the
2763 application of Section 71-5-511(c), relating to availability for
2764 work, or the provisions of subsection A(3) of this section,
2765 relating to failure to apply for, or a refusal to accept, suitable
2766 work.

2767 E. Any individual who is receiving benefits may participate
2768 in an approved training program under the Mississippi Employment
2769 Security Law to gain skills that may lead to employment while
2770 continuing to receive benefits. Authorization for participation
2771 of a recipient of unemployment benefits in such a program must be
2772 granted by the department and continuation of participation must
2773 be certified weekly by the participant recipient. While
2774 participating in such program approved by the department,
2775 availability and work search requirements will be waived. No
2776 individual will be allowed to participate in this program for more
2777 than twelve (12) weeks in any benefit year. Such participation
2778 shall not be considered employment for any purposes and shall not
2779 accrue benefits or wage credits. Participation in this training
2780 program shall meet the definition set forth in the U.S. Fair Labor
2781 Standards Act.

2782 **SECTION 41.** Section 71-5-517, Mississippi Code of 1972, is
2783 reenacted as follows:

2784 71-5-517. Upon the taking of a claim by the department, an
2785 initial determination thereon shall be made promptly and shall
2786 include a determination with respect to whether or not benefits
2787 are payable, the week with respect to which benefits shall
2788 commence, the weekly benefit amount payable and the maximum
2789 duration of benefits. In any case in which the payment or denial



2790 of benefits will be determined by the provisions of subsection
2791 A(4) of Section 71-5-513, the examiner shall promptly transmit all
2792 the evidence with respect to that subsection to the department,
2793 which, on the basis of evidence so submitted and such additional
2794 evidence as it may require, shall make an initial determination
2795 with respect thereto. An initial determination may for good cause
2796 be reconsidered. The claimant, his most recent employing unit and
2797 all employers whose experience-rating record would be charged with
2798 benefits pursuant to such determination shall be promptly notified
2799 of such initial determination or any amended initial determination
2800 and the reason therefor. Benefits shall be denied or, if the
2801 claimant is otherwise eligible, promptly paid in accordance with
2802 the initial determination or amended initial determination. The
2803 jurisdiction of the department over benefit claims which have not
2804 been appealed shall be continuous. The claimant or any party to
2805 the initial determination or amended initial determination may
2806 file an appeal from such initial determination or amended initial
2807 determination within fourteen (14) days after notification
2808 thereof, or after the date such notification was sent to his last
2809 known address.

2810 Notwithstanding any other provision of this section, benefits
2811 shall be paid promptly in accordance with a determination or
2812 redetermination, or the decision of an appeal tribunal, the Board
2813 of Review or a reviewing court upon the issuance of such
2814 determination, redetermination or decision in favor of the
2815 claimant (regardless of the pendency of the period to apply for
2816 reconsideration, file an appeal, or petition for judicial review,
2817 as the case may be, or the pendency of any such application,
2818 filing or petition), unless and until such determination,
2819 redetermination or decision has been modified or reversed by a
2820 subsequent redetermination or decision, in which event benefits
2821 shall be paid or denied in accordance with such modifying or
2822 reversing redetermination or decision. Any benefits finally



2823 determined to have been erroneously paid may be set up as an
2824 overpayment to the claimant and must be liquidated before any
2825 future benefits can be paid to the claimant. If, subsequent to
2826 such initial determination or amended initial determination,
2827 benefits with respect to any week for which a claim has been filed
2828 are denied for reasons other than matters included in the initial
2829 determination or amended initial determination, the claimant shall
2830 be promptly notified of the denial and the reason therefor and may
2831 appeal therefrom in accordance with the procedure herein described
2832 for appeals from initial determination or amended initial
2833 determination.

2834 **SECTION 42.** Section 71-5-519, Mississippi Code of 1972, is
2835 reenacted as follows:

2836 71-5-519. Unless such appeal is withdrawn, an appeal
2837 tribunal appointed by the executive director, after affording the
2838 parties reasonable opportunity for fair hearing, shall affirm,
2839 modify or reverse the findings of fact and initial determination
2840 or amended initial determination. The parties shall be duly
2841 notified of such tribunal's decision, together with its reasons
2842 therefor, which shall be deemed to be the final decision of the
2843 executive director unless, within fourteen (14) days after the
2844 date of notification of such decision, further appeal is initiated
2845 pursuant to Section 71-5-523.

2846 **SECTION 43.** Section 71-5-523, Mississippi Code of 1972, is
2847 reenacted as follows:

2848 71-5-523. The Board of Review may on its own motion affirm,
2849 modify, or set aside any decision of an appeal tribunal on the
2850 basis of the evidence previously submitted in such case, or direct
2851 the taking of additional evidence, or may permit any of the
2852 parties to such decision to initiate further appeals before it.
2853 The Board of Review shall permit such further appeal by any of the
2854 parties to a decision of an appeal tribunal which is not
2855 unanimous, and by the examiner whose decision has been overruled



2856 or modified by an appeal tribunal. The Board of Review may remove
2857 to itself or transfer to another appeal tribunal the proceedings
2858 on any claim pending before an appeal tribunal. Any proceedings
2859 so removed to the Board of Review shall be heard by a quorum
2860 thereof in accordance with the requirements of Section 71-5-519
2861 and within fifteen (15) days after notice of appeal has been
2862 received by the executive director. No notice of appeal shall be
2863 deemed to be received by the executive director, within the
2864 meaning of this section, until all prior appeals pending before
2865 the Board of Review have been heard. The Board of Review shall,
2866 within four (4) days after its decision, so notify the parties to
2867 any proceeding of its findings and decision.

2868 **SECTION 44.** Section 71-5-525, Mississippi Code of 1972, is
2869 reenacted as follows:

2870 71-5-525. The manner in which appealed claims shall be
2871 presented and the conduct of hearings and appeals shall be in
2872 accordance with regulations prescribed by the Board of Review for
2873 determining the rights of the parties, whether or not such
2874 regulations conform to common law or statutory rules of evidence
2875 and other technical rules of procedure. A full and complete
2876 record shall be kept of all proceedings in connection with an
2877 appealed claim. The department's entire file relative to the
2878 appealed claim shall be a part of such record and shall be
2879 considered as evidence. All testimony at any hearing upon an
2880 appealed claim shall be recorded, but need not be transcribed
2881 unless the claim is further appealed.

2882 **SECTION 45.** Section 71-5-529, Mississippi Code of 1972, is
2883 reenacted as follows:

2884 71-5-529. Any decision of the Board of Review, in the
2885 absence of an appeal therefrom as herein provided, shall become
2886 final ten (10) days after the date of notification; and judicial
2887 review thereof shall be permitted only after any party claiming to
2888 be aggrieved thereby has exhausted his administrative remedies as



2889 provided by this chapter. The department shall be deemed to be a
2890 party to any judicial action involving any such decision, and may
2891 be represented in any such judicial action by any qualified
2892 attorney employed by the department and designated by it for that
2893 purpose or, at the department's request, by the Attorney General.

2894 **SECTION 46.** Section 71-5-531, Mississippi Code of 1972, is
2895 reenacted as follows:

2896 71-5-531. Within ten (10) days after the decision of the
2897 Board of Review has become final, any party aggrieved thereby may
2898 secure judicial review thereof by commencing an action, in the
2899 circuit court of the county in which the plaintiff resides,
2900 against the department for the review of such decision, in which
2901 action any other party to the proceeding before the Board of
2902 Review shall be made a defendant. In cases wherein the plaintiff
2903 is not a resident of the State of Mississippi, such action may be
2904 filed in the circuit court of the county in which the employer
2905 resides, the county in which the cause of action arose, or in the
2906 county of employment. In such action, a petition which need not
2907 be verified, but which shall state the grounds upon which a review
2908 is sought, shall be served upon the department or upon such person
2909 as the department may designate, and such service shall be deemed
2910 completed service on all parties; but there shall be left with the
2911 party so served as many copies of the petition as there are
2912 defendants, and the department shall forthwith mail one (1) such
2913 copy to each such defendant. With its answer, the department
2914 shall certify and file with said court all documents and papers
2915 and a transcript of all testimony taken in the matter, together
2916 with the Board of Review's findings of fact and decision therein.
2917 The department may also, in its discretion, certify to such court
2918 questions of law involved in any decision. In any judicial
2919 proceedings under this section, the findings of the Board of
2920 Review as to the facts, if supported by evidence and in the
2921 absence of fraud, shall be conclusive, and the jurisdiction of the



2922 court shall be confined to questions of law. Such actions, and
2923 the questions so certified, shall be heard in a summary manner and
2924 shall be given precedence over all other civil cases. An appeal
2925 may be taken from the decision of the circuit court of the county
2926 in which the plaintiff resides to the Supreme Court of
2927 Mississippi, in the same manner, but not inconsistent with the
2928 provisions of this chapter, as is provided in civil cases. It
2929 shall not be necessary, in any judicial proceeding under this
2930 section, to enter exceptions to the rulings of the Board of
2931 Review, and no bond shall be required for entering such appeal.
2932 Upon the final determination of such judicial proceeding, the
2933 Board of Review shall enter an order in accordance with such
2934 determination. A petition for judicial review shall not act as a
2935 supersedeas or stay unless the Board of Review shall so order.

2936 **SECTION 47.** Section 71-5-541, Mississippi Code of 1972, is
2937 reenacted as follows:

2938 71-5-541. A. (1) In the administration of this chapter,
2939 the department shall cooperate with the Department of Labor to the
2940 fullest extent consistent with the provisions of this chapter and
2941 shall take such action, through the adoption of appropriate rules,
2942 regulations, administrative methods and standards, as may be
2943 necessary to secure to this state and its citizens all advantages
2944 available under the provisions of the Social Security Act that
2945 relate to unemployment compensation, the Federal Unemployment Tax
2946 Act, the Wagner-Peyser Act and the Federal-State Extended
2947 Unemployment Compensation Act of 1970, all as amended.

2948 (2) In the administration of the provisions of this
2949 section, which are enacted to conform with the requirements of the
2950 Federal-State Extended Unemployment Compensation Act of 1970, as
2951 amended, the department shall take such actions as may be
2952 necessary:

2953 (a) To ensure that the provisions are so
2954 interpreted and applied as to meet the requirements of such



2955 federal act as interpreted by the United States Department of
2956 Labor; and

2957 (b) To secure to this state the full reimbursement
2958 of the federal share of extended benefits paid under this chapter
2959 that are reimbursable under the federal act; and also

2960 (c) To limit the amount of extended benefits paid
2961 as may be necessary so that the reimbursement of the federal share
2962 of extended benefits paid shall remain at one-half (1/2) of the
2963 total extended benefits paid.

2964 B. As used in this section, unless the context clearly
2965 requires otherwise:

2966 (1) "Extended benefit period" means a period which:

2967 (a) Begins with the third week after a week for
2968 which there is a state "on" indicator; and

2969 (b) Ends with either of the following weeks,
2970 whichever occurs later:

2971 (i) The third week after the first week for
2972 which there is a state "off" indicator; or

2973 (ii) The thirteenth consecutive week of such
2974 period.

2975 No extended benefit period may begin by reason of a state
2976 "on" indicator before the fourteenth week following the end of a
2977 prior extended benefit period which was in effect with respect to
2978 this state.

2979 (2) For weeks beginning after September 25, 1982, there
2980 is a "state 'on' indicator" for a week if the rate of insured
2981 unemployment under this chapter for the period consisting of such
2982 week and the immediately preceding twelve (12) weeks:

2983 (a) Equaled or exceeded one hundred twenty percent
2984 (120%) of the average of such rates for the corresponding period
2985 of thirteen (13) weeks ending in each of the preceding two (2)
2986 calendar years; and

2987 (b) Equaled or exceeded five percent (5%).



2988 The determination of whether there has been a state "on" or
2989 "off" indicator beginning or ending any extended benefit period
2990 shall be made under this subsection as if (i) paragraph (2) did
2991 not contain subparagraph (a) thereof, and (ii) the figure "5"
2992 contained in subparagraph (b) thereof were "6"; except that,
2993 notwithstanding any such provision of this subsection, any week
2994 for which there would otherwise be a "state 'on' indicator" shall
2995 continue to be such week and shall not be determined to be a week
2996 for which there is a "state 'off' indicator."

2997 (3) There is a "state 'off' indicator" for a week if,
2998 for the period consisting of such week and the immediately
2999 preceding twelve (12) weeks, either subparagraph (a) or (b) of
3000 paragraph (2) was not satisfied.

3001 (4) "Rate of insured unemployment," for purposes of
3002 paragraphs (2) and (3) of this subsection, means the percentage
3003 derived by dividing:

3004 (a) The average number of continued weeks claimed
3005 for regular state compensation in this state for weeks of
3006 unemployment with respect to the most recent period of thirteen
3007 (13) consecutive weeks, as determined by the department on the
3008 basis of its reports to the United States Secretary of Labor; by

3009 (b) The average monthly employment covered under
3010 this chapter for the first four (4) of the most recent six (6)
3011 completed calendar quarters ending before the end of such period
3012 of thirteen (13) weeks.

3013 (5) "Regular benefits" means benefits payable to an
3014 individual under this chapter or under any other state law
3015 (including benefits payable to federal civilian employees and to
3016 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than
3017 extended benefits.

3018 (6) "Extended benefits" means benefits (including
3019 benefits payable to federal civilian employees and to
3020 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an



3021 individual under the provisions of this section for weeks of
3022 unemployment in his eligibility period.

3023 (7) "Eligibility period" of an individual means the
3024 period consisting of the weeks in his benefit year which begin in
3025 an extended benefit period and, if his benefit year ends within
3026 such extended benefit period, any weeks thereafter which begin in
3027 such period.

3028 (8) "Exhaustee" means an individual who, with respect
3029 to any week of unemployment in his eligibility period:

3030 (a) Has received, prior to such week, all of the
3031 regular benefits that were available to him under this chapter or
3032 any other state law (including dependents' allowances and benefits
3033 payable to federal civilian employees and ex-servicemen under 5
3034 USCS Section 8501-8525) in his current benefit year that includes
3035 such week.

3036 For the purposes of this subparagraph, an individual shall be
3037 deemed to have received all of the regular benefits that were
3038 available to him although, as a result of a pending appeal with
3039 respect to wages that were not considered in the original monetary
3040 determination in his benefit year, he may subsequently be
3041 determined to be entitled to added regular benefits; or

3042 (b) Has no, or insufficient, wages on the basis of
3043 which he could establish a new benefit year that would include
3044 such week, his benefit year having expired prior to such week; and

3045 (c) (i) Has no right to unemployment benefits or
3046 allowances, as the case may be, under the Railroad Unemployment
3047 Insurance Act, the Trade Expansion Act of 1962, the Automotive
3048 Products Trade Act of 1965, and such other federal laws as are
3049 specified in regulations issued by the United States Secretary of
3050 Labor; and

3051 (ii) Has not received and is not seeking
3052 unemployment benefits under the Unemployment Compensation Law of
3053 the Virgin Islands or of Canada; but if he is seeking such



3054 benefits and the appropriate agency finally determines that he is
3055 not entitled to benefits under such law, he is considered an
3056 exhaustee; however, the reference in this subsection to the Virgin
3057 Islands shall be inapplicable effective on the day on which the
3058 United States Secretary of Labor approves under Section 3304(a) of
3059 the Internal Revenue Code of 1954, an unemployment compensation
3060 law submitted to the Secretary by the Virgin Islands for approval.

3061 (9) "State law" means the unemployment insurance law of
3062 any state, approved by the United States Secretary of Labor under
3063 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section
3064 3304).

3065 C. Except when the result would be inconsistent with the
3066 other provisions of this section, as provided in the regulations
3067 of the department, the provisions of this chapter which apply to
3068 claims for, or the payment of, regular benefits shall apply to
3069 claims for, and the payment of, extended benefits.

3070 D. An individual shall be eligible to receive extended
3071 benefits with respect to any week of unemployment in his
3072 eligibility period only if the department finds that with respect
3073 to such week:

3074 (1) He is an "exhaustee" as defined in subsection B(8)
3075 of this section.

3076 (2) He has satisfied the requirements of this chapter
3077 for the receipt of regular benefits that are applicable to
3078 individuals claiming extended benefits, including not being
3079 subject to a disqualification for the receipt of benefits.

3080 (3) For a week beginning after September 25, 1982, he
3081 has, during his base period, been paid wages for insured work
3082 equal to not less than forty (40) times his weekly benefit amount;
3083 he has been paid wages for insured work during at least two (2)
3084 quarters of his base period, and he has, during that quarter of
3085 his base period in which his total wages were highest, been paid



3086 wages for insured work equal to not less than twenty-six (26)
3087 times the minimum weekly benefit amount.

3088 E. The weekly extended benefit amount payable to an
3089 individual for a week of total unemployment in his eligibility
3090 period shall be an amount equal to the weekly benefit amount
3091 payable to him during his applicable benefit year; however,
3092 benefits paid to individuals during eligibility periods beginning
3093 before October 1, 1983, shall be computed to the next higher
3094 multiple of One Dollar (\$1.00), if not a multiple of One Dollar
3095 (\$1.00); and benefits paid to individuals during eligibility
3096 periods beginning on or after October 1, 1983, shall be computed
3097 to the next lower multiple of One Dollar (\$1.00), if not a
3098 multiple of One Dollar (\$1.00). In no event shall the weekly
3099 extended benefit amount payable to an individual be more than two
3100 (2) times the amount of the reimbursement of the federal share of
3101 extended benefits paid.

3102 F. (1) The total extended benefit amount payable to any
3103 eligible individual with respect to his applicable benefit year
3104 shall be the least of the following amounts:

3105 (a) Fifty percent (50%) of the total amount of
3106 regular benefits which were payable to him under this chapter in
3107 his applicable benefit year; however, benefits paid to individuals
3108 during eligibility periods beginning before October 1, 1983, shall
3109 be computed to the next higher multiple of One Dollar (\$1.00), if
3110 not a multiple of One Dollar (\$1.00), and benefits paid to
3111 individuals during eligibility periods beginning on or after
3112 October 1, 1983, shall be computed to the next lower multiple of
3113 One Dollar (\$1.00), if not a multiple of One Dollar (\$1.00); or

3114 (b) Thirteen (13) times his weekly benefit amount
3115 which was payable to him under this chapter for a week of total
3116 unemployment in the applicable benefit year.

3117 (2) The total extended benefits otherwise payable to an
3118 individual who is filing an interstate claim under the interstate



3119 benefit payment plan shall not exceed two (2) weeks whenever an
3120 extended benefit period is not in effect for such week in the
3121 state where the claim is filed.

3122 (3) In no event shall the total extended benefit amount
3123 payable to any eligible individual with respect to his applicable
3124 benefit year be more than two (2) times the amount of the
3125 reimbursement of the federal share of extended benefits paid.

3126 G. (1) Whenever an extended benefit period is to become
3127 effective in this state as a result of a state "on" indicator, or
3128 an extended benefit period is to be terminated in this state as a
3129 result of state "off" indicators, the department shall make an
3130 appropriate public announcement.

3131 (2) Computations required by the provisions of
3132 subsection B(4) shall be made by the department, in accordance
3133 with regulations prescribed by the United States Secretary of
3134 Labor.

3135 H. Extended benefits paid under the provisions of this
3136 section which are not reimbursable from federal funds shall be
3137 charged to the experience-rating record of base period employers.

3138 I. (1) Notwithstanding the provisions of subsections C and
3139 D of this section, an individual shall be disqualified for receipt
3140 of extended benefits if the department finds that during any week
3141 of his eligibility period:

3142 (a) He has failed either to apply for or to accept
3143 an offer of suitable work (as defined under paragraph (3)) to
3144 which he was referred by the department; or

3145 (b) He has failed to furnish tangible evidence
3146 that he has actively engaged in a systematic and sustained effort
3147 to find work, unless such individual is not actively engaged in
3148 seeking work because such individual is:

3149 (i) Before any court of the United States or
3150 any state pursuant to a lawfully issued summons to appear for jury
3151 duty;



3152 (ii) Hospitalized for treatment of an
3153 emergency or a life-threatening condition.

3154 The entitlement to benefits of any individual who is
3155 determined not to be actively engaged in seeking work in any week
3156 for the foregoing reasons shall be decided pursuant to the able
3157 and available requirements in Section 71-5-511 without regard to
3158 the disqualification provisions otherwise applicable under Section
3159 71-5-541. The conditions prescribed in clauses (i) and (ii) of
3160 this subparagraph (b) must be applied in the same manner to
3161 individuals filing claims for regular benefits.

3162 (2) Such disqualification shall begin with the week in
3163 which such failure occurred and shall continue until he has been
3164 employed in each of eight (8) subsequent weeks (whether or not
3165 consecutive) and has earned remuneration for personal services
3166 performed for an employer, as in this chapter defined, equal to
3167 not less than eight (8) times his weekly extended benefit amount.

3168 (3) For the purpose of subparagraph (a) of paragraph
3169 (1) the term "suitable work" means any work which is within the
3170 individual's capabilities to perform, if:

3171 (a) The gross average weekly remuneration payable
3172 for the work exceeds the sum of the individual's weekly extended
3173 benefit amount plus the amount, if any, of supplemental
3174 unemployment benefits (as defined in Section 501(c)(17)(D) of the
3175 Internal Revenue Code of 1954) payable to such individual for such
3176 week;

3177 (b) The wages payable for the work equal the
3178 higher of the minimum wages provided by Section 6(a)(1) of the
3179 Fair Labor Standards Act of 1938 (without regard to any
3180 exemption), or the state or local minimum wage; and

3181 (c) The position was offered to the individual in
3182 writing or was listed with the state employment service; and

3183 (d) Such work otherwise meets the definition of
3184 "suitable work" for regular benefits contained in Section



3185 71-5-513A(4) to the extent that such criteria of suitability are
3186 not inconsistent with the provisions of this paragraph (3); and

3187 (e) The individual cannot furnish satisfactory
3188 evidence to the department that his prospects for obtaining work
3189 in his customary occupation within a reasonably short period are
3190 good. If such evidence is deemed satisfactory for this purpose,
3191 the determination of whether any work is suitable with respect to
3192 such individual shall be made in accordance with the definition of
3193 suitable work contained in Section 71-5-513A(4) without regard to
3194 the definition specified by this paragraph (3).

3195 (4) Notwithstanding any provisions of subsection I to
3196 the contrary, no work shall be deemed to be suitable work for an
3197 individual which does not accord with the labor standard
3198 provisions set forth herein under Section 71-5-513A(4).

3199 (5) The employment service shall refer any claimant
3200 entitled to extended benefits under this section to any suitable
3201 work which meets the criteria prescribed in paragraph (3).

3202 (6) An individual shall be disqualified for extended
3203 benefits for the week, or fraction thereof, which immediately
3204 follows the day on which he left work voluntarily without good
3205 cause (as defined in Section 71-5-513A(1)), was discharged for
3206 misconduct connected with his work, or refused suitable work
3207 (except as provided in subsection I of this section), and for each
3208 week thereafter until he has earned remuneration for personal
3209 services performed for an employer, as in this chapter defined,
3210 equal to not less than eight (8) times his weekly benefit amount,
3211 as determined in each case.

3212 (7) The provisions of paragraphs I(1) through (6) of
3213 this section shall not apply to claims for weeks of unemployment
3214 beginning after March 6, 1993, and before January 1, 1995, and
3215 during that period the provisions of this chapter applicable to
3216 claims for regular compensation shall apply.



3217 J. Notwithstanding any other provisions of this chapter, if
3218 the benefit year of any individual ends within an extended benefit
3219 period, the remaining balance of extended benefits that such
3220 individual would, but for this section, be entitled to receive in
3221 that extended benefit period, with respect to weeks of
3222 unemployment beginning after the end of the benefit year, shall be
3223 reduced (but not below zero) by the product of the number of weeks
3224 for which the individual received any amounts as trade
3225 readjustment allowances within that benefit year, multiplied by
3226 the individual's weekly benefit amount for extended benefits.

3227 **SECTION 48.** Section 73-30-25, Mississippi Code of 1972, is
3228 reenacted as follows:

3229 73-30-25. It is not the intent of this chapter to regulate
3230 against members of other duly regulated professions in this state
3231 who do counseling in the normal course of the practice of their
3232 own profession. This chapter does not apply to:

3233 (a) Any person registered, certified or licensed by the
3234 state to practice any other occupation or profession while
3235 rendering counseling services in the performance of the occupation
3236 or profession for which he is registered, certified or licensed;

3237 (b) Certified school counselors when they are
3238 practicing counseling within the scope of their employment;

3239 (c) Certified vocational counselors when they are
3240 practicing vocational counseling within the scope of their
3241 employment;

3242 (d) Counselors in postsecondary institutions when they
3243 are practicing within the scope of their employment;

3244 (e) Student interns or trainees in counseling pursuing
3245 a course of study in counseling in a regionally or nationally
3246 accredited institution of higher learning or training institution
3247 if activities and services constitute a part of the supervised
3248 course of study, provided that such persons be designated a
3249 counselor intern;



3250 (f) Professionals employed by regionally or nationally
3251 accredited postsecondary institutions as counselor educators when
3252 they are practicing counseling within the scope of their
3253 employment;

3254 (g) [Deleted]

3255 (h) Duly ordained ministers or clergy while functioning
3256 in their ministerial capacity and duly accredited Christian
3257 Science practitioners;

3258 (i) Professional employees of regional mental health
3259 centers, state mental hospitals, vocational rehabilitation
3260 institutions, youth court counselors and employees of the
3261 Mississippi Department of Employment Security or other
3262 governmental agency so long as they practice within the scope of
3263 their employment;

3264 (j) Professional employees of alcohol or drug abuse
3265 centers or treatment facilities, whether privately or publicly
3266 funded, so long as they practice within the scope of their
3267 employment;

3268 (k) Private employment counselors;

3269 (l) Any nonresident temporarily employed in this state
3270 to render counseling services for not more than thirty (30) days
3271 in any year, if in the opinion of the board the person would
3272 qualify for a license under this chapter and if the person holds
3273 any license required for counselors in his home state or country;
3274 and

3275 (m) Any social workers holding a master's degree in
3276 social work from a school accredited by the Council on Social Work
3277 Education and who do counseling in the normal course of the
3278 practice of their own profession.

3279 **SECTION 49.** Section 43-1-30, Mississippi Code of 1972, is
3280 reenacted as follows:

3281 43-1-30. (1) There is created the Mississippi TANF
3282 Implementation Council. It shall serve as the independent, single



3283 state advisory and review council for assuring Mississippi's
3284 compliance with the federal Personal Responsibility and Work
3285 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as
3286 amended. The council shall further cooperation between
3287 government, education and the private sector in meeting the needs
3288 of the TANF program. It shall also further cooperation between
3289 the business and labor communities, education and training
3290 delivery systems, and between businesses in developing highly
3291 skilled workers for high skill, high paying jobs in Mississippi.

3292 (2) The council shall be comprised of thirteen (13) public
3293 members and certain ex officio nonvoting members. All public
3294 members of the council shall be appointed as follows by the
3295 Governor:

3296 Ten (10) members shall be representatives from business and
3297 industry, provided that no fewer than five (5) members are from
3298 the manufacturing and industry sector who are also serving as
3299 members of private industry councils established within the state,
3300 and one (1) member may be a representative of a nonprofit
3301 organization. Three (3) members shall be recipients or former
3302 recipients of TANF assistance appointed from the state at large.

3303 The ex officio nonvoting members of the council shall consist
3304 of the following, or their designees:

3305 (a) The Executive Director of the Mississippi
3306 Department of Human Services;

3307 (b) The Executive Director of the Mississippi
3308 Department of Employment Security;

3309 (c) The Executive Director of the Mississippi
3310 Development Authority;

3311 (d) The State Superintendent of Public Education;

3312 (e) The Director of the State Board for Community and
3313 Junior Colleges;

3314 (f) The Executive Director of the Division of Medicaid;



3315 (g) The Commissioner of the Mississippi Department of
3316 Corrections; and

3317 (h) The Director of the Mississippi Cooperative
3318 Extension Service.

3319 (3) The Governor shall designate one (1) public member to
3320 serve as chairman of the council for a term of two (2) years and
3321 until a successor as chairman is appointed and qualified.

3322 (4) The term of office for public members appointed by the
3323 Governor shall be four (4) years and until their successors are
3324 appointed and qualified.

3325 (5) Any vacancy shall be filled for the unexpired term by
3326 the Governor in the manner of the original appointment, unless
3327 otherwise specified in this section.

3328 (6) Public members shall receive a per diem as authorized in
3329 Section 25-3-69, for each day actually engaged in meetings of the
3330 council, and shall be reimbursed for mileage and necessary
3331 expenses incurred in the performance of their duties, as provided
3332 in Section 25-3-41.

3333 (7) The council shall:

3334 (a) Annually review and recommend policies and programs
3335 to the Governor and the Legislature that will implement and meet
3336 federal requirements under the TANF program.

3337 (b) Annually review and recommend policies and programs
3338 to the Governor and to the Legislature that will enable citizens
3339 of Mississippi to acquire the skills necessary to maximize their
3340 economic self-sufficiency.

3341 (c) Review the provision of services and the use of
3342 funds and resources under the TANF program, and under all
3343 state-financed job training and job retraining programs, and
3344 advise the Governor and the Legislature on methods of coordinating
3345 such provision of services and use of funds and resources
3346 consistent with the laws and regulations governing such programs.



3347 (d) Assist in developing outcome and output measures to
3348 measure the success of the Department of Human Services' efforts
3349 in implementing the TANF program. These recommendations shall be
3350 made to the Department of Human Services at such times as required
3351 in the event that the department implements new programs to comply
3352 with the TANF program requirements.

3353 (e) Collaborate with the Mississippi Development
3354 Authority, local planning and development districts and local
3355 industrial development boards, and shall develop an economic
3356 development plan for the creation of manufacturing jobs in each of
3357 the counties in the state that has an unemployment rate of ten
3358 percent (10%) or more, which shall include, but not be limited to,
3359 procedures for business development, entrepreneurship and
3360 financial and technical assistance.

3361 (8) A majority of the members of the council shall
3362 constitute a quorum for the conduct of meetings and all actions of
3363 the council shall be by a majority of the members present at a
3364 meeting.

3365 (9) The council shall adopt rules and regulations as it
3366 deems necessary to carry out its responsibilities under this
3367 section and under applicable federal human resources programs.

3368 (10) The council may make and enter into contracts and
3369 interagency agreements as may be necessary and proper.

3370 (11) The council is authorized to commit and expend monies
3371 appropriated to it by the Legislature for its authorized purposes.
3372 The council is authorized to solicit, accept and expend public and
3373 private gifts, grants, awards and contributions related to
3374 furtherance of its statutory duties.

3375 (12) Funds for the operations of the council shall be
3376 derived from federal funds for the operation of state councils
3377 pursuant to applicable federal human resources programs and from
3378 such other monies appropriated to it by the Legislature.



3379 **SECTION 50.** Section 43-17-5, Mississippi Code of 1972, is
3380 amended as follows:

3381 43-17-5. (1) The amount of Temporary Assistance for Needy
3382 Families (TANF) benefits which may be granted for any dependent
3383 child and a needy caretaker relative shall be determined by the
3384 county department with due regard to the resources and necessary
3385 expenditures of the family and the conditions existing in each
3386 case, and in accordance with the rules and regulations made by the
3387 Department of Human Services which shall not be less than the
3388 Standard of Need in effect for 1988, and shall be sufficient when
3389 added to all other income (except that any income specified in the
3390 federal Social Security Act, as amended, may be disregarded) and
3391 support available to the child to provide such child with a
3392 reasonable subsistence compatible with decency and health. The
3393 first family member in the dependent child's budget may receive an
3394 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;
3395 the second family member in the dependent child's budget may
3396 receive an amount not to exceed Thirty-six Dollars (\$36.00) per
3397 month; and each additional family member in the dependent child's
3398 budget an amount not to exceed Twenty-four Dollars (\$24.00) per
3399 month. The maximum for any individual family member in the
3400 dependent child's budget may be exceeded for foster or medical
3401 care or in cases of children with an intellectual disability or a
3402 physical disability. TANF benefits granted shall be specifically
3403 limited only (a) to children existing or conceived at the time the
3404 caretaker relative initially applies and qualifies for such
3405 assistance, unless this limitation is specifically waived by the
3406 department, or (b) to a child born following a
3407 twelve-consecutive-month period of discontinued benefits by the
3408 caretaker relative.

3409 (2) TANF benefits in Mississippi shall be provided to the
3410 recipient family by an online electronic benefits transfer system.



3411 (3) The Department of Human Services shall deny TANF
3412 benefits to the following categories of individuals, except for
3413 individuals and families specifically exempt or excluded for good
3414 cause as allowed by federal statute or regulation:

3415 (a) Families without a minor child residing with the
3416 custodial parent or other adult caretaker relative of the child;

3417 (b) Families which include an adult who has received
3418 TANF assistance for sixty (60) months after the commencement of
3419 the Mississippi TANF program, whether or not such period of time
3420 is consecutive;

3421 (c) Families not assigning to the state any rights a
3422 family member may have, on behalf of the family member or of any
3423 other person for whom the family member has applied for or is
3424 receiving such assistance, to support from any other person, as
3425 required by law;

3426 (d) Families who fail to cooperate in establishing
3427 paternity or obtaining child support, as required by law;

3428 (e) Any individual who has not attained eighteen (18)
3429 years of age, is not married to the head of household, has a minor
3430 child at least twelve (12) weeks of age in his or her care, and
3431 has not successfully completed a high school education or its
3432 equivalent, if such individual does not participate in educational
3433 activities directed toward the attainment of a high school diploma
3434 or its equivalent, or an alternative educational or training
3435 program approved by the department;

3436 (f) Any individual who has not attained eighteen (18)
3437 years of age, is not married, has a minor child in his or her
3438 care, and does not reside in a place or residence maintained by a
3439 parent, legal guardian or other adult relative or the individual
3440 as such parent's, guardian's or adult relative's own home;

3441 (g) Any minor child who has been, or is expected by a
3442 parent or other caretaker relative of the child to be, absent from
3443 the home for a period of more than thirty (30) days;



3444 (h) Any individual who is a parent or other caretaker
3445 relative of a minor child who fails to notify the department of
3446 the absence of the minor child from the home for the thirty-day
3447 period specified in paragraph (g), by the end of the five-day
3448 period that begins with the date that it becomes clear to the
3449 individual that the minor child will be absent for the thirty-day
3450 period;

3451 (i) Any individual who fails to comply with the
3452 provisions of the Employability Development Plan signed by the
3453 individual which prescribe those activities designed to help the
3454 individual become and remain employed, or to participate
3455 satisfactorily in the assigned work activity, as authorized under
3456 subsection (6) (c) and (d), or who does not engage in applicant job
3457 search activities within the thirty-day period for TANF
3458 application approval after receiving the advice and consultation
3459 of eligibility workers and/or caseworkers of the department
3460 providing a detailed description of available job search venues in
3461 the individual's county of residence or the surrounding counties;

3462 (j) A parent or caretaker relative who has not engaged
3463 in an allowable work activity once the department determines the
3464 parent or caretaker relative is ready to engage in work, or once
3465 the parent or caretaker relative has received TANF assistance
3466 under the program for twenty-four (24) months, whether or not
3467 consecutive, whichever is earlier;

3468 (k) Any individual who is fleeing to avoid prosecution,
3469 or custody or confinement after conviction, under the laws of the
3470 jurisdiction from which the individual flees, for a crime, or an
3471 attempt to commit a crime, which is a felony under the laws of the
3472 place from which the individual flees, or who is violating a
3473 condition of probation or parole imposed under federal or state
3474 law;

3475 (l) Aliens who are not qualified under federal law;



3476 (m) For a period of ten (10) years following
3477 conviction, individuals convicted in federal or state court of
3478 having made a fraudulent statement or representation with respect
3479 to the individual's place of residence in order to receive TANF,
3480 food stamps or Supplemental Security Income (SSI) assistance under
3481 Title XVI or Title XIX simultaneously from two (2) or more states;
3482 and

3483 (n) Individuals who are recipients of federal
3484 Supplemental Security Income (SSI) assistance.

3485 (4) (a) Any person who is otherwise eligible for TANF
3486 benefits, including custodial and noncustodial parents, shall be
3487 required to attend school and meet the monthly attendance
3488 requirement as provided in this subsection if all of the following
3489 apply:

3490 (i) The person is under age twenty (20);

3491 (ii) The person has not graduated from a public or
3492 private high school or obtained a GED equivalent;

3493 (iii) The person is physically able to attend
3494 school and is not excused from attending school; and

3495 (iv) If the person is a parent or caretaker
3496 relative with whom a dependent child is living, child care is
3497 available for the child.

3498 The monthly attendance requirement under this subsection
3499 shall be attendance at the school in which the person is enrolled
3500 for each day during a month that the school conducts classes in
3501 which the person is enrolled, with not more than two (2) absences
3502 during the month for reasons other than the reasons listed in
3503 paragraph (e)(iv) of this subsection. Persons who fail to meet
3504 participation requirements in this subsection shall be subject to
3505 sanctions as provided in paragraph (f) of this subsection.

3506 (b) As used in this subsection, "school" means any one
3507 (1) of the following:

3508 (i) A school as defined in Section 37-13-91(2);



3509 (ii) A vocational, technical and adult education
3510 program; or

3511 (iii) A course of study meeting the standards
3512 established by the State Department of Education for the granting
3513 of a declaration of equivalency of high school graduation.

3514 (c) If any compulsory-school-age child, as defined in
3515 Section 37-13-91(2), to which TANF eligibility requirements apply
3516 is not in compliance with the compulsory school attendance
3517 requirements of Section 37-13-91(6), the superintendent of schools
3518 of the school district in which the child is enrolled or eligible
3519 to attend shall notify the county department of human services of
3520 the child's noncompliance. The Department of Human Services shall
3521 review school attendance information as provided under this
3522 paragraph at all initial eligibility determinations and upon
3523 subsequent report of unsatisfactory attendance.

3524 (d) The signature of a person on an application for
3525 TANF benefits constitutes permission for the release of school
3526 attendance records for that person or for any child residing with
3527 that person. The department shall request information from the
3528 child's school district about the child's attendance in the school
3529 district's most recently completed semester of attendance. If
3530 information about the child's previous school attendance is not
3531 available or cannot be verified, the department shall require the
3532 child to meet the monthly attendance requirement for one (1)
3533 semester or until the information is obtained. The department
3534 shall use the attendance information provided by a school district
3535 to verify attendance for a child. The department shall review
3536 with the parent or caretaker relative a child's claim that he or
3537 she has a good cause for not attending school.

3538 A school district shall provide information to the department
3539 about the attendance of a child who is enrolled in a public school
3540 in the district within five (5) working days of the receipt of a
3541 written request for that information from the department. The



3542 school district shall define how many hours of attendance count as
3543 a full day and shall provide that information, upon request, to
3544 the department. In reporting attendance, the school district may
3545 add partial days' absence together to constitute a full day's
3546 absence.

3547 If a school district fails to provide to the department the
3548 information about the school attendance of any child within
3549 fifteen (15) working days after a written request, the department
3550 shall notify the Department of Audit within three (3) working days
3551 of the school district's failure to comply with that requirement.
3552 The Department of Audit shall begin audit proceedings within five
3553 (5) working days of notification by the Department of Human
3554 Services to determine the school district's compliance with the
3555 requirements of this subsection (4). If the Department of Audit
3556 finds that the school district is not in compliance with the
3557 requirements of this subsection, the school district shall be
3558 penalized as follows: The Department of Audit shall notify the
3559 State Department of Education of the school district's
3560 noncompliance, and the Department of Education shall reduce the
3561 calculation of the school district's average daily attendance
3562 (ADA) that is used to determine the allocation of Mississippi
3563 Adequate Education Program funds by the number of children for
3564 which the district has failed to provide to the Department of
3565 Human Services the required information about the school
3566 attendance of those children. The reduction in the calculation of
3567 the school district's ADA under this paragraph shall be effective
3568 for a period of one (1) year.

3569 (e) A child who is required to attend school to meet
3570 the requirements under this subsection shall comply except when
3571 there is good cause, which shall be demonstrated by any of the
3572 following circumstances:

3573 (i) The minor parent is the caretaker of a child
3574 less than twelve (12) weeks old; or



3575 (ii) The department determines that child care
3576 services are necessary for the minor parent to attend school and
3577 there is no child care available; or

3578 (iii) The child is prohibited by the school
3579 district from attending school and an expulsion is pending. This
3580 exemption no longer applies once the teenager has been expelled;
3581 however, a teenager who has been expelled and is making
3582 satisfactory progress towards obtaining a GED equivalent shall be
3583 eligible for TANF benefits; or

3584 (iv) The child failed to attend school for one or
3585 more of the following reasons:

- 3586 1. Illness, injury or incapacity of the child
3587 or the minor parent's child;
- 3588 2. Court-required appearances or temporary
3589 incarceration;
- 3590 3. Medical or dental appointments for the
3591 child or minor parent's child;
- 3592 4. Death of a close relative;
- 3593 5. Observance of a religious holiday;
- 3594 6. Family emergency;
- 3595 7. Breakdown in transportation;
- 3596 8. Suspension; or
- 3597 9. Any other circumstance beyond the control
3598 of the child, as defined in regulations of the department.

3599 (f) Upon determination that a child has failed without
3600 good cause to attend school as required, the department shall
3601 provide written notice to the parent or caretaker relative
3602 (whoever is the primary recipient of the TANF benefits) that
3603 specifies:

3604 (i) That the family will be sanctioned in the next
3605 possible payment month because the child who is required to attend
3606 school has failed to meet the attendance requirement of this
3607 subsection;



3608 (ii) The beginning date of the sanction, and the
3609 child to whom the sanction applies;

3610 (iii) The right of the child's parents or
3611 caretaker relative (whoever is the primary recipient of the TANF
3612 benefits) to request a fair hearing under this subsection.

3613 The child's parent or caretaker relative (whoever is the
3614 primary recipient of the TANF benefits) may request a fair hearing
3615 on the department's determination that the child has not been
3616 attending school. If the child's parents or caretaker relative
3617 does not request a fair hearing under this subsection, or if,
3618 after a fair hearing has been held, the hearing officer finds that
3619 the child without good cause has failed to meet the monthly
3620 attendance requirement, the department shall discontinue or deny
3621 TANF benefits to the child thirteen (13) years old, or older, in
3622 the next possible payment month. The department shall discontinue
3623 or deny twenty-five percent (25%) of the family grant when a child
3624 six (6) through twelve (12) years of age without good cause has
3625 failed to meet the monthly attendance requirement. Both the child
3626 and family sanction may apply when children in both age groups
3627 fail to meet the attendance requirement without good cause. A
3628 sanction applied under this subsection shall be effective for one
3629 (1) month for each month that the child failed to meet the monthly
3630 attendance requirement. In the case of a dropout, the sanction
3631 shall remain in force until the parent or caretaker relative
3632 provides written proof from the school district that the child has
3633 reenrolled and met the monthly attendance requirement for one (1)
3634 calendar month. Any month in which school is in session for at
3635 least ten (10) days during the month may be used to meet the
3636 attendance requirement under this subsection. This includes
3637 attendance at summer school. The sanction shall be removed the
3638 next possible payment month.

3639 (5) All parents or caretaker relatives shall have their
3640 dependent children receive vaccinations and booster vaccinations



3641 against those diseases specified by the State Health Officer under
3642 Section 41-23-37 in accordance with the vaccination and booster
3643 vaccination schedule prescribed by the State Health Officer for
3644 children of that age, in order for the parents or caretaker
3645 relatives to be eligible or remain eligible to receive TANF
3646 benefits. Proof of having received such vaccinations and booster
3647 vaccinations shall be given by presenting the certificates of
3648 vaccination issued by any health care provider licensed to
3649 administer vaccinations, and submitted on forms specified by the
3650 State Board of Health. If the parents without good cause do not
3651 have their dependent children receive the vaccinations and booster
3652 vaccinations as required by this subsection and they fail to
3653 comply after thirty (30) days' notice, the department shall
3654 sanction the family's TANF benefits by twenty-five percent (25%)
3655 for the next payment month and each subsequent payment month until
3656 the requirements of this subsection are met.

3657 (6) (a) If the parent or caretaker relative applying for
3658 TANF assistance is work eligible, as determined by the Department
3659 of Human Services, the person shall be required to engage in an
3660 allowable work activity once the department determines the parent
3661 or caretaker relative is determined work eligible, or once the
3662 parent or caretaker relative has received TANF assistance under
3663 the program for twenty-four (24) months, whether or not
3664 consecutive, whichever is earlier. No TANF benefits shall be
3665 given to any person to whom this section applies who fails without
3666 good cause to comply with the Employability Development Plan
3667 prepared by the department for the person, or who has refused to
3668 accept a referral or offer of employment, training or education in
3669 which he or she is able to engage, subject to the penalties
3670 prescribed in subsection (6) (e). A person shall be deemed to have
3671 refused to accept a referral or offer of employment, training or
3672 education if he or she:



3673 (i) Willfully fails to report for an interview
3674 with respect to employment when requested to do so by the
3675 department; or

3676 (ii) Willfully fails to report to the department
3677 the result of a referral to employment; or

3678 (iii) Willfully fails to report for allowable work
3679 activities as prescribed in subsection (6) (c) and (d).

3680 (b) The Department of Human Services shall operate a
3681 statewide work program for TANF recipients to provide work
3682 activities and supportive services to enable families to become
3683 self-sufficient and improve their competitive position in the
3684 workforce in accordance with the requirements of the federal
3685 Personal Responsibility and Work Opportunity Reconciliation Act of
3686 1996 (Public Law 104-193), as amended, and the regulations
3687 promulgated thereunder, and the Deficit Reduction Act of 2005
3688 (Public Law 109-171), as amended. Within sixty (60) days after
3689 the initial application for TANF benefits, the TANF recipient must
3690 participate in a job search skills training workshop or a job
3691 readiness program, which shall include résumé writing, job search
3692 skills, employability skills and, if available at no charge, the
3693 General Aptitude Test Battery or its equivalent. All adults who
3694 are not specifically exempt shall be referred by the department
3695 for allowable work activities. An adult may be exempt from the
3696 mandatory work activity requirement for the following reasons:

3697 (i) Incapacity;

3698 (ii) Temporary illness or injury, verified by
3699 physician's certificate;

3700 (iii) Is in the third trimester of pregnancy, and
3701 there are complications verified by the certificate of a
3702 physician, nurse practitioner, physician assistant, or any other
3703 licensed health care professional practicing under a protocol with
3704 a licensed physician;



3705 (iv) Caretaker of a child under twelve (12)
3706 months, for not more than twelve (12) months of the sixty-month
3707 maximum benefit period;

3708 (v) Caretaker of an ill or incapacitated person,
3709 as verified by physician's certificate;

3710 (vi) Age, if over sixty (60) or under eighteen
3711 (18) years of age;

3712 (vii) Receiving treatment for substance abuse, if
3713 the person is in compliance with the substance abuse treatment
3714 plan;

3715 (viii) In a two-parent family, the caretaker of a
3716 severely disabled child, as verified by a physician's certificate;
3717 or

3718 (ix) History of having been a victim of domestic
3719 violence, which has been reported as required by state law and is
3720 substantiated by police reports or court records, and being at
3721 risk of further domestic violence, shall be exempt for a period as
3722 deemed necessary by the department but not to exceed a total of
3723 twelve (12) months, which need not be consecutive, in the
3724 sixty-month maximum benefit period. For the purposes of this
3725 subparagraph (ix), "domestic violence" means that an individual
3726 has been subjected to:

3727 1. Physical acts that resulted in, or
3728 threatened to result in, physical injury to the individual;

3729 2. Sexual abuse;

3730 3. Sexual activity involving a dependent
3731 child;

3732 4. Being forced as the caretaker relative of
3733 a dependent child to engage in nonconsensual sexual acts or
3734 activities;

3735 5. Threats of, or attempts at, physical or
3736 sexual abuse;

3737 6. Mental abuse; or



3738 7. Neglect or deprivation of medical care.

3739 (c) For all families, all adults who are not
3740 specifically exempt shall be required to participate in work
3741 activities for at least the minimum average number of hours per
3742 week specified by federal law or regulation, not fewer than twenty
3743 (20) hours per week (thirty-five (35) hours per week for
3744 two-parent families) of which are attributable to the following
3745 allowable work activities:

- 3746 (i) Unsubsidized employment;
- 3747 (ii) Subsidized private employment;
- 3748 (iii) Subsidized public employment;
- 3749 (iv) Work experience (including work associated
3750 with the refurbishing of publicly assisted housing), if sufficient
3751 private employment is not available;
- 3752 (v) On-the-job training;
- 3753 (vi) Job search and job readiness assistance
3754 consistent with federal TANF regulations;
- 3755 (vii) Community service programs;
- 3756 (viii) Vocational educational training (not to
3757 exceed twelve (12) months with respect to any individual);
- 3758 (ix) The provision of child care services to an
3759 individual who is participating in a community service program;
- 3760 (x) Satisfactory attendance at high school or in a
3761 course of study leading to a high school equivalency certificate,
3762 for heads of household under age twenty (20) who have not
3763 completed high school or received such certificate;
- 3764 (xi) Education directly related to employment, for
3765 heads of household under age twenty (20) who have not completed
3766 high school or received such equivalency certificate.

3767 (d) The following are allowable work activities which
3768 may be attributable to hours in excess of the minimum specified in
3769 subsection (6) (c):



- 3770 (i) Job skills training directly related to
3771 employment;
- 3772 (ii) Education directly related to employment for
3773 individuals who have not completed high school or received a high
3774 school equivalency certificate;
- 3775 (iii) Satisfactory attendance at high school or in
3776 a course of study leading to a high school equivalency, for
3777 individuals who have not completed high school or received such
3778 equivalency certificate;
- 3779 (iv) Job search and job readiness assistance
3780 consistent with federal TANF regulations.

3781 (e) If any adult or caretaker relative refuses to
3782 participate in allowable work activity as required under this
3783 subsection (6), the following full family TANF benefit penalty
3784 will apply, subject to due process to include notification,
3785 conciliation and a hearing if requested by the recipient:

3786 (i) For the first violation, the department shall
3787 terminate the TANF assistance otherwise payable to the family for
3788 a two-month period or until the person has complied with the
3789 required work activity, whichever is longer;

3790 (ii) For the second violation, the department
3791 shall terminate the TANF assistance otherwise payable to the
3792 family for a six-month period or until the person has complied
3793 with the required work activity, whichever is longer;

3794 (iii) For the third violation, the department
3795 shall terminate the TANF assistance otherwise payable to the
3796 family for a twelve-month period or until the person has complied
3797 with the required work activity, whichever is longer;

3798 (iv) For the fourth violation, the person shall be
3799 permanently disqualified.

3800 For a two-parent family, unless prohibited by state or
3801 federal law, Medicaid assistance shall be terminated only for the
3802 person whose failure to participate in allowable work activity



3803 caused the family's TANF assistance to be sanctioned under this
3804 subsection (6) (e), unless an individual is pregnant, but shall not
3805 be terminated for any other person in the family who is meeting
3806 that person's applicable work requirement or who is not required
3807 to work. Minor children shall continue to be eligible for
3808 Medicaid benefits regardless of the disqualification of their
3809 parent or caretaker relative for TANF assistance under this
3810 subsection (6), unless prohibited by state or federal law.

3811 (f) Any person enrolled in a two-year or four-year
3812 college program who meets the eligibility requirements to receive
3813 TANF benefits, and who is meeting the applicable work requirements
3814 and all other applicable requirements of the TANF program, shall
3815 continue to be eligible for TANF benefits while enrolled in the
3816 college program for as long as the person meets the requirements
3817 of the TANF program, unless prohibited by federal law.

3818 (g) No adult in a work activity required under this
3819 subsection (6) shall be employed or assigned (i) when any other
3820 individual is on layoff from the same or any substantially
3821 equivalent job within six (6) months before the date of the TANF
3822 recipient's employment or assignment; or (ii) if the employer has
3823 terminated the employment of any regular employee or otherwise
3824 caused an involuntary reduction of its workforce in order to fill
3825 the vacancy so created with an adult receiving TANF assistance.
3826 The Mississippi Department of Employment Security, established
3827 under Section 71-5-101, shall appoint one or more impartial
3828 hearing officers to hear and decide claims by employees of
3829 violations of this paragraph (g). The hearing officer shall hear
3830 all the evidence with respect to any claim made hereunder and such
3831 additional evidence as he may require and shall make a
3832 determination and the reason therefor. The claimant shall be
3833 promptly notified of the decision of the hearing officer and the
3834 reason therefor. Within ten (10) days after the decision of the
3835 hearing officer has become final, any party aggrieved thereby may



3836 secure judicial review thereof by commencing an action, in the
3837 circuit court of the county in which the claimant resides, against
3838 the department for the review of such decision, in which action
3839 any other party to the proceeding before the hearing officer shall
3840 be made a defendant. Any such appeal shall be on the record which
3841 shall be certified to the court by the department in the manner
3842 provided in Section 71-5-531, and the jurisdiction of the court
3843 shall be confined to questions of law which shall render its
3844 decision as provided in that section.

3845 (7) The Department of Human Services may provide child care
3846 for eligible participants who require such care so that they may
3847 accept employment or remain employed. The department may also
3848 provide child care for those participating in the TANF program
3849 when it is determined that they are satisfactorily involved in
3850 education, training or other allowable work activities. The
3851 department may contract with Head Start agencies to provide child
3852 care services to TANF recipients. The department may also arrange
3853 for child care by use of contract or vouchers, provide vouchers in
3854 advance to a caretaker relative, reimburse a child care provider,
3855 or use any other arrangement deemed appropriate by the department,
3856 and may establish different reimbursement rates for child care
3857 services depending on the category of the facility or home. Any
3858 center-based or group home child care facility under this
3859 subsection shall be licensed by the State Department of Health
3860 pursuant to law. When child care is being provided in the child's
3861 own home, in the home of a relative of the child, or in any other
3862 unlicensed setting, the provision of such child care may be
3863 monitored on a random basis by the Department of Human Services or
3864 the State Department of Health. Transitional child care
3865 assistance may be continued if it is necessary for parents to
3866 maintain employment once support has ended, unless prohibited
3867 under state or federal law. Transitional child care assistance
3868 may be provided for up to twenty-four (24) months after the last



3869 month during which the family was eligible for TANF assistance, if
3870 federal funds are available for such child care assistance.

3871 (8) The Department of Human Services may provide
3872 transportation or provide reasonable reimbursement for
3873 transportation expenses that are necessary for individuals to be
3874 able to participate in allowable work activity under the TANF
3875 program.

3876 (9) Medicaid assistance shall be provided to a family of
3877 TANF program participants for up to twenty-four (24) consecutive
3878 calendar months following the month in which the participating
3879 family would be ineligible for TANF benefits because of increased
3880 income, expiration of earned income disregards, or increased hours
3881 of employment of the caretaker relative; however, Medicaid
3882 assistance for more than twelve (12) months may be provided only
3883 if a federal waiver is obtained to provide such assistance for
3884 more than twelve (12) months and federal and state funds are
3885 available to provide such assistance.

3886 (10) The department shall require applicants for and
3887 recipients of public assistance from the department to sign a
3888 personal responsibility contract that will require the applicant
3889 or recipient to acknowledge his or her responsibilities to the
3890 state.

3891 (11) The department shall enter into an agreement with the
3892 State Personnel Board and other state agencies that will allow
3893 those TANF participants who qualify for vacant jobs within state
3894 agencies to be placed in state jobs. State agencies participating
3895 in the TANF work program shall receive any and all benefits
3896 received by employers in the private sector for hiring TANF
3897 recipients. This subsection (11) shall be effective only if the
3898 state obtains any necessary federal waiver or approval and if
3899 federal funds are available therefor.

3900 (12) Any unspent TANF funds remaining from the prior fiscal
3901 year may be expended for any TANF allowable activities.



3902 (13) The Mississippi Department of Human Services shall
3903 provide TANF applicants information and referral to programs that
3904 provide information about birth control, prenatal health care,
3905 abstinence education, marriage education, family preservation and
3906 fatherhood.

3907 (14) No new TANF program requirement or restriction
3908 affecting a person's eligibility for TANF assistance, or allowable
3909 work activity, which is not mandated by federal law or regulation
3910 may be implemented by the Department of Human Services after July
3911 1, 2004, unless such is specifically authorized by an amendment to
3912 this section by the Legislature.

3913 * * *

3914 **SECTION 51.** Section 43-19-45, Mississippi Code of 1972, is
3915 reenacted and amended as follows:

3916 43-19-45. (1) The Child Support Unit shall establish a
3917 state parent locator service for the purpose of locating absent
3918 and nonsupporting parents and alleged parents, which will utilize
3919 all appropriate public and private locator sources. In order to
3920 carry out the responsibilities imposed under Sections 43-19-31
3921 through 43-19-53, the Child Support Unit may secure, by
3922 administrative subpoena from the customer records of public
3923 utilities and cable television companies, the names and addresses
3924 of individuals and the names and addresses of employers of such
3925 individuals that would enable the location of parents or alleged
3926 parents who have a duty to provide support and maintenance for
3927 their children. The Child Support Unit may also administratively
3928 subpoena any and all financial information, including account
3929 numbers, names and social security numbers of record for assets,
3930 accounts, and account balances from any individual, financial
3931 institution, business or other entity, public or private, needed
3932 to establish, modify or enforce a support order. No entity
3933 complying with an administrative subpoena to supply the requested
3934 information of whatever nature shall be liable in any civil action



3935 or proceeding on account of such compliance. Full faith and
3936 credit shall be given to all uniform administrative subpoenas
3937 issued by other state child support units. The recipient of an
3938 administrative subpoena shall supply the Child Support Unit, other
3939 state and federal IV-D agencies, its attorneys, investigators,
3940 probation officers, county or district attorneys in this state,
3941 all information relative to the location, employment,
3942 employment-related benefits including, but not limited to,
3943 availability of medical insurance, income and property of such
3944 parents and alleged parents and with all information on hand
3945 relative to the location and prosecution of any person who has, by
3946 means of a false statement or misrepresentation or by
3947 impersonation or other fraudulent device, obtained Temporary
3948 Assistance for Needy Families (TANF) to which he or she was not
3949 entitled, notwithstanding any provision of law making such
3950 information confidential. The Mississippi Department of
3951 Information Technology Services and any other agency in this state
3952 using the facilities of the Mississippi Department of Information
3953 Technology Services are directed to permit the Child Support Unit
3954 access to their files, inclusive of those maintained for other
3955 state agencies, for the purpose of locating absent and
3956 nonsupporting parents and alleged parents, except to the extent
3957 that any such access would violate any valid federal statute or
3958 regulation issued pursuant thereto. The Child Support Unit, other
3959 state and federal IV-D agencies, its attorneys, investigators,
3960 probation officers, or county or district attorneys, shall use
3961 such information only for the purpose of investigating or
3962 enforcing the support liability of such absent parents or alleged
3963 parents or for the prosecution of other persons mentioned herein.
3964 Neither the Child Support Unit nor those authorities shall use the
3965 information, or disclose it, for any other purpose. All records
3966 maintained pursuant to the provisions of Sections 43-19-31 through
3967 43-19-53 shall be confidential and shall be available only to the



3968 Child Support Unit, other state and federal IV-D agencies, the
3969 attorneys, investigators and other staff employed or under
3970 contract under Sections 43-19-31 through 43-19-53, district or
3971 county attorneys, probation departments, child support units in
3972 other states, and courts having jurisdiction in paternity, support
3973 or abandonment proceedings. The Child Support Unit may release to
3974 the public the name, photo, last-known address, arrearage amount
3975 and other necessary information of a parent who has a judgment
3976 against him for child support and is currently in arrears in the
3977 payment of this support. Such release may be included in a "Most
3978 Wanted List" or other media in order to solicit assistance.

3979 (2) The Child Support Unit shall have the authority to
3980 secure information from the records of the Mississippi Department
3981 of Employment Security that may be necessary to locate absent and
3982 nonsupporting parents and alleged parents under the provisions of
3983 Sections 43-19-31 through 43-19-53. Upon request of the Child
3984 Support Unit, all departments, boards, bureaus and agencies of the
3985 state shall provide to the Child Support Unit verification of
3986 employment or payment and the address and social security number
3987 of any person designated as an absent or nonsupporting parent or
3988 alleged parent. In addition, upon request of the Child Support
3989 Unit, the Mississippi Department of Employment Security, or any
3990 private employer or payor of any income to a person designated as
3991 an absent or nonsupporting parent or alleged parent, shall provide
3992 to the Child Support Unit verification of employment or payment
3993 and the address and social security number of the person so
3994 designated. Full faith and credit shall be given to such notices
3995 issued by child support units in other states. All such records
3996 and information shall be confidential and shall not be used for
3997 any purposes other than those specified by Sections 43-19-31
3998 through 43-19-53. The violation of the provisions of this
3999 subsection shall be unlawful and any person convicted of violating
4000 the provisions of this subsection shall be guilty of a misdemeanor



4001 and shall pay a fine of not more than Two Hundred Dollars
4002 (\$200.00).

4003 (3) Federal and state IV-D agencies shall have access to the
4004 state parent locator service and any system used by the Child
4005 Support Unit to locate an individual for purposes relating to
4006 motor vehicles or law enforcement. No employer or other source of
4007 income who complies with this section shall be liable in any civil
4008 action or proceeding brought by the obligor or obligee on account
4009 of such compliance.

4010 **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is
4011 reenacted as follows:

4012 **[For businesses or industries that received or applied for**
4013 **incentive payments prior to July 1, 2005, this section shall read**
4014 **as follows:]**

4015 57-62-5. As used in this chapter, the following words and
4016 phrases shall have the meanings ascribed in this section unless
4017 the context clearly indicates otherwise:

4018 (a) "Qualified business or industry" means any
4019 corporation, limited liability company, partnership, sole
4020 proprietorship, business trust or other legal entity and subunits
4021 or affiliates thereof, pursuant to rules and regulations of the
4022 MDA, which provides an average annual salary, excluding benefits
4023 which are not subject to Mississippi income taxes, of at least one
4024 hundred twenty-five percent (125%) of the most recently published
4025 state average annual wage or the most recently published average
4026 annual wage of the county in which the qualified business or
4027 industry is located as determined by the Mississippi Department of
4028 Employment Security, whichever is the lesser. An establishment
4029 shall not be considered to be a qualified business or industry
4030 unless it offers, or will offer within one hundred eighty (180)
4031 days of the date it receives the first incentive payment pursuant
4032 to the provisions of this chapter, a basic health benefits plan to
4033 the individuals it employs in new direct jobs in this state which



4034 is approved by the MDA. Qualified business or industry does not
4035 include retail business or gaming business;

4036 (b) "New direct job" means full-time employment in this
4037 state in a qualified business or industry that has qualified to
4038 receive an incentive payment pursuant to this chapter, which
4039 employment did not exist in this state before the date of approval
4040 by the MDA of the application of the qualified business or
4041 industry pursuant to the provisions of this chapter. "New direct
4042 job" shall include full-time employment in this state of employees
4043 who are employed by an entity other than the establishment that
4044 has qualified to receive an incentive payment and who are leased
4045 to the qualified business or industry, if such employment did not
4046 exist in this state before the date of approval by the MDA of the
4047 application of the establishment;

4048 (c) "Full-time job" means a job of at least thirty-five
4049 (35) hours per week;

4050 (d) "Estimated direct state benefits" means the tax
4051 revenues projected by the MDA to accrue to the state as a result
4052 of the qualified business or industry;

4053 (e) "Estimated direct state costs" means the costs
4054 projected by the MDA to accrue to the state as a result of the
4055 qualified business or industry;

4056 (f) "Estimated net direct state benefits" means the
4057 estimated direct state benefits less the estimated direct state
4058 costs;

4059 (g) "Net benefit rate" means the estimated net direct
4060 state benefits computed as a percentage of gross payroll, provided
4061 that:

4062 (i) Except as otherwise provided in this paragraph
4063 (g), the net benefit rate may be variable and shall not exceed
4064 four percent (4%) of the gross payroll; and shall be set in the
4065 sole discretion of the MDA;



4066 (ii) In no event shall incentive payments,
4067 cumulatively, exceed the estimated net direct state benefits;

4068 (h) "Gross payroll" means wages for new direct jobs of
4069 the qualified business or industry; and

4070 (i) "MDA" means the Mississippi Development Authority.

4071 **[For businesses or industries that received or applied for**
4072 **incentive payments from and after July 1, 2005, but prior to July**
4073 **1, 2010, this section shall read as follows:]**

4074 57-62-5. As used in this chapter, the following words and
4075 phrases shall have the meanings ascribed in this section unless
4076 the context clearly indicates otherwise:

4077 (a) "Qualified business or industry" means any
4078 corporation, limited liability company, partnership, sole
4079 proprietorship, business trust or other legal entity and subunits
4080 or affiliates thereof, pursuant to rules and regulations of the
4081 MDA, which:

4082 (i) Is a data/information processing enterprise
4083 meeting minimum criteria established by the MDA that provides an
4084 average annual salary, excluding benefits which are not subject to
4085 Mississippi income taxes, of at least one hundred percent (100%)
4086 of the most recently published state average annual wage or the
4087 most recently published average annual wage of the county in which
4088 the qualified business or industry is located as determined by the
4089 Mississippi Department of Employment Security, whichever is the
4090 lesser, and creates not less than two hundred (200) new direct
4091 jobs if the enterprise is located in a Tier One or Tier Two area
4092 (as such areas are designated in accordance with Section
4093 57-73-21), or which creates not less than one hundred (100) new
4094 jobs if the enterprise is located in a Tier Three area (as such
4095 areas are designated in accordance with Section 57-73-21);

4096 (ii) Is a manufacturing or distribution enterprise
4097 meeting minimum criteria established by the MDA that provides an
4098 average annual salary, excluding benefits which are not subject to



4099 Mississippi income taxes, of at least one hundred ten percent
4100 (110%) of the most recently published state average annual wage or
4101 the most recently published average annual wage of the county in
4102 which the qualified business or industry is located as determined
4103 by the Mississippi Department of Employment Security, whichever is
4104 the lesser, invests not less than Twenty Million Dollars
4105 (\$20,000,000.00) in land, buildings and equipment, and creates not
4106 less than fifty (50) new direct jobs if the enterprise is located
4107 in a Tier One or Tier Two area (as such areas are designated in
4108 accordance with Section 57-73-21), or which creates not less than
4109 twenty (20) new jobs if the enterprise is located in a Tier Three
4110 area (as such areas are designated in accordance with Section
4111 57-73-21);

4112 (iii) Is a corporation, limited liability company,
4113 partnership, sole proprietorship, business trust or other legal
4114 entity and subunits or affiliates thereof, pursuant to rules and
4115 regulations of the MDA, which provides an average annual salary,
4116 excluding benefits which are not subject to Mississippi income
4117 taxes, of at least one hundred twenty-five percent (125%) of the
4118 most recently published state average annual wage or the most
4119 recently published average annual wage of the county in which the
4120 qualified business or industry is located as determined by the
4121 Mississippi Department of Employment Security, whichever is the
4122 lesser, and creates not less than twenty-five (25) new direct jobs
4123 if the enterprise is located in a Tier One or Tier Two area (as
4124 such areas are designated in accordance with Section 57-73-21), or
4125 which creates not less than ten (10) new jobs if the enterprise is
4126 located in a Tier Three area (as such areas are designated in
4127 accordance with Section 57-73-21). An establishment shall not be
4128 considered to be a qualified business or industry unless it
4129 offers, or will offer within one hundred eighty (180) days of the
4130 date it receives the first incentive payment pursuant to the
4131 provisions of this chapter, a basic health benefits plan to the



4132 individuals it employs in new direct jobs in this state which is
4133 approved by the MDA. Qualified business or industry does not
4134 include retail business or gaming business; or

4135 (iv) Is a research and development or a technology
4136 intensive enterprise meeting minimum criteria established by the
4137 MDA that provides an average annual salary, excluding benefits
4138 which are not subject to Mississippi income taxes, of at least one
4139 hundred fifty percent (150%) of the most recently published state
4140 average annual wage or the most recently published average annual
4141 wage of the county in which the qualified business or industry is
4142 located as determined by the Mississippi Department of Employment
4143 Security, whichever is the lesser, and creates not less than ten
4144 (10) new direct jobs.

4145 An establishment shall not be considered to be a qualified
4146 business or industry unless it offers, or will offer within one
4147 hundred eighty (180) days of the date it receives the first
4148 incentive payment pursuant to the provisions of this chapter, a
4149 basic health benefits plan to the individuals it employs in new
4150 direct jobs in this state which is approved by the MDA. Qualified
4151 business or industry does not include retail business or gaming
4152 business.

4153 (b) "New direct job" means full-time employment in this
4154 state in a qualified business or industry that has qualified to
4155 receive an incentive payment pursuant to this chapter, which
4156 employment did not exist in this state before the date of approval
4157 by the MDA of the application of the qualified business or
4158 industry pursuant to the provisions of this chapter. "New direct
4159 job" shall include full-time employment in this state of employees
4160 who are employed by an entity other than the establishment that
4161 has qualified to receive an incentive payment and who are leased
4162 to the qualified business or industry, if such employment did not
4163 exist in this state before the date of approval by the MDA of the
4164 application of the establishment.



4165 (c) "Full-time job" or "full-time employment" means a
4166 job of at least thirty-five (35) hours per week.

4167 (d) "Estimated direct state benefits" means the tax
4168 revenues projected by the MDA to accrue to the state as a result
4169 of the qualified business or industry.

4170 (e) "Estimated direct state costs" means the costs
4171 projected by the MDA to accrue to the state as a result of the
4172 qualified business or industry.

4173 (f) "Estimated net direct state benefits" means the
4174 estimated direct state benefits less the estimated direct state
4175 costs.

4176 (g) "Net benefit rate" means the estimated net direct
4177 state benefits computed as a percentage of gross payroll, provided
4178 that:

4179 (i) Except as otherwise provided in this paragraph
4180 (g), the net benefit rate may be variable and shall not exceed
4181 four percent (4%) of the gross payroll; and shall be set in the
4182 sole discretion of the MDA;

4183 (ii) In no event shall incentive payments,
4184 cumulatively, exceed the estimated net direct state benefits.

4185 (h) "Gross payroll" means wages for new direct jobs of
4186 the qualified business or industry.

4187 (i) "MDA" means the Mississippi Development Authority.

4188 **[For businesses or industries that apply for incentive**
4189 **payments from and after July 1, 2010, this section shall read as**
4190 **follows:]**

4191 57-62-5. As used in this chapter, the following words and
4192 phrases shall have the meanings ascribed in this section unless
4193 the context clearly indicates otherwise:

4194 (a) "Qualified business or industry" means any
4195 corporation, limited liability company, partnership, sole
4196 proprietorship, business trust or other legal entity and subunits



4197 or affiliates thereof, pursuant to rules and regulations of the
4198 MDA, which:

4199 (i) Is a data/information processing enterprise
4200 meeting minimum criteria established by the MDA that provides an
4201 average annual salary, excluding benefits which are not subject to
4202 Mississippi income taxes, of at least one hundred percent (100%)
4203 of the most recently published state average annual wage or the
4204 most recently published average annual wage of the county in which
4205 the qualified business or industry is located as determined by the
4206 Mississippi Department of Employment Security, whichever is the
4207 lesser, and creates not less than two hundred (200) new direct
4208 jobs;

4209 (ii) Is a corporation, limited liability company,
4210 partnership, sole proprietorship, business trust or other legal
4211 entity and subunits or affiliates thereof, pursuant to rules and
4212 regulations of the MDA, which provides an average annual salary,
4213 excluding benefits which are not subject to Mississippi income
4214 taxes, of at least one hundred ten percent (110%) of the most
4215 recently published state average annual wage or the most recently
4216 published average annual wage of the county in which the qualified
4217 business or industry is located as determined by the Mississippi
4218 Department of Employment Security, whichever is the lesser, and
4219 creates not less than twenty-five (25) new direct jobs; or

4220 (iii) Is a corporation, limited liability company,
4221 partnership, sole proprietorship, business trust or other legal
4222 entity and subunits or affiliates thereof, pursuant to rules and
4223 regulations of the MDA, which is a manufacturer that:

4224 1. Provides an average annual salary,
4225 excluding benefits which are not subject to Mississippi income
4226 taxes, of at least one hundred ten percent (110%) of the most
4227 recently published state average annual wage or the most recently
4228 published average annual wage of the county in which the qualified



4229 business or industry is located as determined by the Mississippi
4230 Department of Employment Security, whichever is the lesser;

4231 2. Has a minimum of five thousand (5,000)
4232 existing employees as of the last day of the previous calendar
4233 year; and

4234 3. MDA determines will create not less than
4235 three thousand (3,000) new direct jobs within forty-eight (48)
4236 months of the date the MDA determines that the applicant is
4237 qualified to receive incentive payments.

4238 An establishment shall not be considered to be a qualified
4239 business or industry unless it offers, or will offer within one
4240 hundred eighty (180) days of the date it receives the first
4241 incentive payment pursuant to the provisions of this chapter, a
4242 basic health benefits plan to the individuals it employs in new
4243 direct jobs in this state which is approved by the MDA. Qualified
4244 business or industry does not include retail business or gaming
4245 business.

4246 (b) "New direct job" means full-time employment in this
4247 state in a qualified business or industry that has qualified to
4248 receive an incentive payment pursuant to this chapter, which
4249 employment did not exist in this state before the date of approval
4250 by the MDA of the application of the qualified business or
4251 industry pursuant to the provisions of this chapter. "New direct
4252 job" shall include full-time employment in this state of employees
4253 who are employed by an entity other than the establishment that
4254 has qualified to receive an incentive payment and who are leased
4255 to the qualified business or industry, if such employment did not
4256 exist in this state before the date of approval by the MDA of the
4257 application of the establishment.

4258 (c) "Full-time job" or "full-time employment" means a
4259 job of at least thirty-five (35) hours per week.

4260 (d) "Gross payroll" means wages for new direct jobs of
4261 the qualified business or industry.



4262 (e) "MDA" means the Mississippi Development Authority.

4263 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is
4264 reenacted as follows:

4265 **[For businesses or industries that received or applied for**
4266 **incentive payments prior to July 1, 2005, this section shall read**
4267 **as follows:]**

4268 57-62-9. (1) Except as otherwise provided in this section,
4269 a qualified business or industry that meets the qualifications
4270 specified in this chapter may receive quarterly incentive payments
4271 for a period not to exceed ten (10) years from the Department of
4272 Revenue pursuant to the provisions of this chapter in an amount
4273 which shall be equal to the net benefit rate multiplied by the
4274 actual gross payroll of new direct jobs for a calendar quarter as
4275 verified by the Mississippi Department of Employment Security, but
4276 not to exceed the amount of money previously paid into the fund by
4277 the employer. A qualified business or industry that is a project
4278 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4279 which the ten-year period will begin. Such date may not be later
4280 than sixty (60) months after the date the business or industry
4281 applied for incentive payments.

4282 (2) (a) A qualified business or industry that is a project
4283 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4284 receive incentive payments for an additional period not to exceed
4285 five (5) years beyond the expiration date of the initial ten-year
4286 period if:

4287 (i) The qualified business or industry creates at
4288 least three thousand (3,000) new direct jobs within five (5) years
4289 after the date the business or industry commences commercial
4290 production;

4291 (ii) Within five (5) years after the date the
4292 business or industry commences commercial production, the average
4293 annual wage of the jobs is at least one hundred fifty percent
4294 (150%) of the most recently published state average annual wage or



4295 the most recently published average annual wage of the county in
4296 which the qualified business or industry is located as determined
4297 by the Mississippi Department of Employment Security, whichever is
4298 the lesser. The criteria for the average annual wage requirement
4299 shall be based upon the state average annual wage or the average
4300 annual wage of the county whichever is appropriate, at the time of
4301 creation of the minimum number of jobs, and the threshold
4302 established at that time will remain constant for the duration of
4303 the additional period; and

4304 (iii) The qualified business or industry meets and
4305 maintains the job and wage requirements of subparagraphs (i) and
4306 (ii) of this paragraph (a) for four (4) consecutive calendar
4307 quarters.

4308 (b) A qualified business or industry that is a project
4309 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4310 incentive payments for the additional period provided in paragraph
4311 (a) of this subsection (2) may apply to the MDA to receive
4312 incentive payments for an additional period not to exceed ten (10)
4313 years beyond the expiration date of the additional period provided
4314 in paragraph (a) of this subsection (2) if:

4315 (i) The qualified business or industry creates at
4316 least four thousand (4,000) new direct jobs after qualifying for
4317 the additional incentive period provided in paragraph (a) of this
4318 subsection (2) but before the expiration of the additional period.
4319 For purposes of determining whether the business or industry meets
4320 the minimum jobs requirement of this subparagraph (i), the number
4321 of jobs the business or industry created in order to meet the
4322 minimum jobs requirement of paragraph (a) of this subsection (2)
4323 shall be subtracted from the minimum jobs requirement of this
4324 subparagraph (i);

4325 (ii) The average annual wage of the jobs is at
4326 least one hundred fifty percent (150%) of the most recently
4327 published state average annual wage or the most recently published



4328 average annual wage of the county in which the qualified business
4329 or industry is located as determined by the Mississippi Department
4330 of Employment Security, whichever is the lesser. The criteria for
4331 the average annual wage requirement shall be based upon the state
4332 average annual wage or the average annual wage of the county
4333 whichever is appropriate, at the time of creation of the minimum
4334 number of jobs, and the threshold established at that time will
4335 remain constant for the duration of the additional period; and
4336 (iii) The qualified business or industry meets and
4337 maintains the job and wage requirements of subparagraphs (i) and
4338 (ii) of this paragraph (b) for four (4) consecutive calendar
4339 quarters.

4340 (3) In order to receive incentive payments, an establishment
4341 shall apply to the MDA. The application shall be on a form
4342 prescribed by the MDA and shall contain such information as may be
4343 required by the MDA to determine if the applicant is qualified.

4344 (4) In order to qualify to receive such payments, the
4345 establishment applying shall be required to:

4346 (a) Be engaged in a qualified business or industry;

4347 (b) Provide an average salary, excluding benefits which
4348 are not subject to Mississippi income taxes, of at least one
4349 hundred twenty-five percent (125%) of the most recently published
4350 state average annual wage or the most recently published average
4351 annual wage of the county in which the qualified business or
4352 industry is located as determined by the Mississippi Department of
4353 Employment Security, whichever is the lesser. The criteria for
4354 this requirement shall be based upon the state average annual wage
4355 or the average annual wage of the county whichever is appropriate,
4356 at the time of application, and the threshold established upon
4357 application will remain constant for the duration of the project;

4358 (c) The business or industry must create and maintain a
4359 minimum of ten (10) full-time jobs in counties that have an
4360 average unemployment rate over the previous twelve-month period



4361 which is at least one hundred fifty percent (150%) of the most
4362 recently published state unemployment rate, as determined by the
4363 Mississippi Department of Employment Security or in Tier Three
4364 counties as determined under Section 57-73-21. In all other
4365 counties, the business or industry must create and maintain a
4366 minimum of twenty-five (25) full-time jobs. The criteria for this
4367 requirement shall be based on the designation of the county at the
4368 time of the application. The threshold established upon the
4369 application will remain constant for the duration of the project.
4370 The business or industry must meet its job creation commitment
4371 within twenty-four (24) months of the application approval.
4372 However, if the qualified business or industry is applying for
4373 incentive payments for an additional period under subsection (2)
4374 of this section, the business or industry must comply with the
4375 applicable job and wage requirements of subsection (2) of this
4376 section.

4377 (5) The MDA shall determine if the applicant is qualified to
4378 receive incentive payments. If the applicant is determined to be
4379 qualified by the MDA, the MDA shall conduct a cost/benefit
4380 analysis to determine the estimated net direct state benefits and
4381 the net benefit rate applicable for a period not to exceed ten
4382 (10) years and to estimate the amount of gross payroll for the
4383 period. If the applicant is determined to be qualified to receive
4384 incentive payments for an additional period under subsection (2)
4385 of this section, the MDA shall conduct a cost/benefit analysis to
4386 determine the estimated net direct state benefits and the net
4387 benefit rate applicable for the appropriate additional period and
4388 to estimate the amount of gross payroll for the additional period.
4389 In conducting such cost/benefit analysis, the MDA shall consider
4390 quantitative factors, such as the anticipated level of new tax
4391 revenues to the state along with the cost to the state of the
4392 qualified business or industry, and such other criteria as deemed
4393 appropriate by the MDA, including the adequacy of retirement



4394 benefits that the business or industry provides to individuals it
4395 employs in new direct jobs in this state. In no event shall
4396 incentive payments, cumulatively, exceed the estimated net direct
4397 state benefits. Once the qualified business or industry is
4398 approved by the MDA, an agreement shall be deemed to exist between
4399 the qualified business or industry and the State of Mississippi,
4400 requiring the continued incentive payment to be made as long as
4401 the qualified business or industry retains its eligibility.

4402 (6) Upon approval of such an application, the MDA shall
4403 notify the Department of Revenue and shall provide it with a copy
4404 of the approved application and the estimated net direct state
4405 benefits. The Department of Revenue may require the qualified
4406 business or industry to submit such additional information as may
4407 be necessary to administer the provisions of this chapter. The
4408 qualified business or industry shall report to the Department of
4409 Revenue periodically to show its continued eligibility for
4410 incentive payments. The qualified business or industry may be
4411 audited by the Department of Revenue to verify such eligibility.

4412 (7) If the qualified business or industry is located in an
4413 area that has been declared by the Governor to be a disaster area
4414 and as a result of the disaster the business or industry is unable
4415 to create or maintain the full-time jobs required by this section:

4416 (a) The Commissioner of Revenue may extend the period
4417 of time that the business or industry may receive incentive
4418 payments for a period of time not to exceed two (2) years;

4419 (b) The Commissioner of Revenue may waive the
4420 requirement that a certain number of jobs be maintained for a
4421 period of time not to exceed twenty-four (24) months; and

4422 (c) The MDA may extend the period of time within which
4423 the jobs must be created for a period of time not to exceed
4424 twenty-four (24) months.



4425 **[For businesses or industries that received or applied for**
4426 **incentive payments from and after July 1, 2005, but prior to July**
4427 **1, 2010, this section shall read as follows:]**

4428 57-62-9. (1) (a) Except as otherwise provided in this
4429 section, a qualified business or industry that meets the
4430 qualifications specified in this chapter may receive quarterly
4431 incentive payments for a period not to exceed ten (10) years from
4432 the Department of Revenue pursuant to the provisions of this
4433 chapter in an amount which shall be equal to the net benefit rate
4434 multiplied by the actual gross payroll of new direct jobs for a
4435 calendar quarter as verified by the Mississippi Department of
4436 Employment Security, but not to exceed:

4437 (i) Ninety percent (90%) of the amount of money
4438 previously paid into the fund by the employer if the employer
4439 provides an average annual salary, excluding benefits which are
4440 not subject to Mississippi income taxes, of at least one hundred
4441 seventy-five percent (175%) of the most recently published state
4442 average annual wage or the most recently published average annual
4443 wage of the county in which the qualified business or industry is
4444 located as determined by the Mississippi Department of Employment
4445 Security, whichever is the lesser;

4446 (ii) Eighty percent (80%) of the amount of money
4447 previously paid into the fund by the employer if the employer
4448 provides an average annual salary, excluding benefits which are
4449 not subject to Mississippi income taxes, of at least one hundred
4450 twenty-five percent (125%) but less than one hundred seventy-five
4451 percent (175%) of the most recently published state average annual
4452 wage or the most recently published average annual wage of the
4453 county in which the qualified business or industry is located as
4454 determined by the Mississippi Department of Employment Security,
4455 whichever is the lesser; or

4456 (iii) Seventy percent (70%) of the amount of money
4457 previously paid into the fund by the employer if the employer



4458 provides an average annual salary, excluding benefits which are
4459 not subject to Mississippi income taxes, of less than one hundred
4460 twenty-five percent (125%) of the most recently published state
4461 average annual wage or the most recently published average annual
4462 wage of the county in which the qualified business or industry is
4463 located as determined by the Mississippi Department of Employment
4464 Security, whichever is the lesser.

4465 (b) A qualified business or industry that is a project
4466 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4467 which the ten-year period will begin. Such date may not be later
4468 than sixty (60) months after the date the business or industry
4469 applied for incentive payments.

4470 (2) (a) A qualified business or industry that is a project
4471 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4472 receive incentive payments for an additional period not to exceed
4473 five (5) years beyond the expiration date of the initial ten-year
4474 period if:

4475 (i) The qualified business or industry creates at
4476 least three thousand (3,000) new direct jobs within five (5) years
4477 after the date the business or industry commences commercial
4478 production;

4479 (ii) Within five (5) years after the date the
4480 business or industry commences commercial production, the average
4481 annual wage of the jobs is at least one hundred fifty percent
4482 (150%) of the most recently published state average annual wage or
4483 the most recently published average annual wage of the county in
4484 which the qualified business or industry is located as determined
4485 by the Mississippi Department of Employment Security, whichever is
4486 the lesser. The criteria for the average annual wage requirement
4487 shall be based upon the state average annual wage or the average
4488 annual wage of the county whichever is appropriate, at the time of
4489 creation of the minimum number of jobs, and the threshold



4490 established at that time will remain constant for the duration of
4491 the additional period; and

4492 (iii) The qualified business or industry meets and
4493 maintains the job and wage requirements of subparagraphs (i) and
4494 (ii) of this paragraph (a) for four (4) consecutive calendar
4495 quarters.

4496 (b) A qualified business or industry that is a project
4497 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4498 incentive payments for the additional period provided in paragraph
4499 (a) of this subsection (2) may apply to the MDA to receive
4500 incentive payments for an additional period not to exceed ten (10)
4501 years beyond the expiration date of the additional period provided
4502 in paragraph (a) of this subsection (2) if:

4503 (i) The qualified business or industry creates at
4504 least four thousand (4,000) new direct jobs after qualifying for
4505 the additional incentive period provided in paragraph (a) of this
4506 subsection (2) but before the expiration of the additional period.
4507 For purposes of determining whether the business or industry meets
4508 the minimum jobs requirement of this subparagraph (i), the number
4509 of jobs the business or industry created in order to meet the
4510 minimum jobs requirement of paragraph (a) of this subsection (2)
4511 shall be subtracted from the minimum jobs requirement of this
4512 subparagraph (i);

4513 (ii) The average annual wage of the jobs is at
4514 least one hundred fifty percent (150%) of the most recently
4515 published state average annual wage or the most recently published
4516 average annual wage of the county in which the qualified business
4517 or industry is located as determined by the Mississippi Department
4518 of Employment Security, whichever is the lesser. The criteria for
4519 the average annual wage requirement shall be based upon the state
4520 average annual wage or the average annual wage of the county
4521 whichever is appropriate, at the time of creation of the minimum



4522 number of jobs, and the threshold established at that time will
4523 remain constant for the duration of the additional period; and

4524 (iii) The qualified business or industry meets and
4525 maintains the job and wage requirements of subparagraphs (i) and
4526 (ii) of this paragraph (b) for four (4) consecutive calendar
4527 quarters.

4528 (3) In order to receive incentive payments, an establishment
4529 shall apply to the MDA. The application shall be on a form
4530 prescribed by the MDA and shall contain such information as may be
4531 required by the MDA to determine if the applicant is qualified.

4532 (4) (a) In order to qualify to receive such payments, the
4533 establishment applying shall be required to meet the definition of
4534 the term "qualified business or industry";

4535 (b) The criteria for the average annual salary
4536 requirement shall be based upon the state average annual wage or
4537 the average annual wage of the county whichever is appropriate, at
4538 the time of application, and the threshold established upon
4539 application will remain constant for the duration of the project;

4540 (c) The business or industry must meet its job creation
4541 commitment within twenty-four (24) months of the application
4542 approval. However, if the qualified business or industry is
4543 applying for incentive payments for an additional period under
4544 subsection (2) of this section, the business or industry must
4545 comply with the applicable job and wage requirements of subsection
4546 (2) of this section.

4547 (5) (a) The MDA shall determine if the applicant is
4548 qualified to receive incentive payments.

4549 (b) If the applicant is determined to be qualified to
4550 receive incentive payments for an additional period under
4551 subsection (2) of this section, the MDA shall conduct a
4552 cost/benefit analysis to determine the estimated net direct state
4553 benefits and the net benefit rate applicable for the appropriate
4554 additional period and to estimate the amount of gross payroll for



4555 the additional period. In conducting such cost/benefit analysis,
4556 the MDA shall consider quantitative factors, such as the
4557 anticipated level of new tax revenues to the state along with the
4558 cost to the state of the qualified business or industry, and such
4559 other criteria as deemed appropriate by the MDA, including the
4560 adequacy of retirement benefits that the business or industry
4561 provides to individuals it employs in new direct jobs in this
4562 state. In no event shall incentive payments, cumulatively, exceed
4563 the estimated net direct state benefits. Once the qualified
4564 business or industry is approved by the MDA, an agreement shall be
4565 deemed to exist between the qualified business or industry and the
4566 State of Mississippi, requiring the continued incentive payment to
4567 be made as long as the qualified business or industry retains its
4568 eligibility.

4569 (6) Upon approval of such an application, the MDA shall
4570 notify the Department of Revenue and shall provide it with a copy
4571 of the approved application and the estimated net direct state
4572 benefits. The Department of Revenue may require the qualified
4573 business or industry to submit such additional information as may
4574 be necessary to administer the provisions of this chapter. The
4575 qualified business or industry shall report to the Department of
4576 Revenue periodically to show its continued eligibility for
4577 incentive payments. The qualified business or industry may be
4578 audited by the Department of Revenue to verify such eligibility.

4579 (7) If the qualified business or industry is located in an
4580 area that has been declared by the Governor to be a disaster area
4581 and as a result of the disaster the business or industry is unable
4582 to create or maintain the full-time jobs required by this section:

4583 (a) The Commissioner of Revenue may extend the period
4584 of time that the business or industry may receive incentive
4585 payments for a period of time not to exceed two (2) years;



4586 (b) The Commissioner of Revenue may waive the
4587 requirement that a certain number of jobs be maintained for a
4588 period of time not to exceed twenty-four (24) months; and

4589 (c) The MDA may extend the period of time within which
4590 the jobs must be created for a period of time not to exceed
4591 twenty-four (24) months.

4592 **[For businesses or industries that apply for incentive**
4593 **payments from and after July 1, 2010, this section shall read as**
4594 **follows:]**

4595 57-62-9. (1) (a) Except as otherwise provided in this
4596 section, a qualified business or industry that meets the
4597 qualifications specified in this chapter may receive quarterly
4598 incentive payments for a period not to exceed ten (10) years from
4599 the Department of Revenue pursuant to the provisions of this
4600 chapter in an amount which shall be equal to ninety percent (90%)
4601 of the amount of actual income tax withheld for employees with new
4602 direct jobs, but in no event more than four percent (4%) of the
4603 total annual salary paid for new direct jobs during such period,
4604 excluding benefits which are not subject to Mississippi income
4605 taxes.

4606 (b) A qualified business or industry that is a project
4607 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4608 which the ten-year period will begin. Such date may not be later
4609 than sixty (60) months after the date the business or industry
4610 applied for incentive payments.

4611 (c) A qualified business or industry as defined in
4612 Section 57-62-5(a)(iii) may elect the date upon which the ten-year
4613 period will begin and may elect to begin receiving incentive
4614 payments as early as the second quarter after that date.
4615 Incentive payments will be calculated on all jobs above the
4616 existing number of jobs as of the date the MDA determines that the
4617 applicant is qualified to receive incentive payments. In the
4618 event that the qualified business or industry falls below the



4619 number of existing jobs at the time of determination that the
4620 applicant is qualified to receive the incentive payment, the
4621 incentive payment shall cease until the qualified business or
4622 industry once again exceeds that number. If after forty-eight
4623 (48) months, the qualified business or industry has failed to
4624 create at least three thousand (3,000) new direct jobs, incentive
4625 payments shall cease and the qualified business or industry shall
4626 not be qualified to receive further incentive payments.

4627 (2) (a) A qualified business or industry that is a project
4628 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4629 receive incentive payments for an additional period not to exceed
4630 five (5) years beyond the expiration date of the initial ten-year
4631 period if:

4632 (i) The qualified business or industry creates at
4633 least three thousand (3,000) new direct jobs within five (5) years
4634 after the date the business or industry commences commercial
4635 production;

4636 (ii) Within five (5) years after the date the
4637 business or industry commences commercial production, the average
4638 annual wage of the jobs is at least one hundred fifty percent
4639 (150%) of the most recently published state average annual wage or
4640 the most recently published average annual wage of the county in
4641 which the qualified business or industry is located as determined
4642 by the Mississippi Department of Employment Security, whichever is
4643 the lesser. The criteria for the average annual wage requirement
4644 shall be based upon the state average annual wage or the average
4645 annual wage of the county whichever is appropriate, at the time of
4646 creation of the minimum number of jobs, and the threshold
4647 established at that time will remain constant for the duration of
4648 the additional period; and

4649 (iii) The qualified business or industry meets and
4650 maintains the job and wage requirements of subparagraphs (i) and



4651 (ii) of this paragraph (a) for four (4) consecutive calendar
4652 quarters.

4653 (b) A qualified business or industry that is a project
4654 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4655 incentive payments for the additional period provided in paragraph
4656 (a) of this subsection (2) may apply to the MDA to receive
4657 incentive payments for an additional period not to exceed ten (10)
4658 years beyond the expiration date of the additional period provided
4659 in paragraph (a) of this subsection (2) if:

4660 (i) The qualified business or industry creates at
4661 least four thousand (4,000) new direct jobs after qualifying for
4662 the additional incentive period provided in paragraph (a) of this
4663 subsection (2) but before the expiration of the additional period.
4664 For purposes of determining whether the business or industry meets
4665 the minimum jobs requirement of this subparagraph (i), the number
4666 of jobs the business or industry created in order to meet the
4667 minimum jobs requirement of paragraph (a) of this subsection (2)
4668 shall be subtracted from the minimum jobs requirement of this
4669 subparagraph (i);

4670 (ii) The average annual wage of the jobs is at
4671 least one hundred fifty percent (150%) of the most recently
4672 published state average annual wage or the most recently published
4673 average annual wage of the county in which the qualified business
4674 or industry is located as determined by the Mississippi Department
4675 of Employment Security, whichever is the lesser. The criteria for
4676 the average annual wage requirement shall be based upon the state
4677 average annual wage or the average annual wage of the county
4678 whichever is appropriate, at the time of creation of the minimum
4679 number of jobs, and the threshold established at that time will
4680 remain constant for the duration of the additional period; and

4681 (iii) The qualified business or industry meets and
4682 maintains the job and wage requirements of subparagraphs (i) and



4683 (ii) of this paragraph (b) for four (4) consecutive calendar
4684 quarters.

4685 (3) In order to receive incentive payments, an establishment
4686 shall apply to the MDA. The application shall be on a form
4687 prescribed by the MDA and shall contain such information as may be
4688 required by the MDA to determine if the applicant is qualified.

4689 (4) (a) In order to qualify to receive such payments, the
4690 establishment applying shall be required to meet the definition of
4691 the term "qualified business or industry";

4692 (b) The criteria for the average annual salary
4693 requirement shall be based upon the state average annual wage or
4694 the average annual wage of the county whichever is appropriate, at
4695 the time of application, and the threshold established upon
4696 application will remain constant for the duration of the project;

4697 (c) Except as otherwise provided for a qualified
4698 business or industry as defined in Section 57-62-5(a)(iii), the
4699 business or industry must meet its job creation commitment within
4700 twenty-four (24) months of the application approval. However, if
4701 the qualified business or industry is applying for incentive
4702 payments for an additional period under subsection (2) of this
4703 section, the business or industry must comply with the applicable
4704 job and wage requirements of subsection (2) of this section.

4705 (5) (a) The MDA shall determine if the applicant is
4706 qualified to receive incentive payments.

4707 (b) If the applicant is determined to be qualified to
4708 receive incentive payments for an additional period under
4709 subsection (2) of this section, the MDA shall conduct an analysis
4710 to estimate the amount of gross payroll for the appropriate
4711 additional period. Incentive payments, cumulatively, shall not
4712 exceed ninety percent (90%) of the amount of actual income tax
4713 withheld for employees with new direct jobs, but in no event more
4714 than four percent (4%) of the total annual salary paid for new
4715 direct jobs during the additional period, excluding benefits which



4716 are not subject to Mississippi income taxes. Once the qualified
4717 business or industry is approved by the MDA, an agreement shall be
4718 deemed to exist between the qualified business or industry and the
4719 State of Mississippi, requiring the continued incentive payment to
4720 be made as long as the qualified business or industry retains its
4721 eligibility.

4722 (6) Upon approval of such an application, the MDA shall
4723 notify the Department of Revenue and shall provide it with a copy
4724 of the approved application and the minimum job and salary
4725 requirements. The Department of Revenue may require the qualified
4726 business or industry to submit such additional information as may
4727 be necessary to administer the provisions of this chapter. The
4728 qualified business or industry shall report to the Department of
4729 Revenue periodically to show its continued eligibility for
4730 incentive payments. The qualified business or industry may be
4731 audited by the Department of Revenue to verify such eligibility.

4732 (7) If the qualified business or industry is located in an
4733 area that has been declared by the Governor to be a disaster area
4734 and as a result of the disaster the business or industry is unable
4735 to create or maintain the full-time jobs required by this section:

4736 (a) The Commissioner of Revenue may extend the period
4737 of time that the business or industry may receive incentive
4738 payments for a period of time not to exceed two (2) years;

4739 (b) The Commissioner of Revenue may waive the
4740 requirement that a certain number of jobs be maintained for a
4741 period of time not to exceed twenty-four (24) months; and

4742 (c) The MDA may extend the period of time within which
4743 the jobs must be created for a period of time not to exceed
4744 twenty-four (24) months.

4745 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is
4746 reenacted as follows:



4747 57-75-5. Words and phrases used in this chapter shall have
4748 meanings as follows, unless the context clearly indicates a
4749 different meaning:

4750 (a) "Act" means the Mississippi Major Economic Impact
4751 Act as originally enacted or as hereafter amended.

4752 (b) "Authority" means the Mississippi Major Economic
4753 Impact Authority created pursuant to the act.

4754 (c) "Bonds" means general obligation bonds, interim
4755 notes and other evidences of debt of the State of Mississippi
4756 issued pursuant to this chapter.

4757 (d) "Facility related to the project" means and
4758 includes any of the following, as the same may pertain to the
4759 project within the project area: (i) facilities to provide
4760 potable and industrial water supply systems, sewage and waste
4761 disposal systems and water, natural gas and electric transmission
4762 systems to the site of the project; (ii) airports, airfields and
4763 air terminals; (iii) rail lines; (iv) port facilities; (v)
4764 highways, streets and other roadways; (vi) public school
4765 buildings, classrooms and instructional facilities, training
4766 facilities and equipment, including any functionally related
4767 facilities; (vii) parks, outdoor recreation facilities and
4768 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
4769 art centers, cultural centers, folklore centers and other public
4770 facilities; (ix) health care facilities, public or private; and
4771 (x) fire protection facilities, equipment and elevated water
4772 tanks.

4773 (e) "Person" means any natural person, corporation,
4774 association, partnership, receiver, trustee, guardian, executor,
4775 administrator, fiduciary, governmental unit, public agency,
4776 political subdivision, or any other group acting as a unit, and
4777 the plural as well as the singular.

4778 (f) "Project" means:



4779 (i) Any industrial, commercial, research and
4780 development, warehousing, distribution, transportation,
4781 processing, mining, United States government or tourism enterprise
4782 together with all real property required for construction,
4783 maintenance and operation of the enterprise with an initial
4784 capital investment of not less than Three Hundred Million Dollars
4785 (\$300,000,000.00) from private or United States government sources
4786 together with all buildings, and other supporting land and
4787 facilities, structures or improvements of whatever kind required
4788 or useful for construction, maintenance and operation of the
4789 enterprise; or with an initial capital investment of not less than
4790 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
4791 or United States government sources together with all buildings
4792 and other supporting land and facilities, structures or
4793 improvements of whatever kind required or useful for construction,
4794 maintenance and operation of the enterprise and which creates at
4795 least one thousand (1,000) net new full-time jobs; or which
4796 creates at least one thousand (1,000) net new full-time jobs which
4797 provides an average salary, excluding benefits which are not
4798 subject to Mississippi income taxation, of at least one hundred
4799 twenty-five percent (125%) of the most recently published average
4800 annual wage of the state as determined by the Mississippi
4801 Department of Employment Security. "Project" shall include any
4802 addition to or expansion of an existing enterprise if such
4803 addition or expansion has an initial capital investment of not
4804 less than Three Hundred Million Dollars (\$300,000,000.00) from
4805 private or United States government sources, or has an initial
4806 capital investment of not less than One Hundred Fifty Million
4807 Dollars (\$150,000,000.00) from private or United States government
4808 sources together with all buildings and other supporting land and
4809 facilities, structures or improvements of whatever kind required
4810 or useful for construction, maintenance and operation of the
4811 enterprise and which creates at least one thousand (1,000) net new



4812 full-time jobs; or which creates at least one thousand (1,000) net
4813 new full-time jobs which provides an average salary, excluding
4814 benefits which are not subject to Mississippi income taxation, of
4815 at least one hundred twenty-five percent (125%) of the most
4816 recently published average annual wage of the state as determined
4817 by the Mississippi Department of Employment Security. "Project"
4818 shall also include any ancillary development or business resulting
4819 from the enterprise, of which the authority is notified, within
4820 three (3) years from the date that the enterprise entered into
4821 commercial production, that the project area has been selected as
4822 the site for the ancillary development or business.

4823 (ii) 1. Any major capital project designed to
4824 improve, expand or otherwise enhance any active duty or reserve
4825 United States armed services bases and facilities or any major
4826 Mississippi National Guard training installations, their support
4827 areas or their military operations, upon designation by the
4828 authority that any such base was or is at risk to be recommended
4829 for closure or realignment pursuant to the Defense Base Closure
4830 and Realignment Act of 1990, as amended, or other applicable
4831 federal law; or any major development project determined by the
4832 authority to be necessary to acquire or improve base properties
4833 and to provide employment opportunities through construction of
4834 projects as defined in Section 57-3-5, which shall be located on
4835 or provide direct support service or access to such military
4836 installation property in the event of closure or reduction of
4837 military operations at the installation.

4838 2. Any major study or investigation related
4839 to such a facility, installation or base, upon a determination by
4840 the authority that the study or investigation is critical to the
4841 expansion, retention or reuse of the facility, installation or
4842 base.

4843 3. Any project as defined in Section 57-3-5,
4844 any business or enterprise determined to be in the furtherance of



4845 the public purposes of this act as determined by the authority or
4846 any facility related to such project each of which shall be,
4847 directly or indirectly, related to any military base or other
4848 military-related facility no longer operated by the United States
4849 armed services or the Mississippi National Guard.

4850 (iii) Any enterprise to be maintained, improved or
4851 constructed in Tishomingo County by or for a National Aeronautics
4852 and Space Administration facility in such county.

4853 (iv) 1. Any major capital project with an initial
4854 capital investment from private sources of not less than Seven
4855 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
4856 at least three thousand (3,000) jobs meeting criteria established
4857 by the Mississippi Development Authority.

4858 2. "Project" shall also include any ancillary
4859 development or business resulting from an enterprise operating a
4860 project as defined in item 1 of this paragraph (f)(iv), of which
4861 the authority is notified, within three (3) years from the date
4862 that the enterprise entered into commercial production, that the
4863 state has been selected as the site for the ancillary development
4864 or business.

4865 (v) Any manufacturing, processing or industrial
4866 project determined by the authority, in its sole discretion, to
4867 contribute uniquely and significantly to the economic growth and
4868 development of the state, and which meets the following criteria:

4869 1. The project shall create at least two
4870 thousand (2,000) net new full-time jobs meeting criteria
4871 established by the authority, which criteria shall include, but
4872 not be limited to, the requirement that such jobs must be held by
4873 persons eligible for employment in the United States under
4874 applicable state and federal law.

4875 2. The project and any facility related to
4876 the project shall include a total investment from private sources
4877 of not less than Sixty Million Dollars (\$60,000,000.00), or from



4878 any combination of sources of not less than Eighty Million Dollars
4879 (\$80,000,000.00).

4880 (vi) Any real property owned or controlled by the
4881 National Aeronautics and Space Administration, the United States
4882 government, or any agency thereof, which is legally conveyed to
4883 the State of Mississippi or to the State of Mississippi for the
4884 benefit of the Mississippi Major Economic Impact Authority, its
4885 successors and assigns pursuant to Section 212 of Public Law
4886 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4887 (vii) Any major capital project related to the
4888 establishment, improvement, expansion and/or other enhancement of
4889 any active duty military installation and having a minimum capital
4890 investment from any source or combination of sources other than
4891 the State of Mississippi of at least Forty Million Dollars
4892 (\$40,000,000.00), and which will create at least four hundred
4893 (400) military installation related full-time jobs, which jobs may
4894 be military jobs, civilian jobs or a combination of military and
4895 civilian jobs. The authority shall require that binding
4896 commitments be entered into requiring that the minimum
4897 requirements for the project provided for in this subparagraph
4898 shall be met not later than July 1, 2008.

4899 (viii) Any major capital project with an initial
4900 capital investment from any source or combination of sources of
4901 not less than Ten Million Dollars (\$10,000,000.00) which will
4902 create at least eighty (80) full-time jobs which provide an
4903 average annual salary, excluding benefits which are not subject to
4904 Mississippi income taxes, of at least one hundred thirty-five
4905 percent (135%) of the most recently published average annual wage
4906 of the state or the most recently published average annual wage of
4907 the county in which the project is located as determined by the
4908 Mississippi Department of Employment Security, whichever is the
4909 lesser. The authority shall require that binding commitments be
4910 entered into requiring that:



4911 1. The minimum requirements for the project
4912 provided for in this subparagraph shall be met; and

4913 2. That if such commitments are not met, all
4914 or a portion of the funds provided by the state for the project as
4915 determined by the authority shall be repaid.

4916 (ix) Any regional retail shopping mall with an
4917 initial capital investment from private sources in excess of One
4918 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
4919 footage in excess of eight hundred thousand (800,000) square feet,
4920 which will create at least seven hundred (700) full-time jobs with
4921 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
4922 authority shall require that binding commitments be entered into
4923 requiring that:

4924 1. The minimum requirements for the project
4925 provided for in this subparagraph shall be met; and

4926 2. That if such commitments are not met, all
4927 or a portion of the funds provided by the state for the project as
4928 determined by the authority shall be repaid.

4929 (x) Any major capital project with an initial
4930 capital investment from any source or combination of sources of
4931 not less than Seventy-five Million Dollars (\$75,000,000.00) which
4932 will create at least one hundred twenty-five (125) full-time jobs
4933 which provide an average annual salary, excluding benefits which
4934 are not subject to Mississippi income taxes, of at least one
4935 hundred thirty-five percent (135%) of the most recently published
4936 average annual wage of the state or the most recently published
4937 average annual wage of the county in which the project is located
4938 as determined by the Mississippi Department of Employment
4939 Security, whichever is the greater. The authority shall require
4940 that binding commitments be entered into requiring that:

4941 1. The minimum requirements for the project
4942 provided for in this subparagraph shall be met; and



4943 2. That if such commitments are not met, all
4944 or a portion of the funds provided by the state for the project as
4945 determined by the authority shall be repaid.

4946 (xi) Any potential major capital project that the
4947 authority has determined is feasible to recruit.

4948 (xii) Any project built according to the
4949 specifications and federal provisions set forth by the National
4950 Aeronautics and Space Administration Center Operations Directorate
4951 at Stennis Space Center for the purpose of consolidating common
4952 services from National Aeronautics and Space Administration
4953 centers in human resources, procurement, financial management and
4954 information technology located on land owned or controlled by the
4955 National Aeronautics and Space Administration, which will create
4956 at least four hundred seventy (470) full-time jobs.

4957 (xiii) Any major capital project with an initial
4958 capital investment from any source or combination of sources of
4959 not less than Ten Million Dollars (\$10,000,000.00) which will
4960 create at least two hundred fifty (250) full-time jobs. The
4961 authority shall require that binding commitments be entered into
4962 requiring that:

4963 1. The minimum requirements for the project
4964 provided for in this subparagraph shall be met; and

4965 2. That if such commitments are not met, all
4966 or a portion of the funds provided by the state for the project as
4967 determined by the authority shall be repaid.

4968 (xiv) Any major pharmaceutical facility with a
4969 capital investment of not less than Fifty Million Dollars
4970 (\$50,000,000.00) made after July 1, 2002, through four (4) years
4971 after the initial date of any loan or grant made by the authority
4972 for such project, which will maintain at least seven hundred fifty
4973 (750) full-time employees. The authority shall require that
4974 binding commitments be entered into requiring that:



4975 1. The minimum requirements for the project
4976 provided for in this subparagraph shall be met; and

4977 2. That if such commitments are not met, all
4978 or a portion of the funds provided by the state for the project as
4979 determined by the authority shall be repaid.

4980 (xv) Any pharmaceutical manufacturing, packaging
4981 and distribution facility with an initial capital investment from
4982 any local or federal sources of not less than Five Hundred
4983 Thousand Dollars (\$500,000.00) which will create at least ninety
4984 (90) full-time jobs. The authority shall require that binding
4985 commitments be entered into requiring that:

4986 1. The minimum requirements for the project
4987 provided for in this subparagraph shall be met; and

4988 2. That if such commitments are not met, all
4989 or a portion of the funds provided by the state for the project as
4990 determined by the authority shall be repaid.

4991 (xvi) Any major industrial wood processing
4992 facility with an initial capital investment of not less than One
4993 Hundred Million Dollars (\$100,000,000.00) which will create at
4994 least one hundred twenty-five (125) full-time jobs which provide
4995 an average annual salary, excluding benefits which are not subject
4996 to Mississippi income taxes, of at least Thirty Thousand Dollars
4997 (\$30,000.00). The authority shall require that binding
4998 commitments be entered into requiring that:

4999 1. The minimum requirements for the project
5000 provided for in this subparagraph shall be met; and

5001 2. That if such commitments are not met, all
5002 or a portion of the funds provided by the state for the project as
5003 determined by the authority shall be repaid.

5004 (xvii) Any technical, engineering,
5005 manufacturing-logistic service provider with an initial capital
5006 investment of not less than One Million Dollars (\$1,000,000.00)
5007 which will create at least ninety (90) full-time jobs. The



5008 authority shall require that binding commitments be entered into
5009 requiring that:

5010 1. The minimum requirements for the project
5011 provided for in this subparagraph shall be met; and

5012 2. That if such commitments are not met, all
5013 or a portion of the funds provided by the state for the project as
5014 determined by the authority shall be repaid.

5015 (xviii) Any major capital project with an initial
5016 capital investment from any source or combination of sources other
5017 than the State of Mississippi of not less than Six Hundred Million
5018 Dollars (\$600,000,000.00) which will create at least four hundred
5019 fifty (450) full-time jobs with an average annual salary,
5020 excluding benefits which are not subject to Mississippi income
5021 taxes, of at least Seventy Thousand Dollars (\$70,000.00). The
5022 authority shall require that binding commitments be entered into
5023 requiring that:

5024 1. The minimum requirements for the project
5025 provided for in this subparagraph shall be met; and

5026 2. That if such commitments are not met, all
5027 or a portion of the funds provided by the state for the project as
5028 determined by the authority shall be repaid.

5029 (xix) Any major coal and/or petroleum coke
5030 gasification project with an initial capital investment from any
5031 source or combination of sources other than the State of
5032 Mississippi of not less than Eight Hundred Million Dollars
5033 (\$800,000,000.00), which will create at least two hundred (200)
5034 full-time jobs with an average annual salary, excluding benefits
5035 which are not subject to Mississippi income taxes, of at least
5036 Forty-five Thousand Dollars (\$45,000.00). The authority shall
5037 require that binding commitments be entered into requiring that:

5038 1. The minimum requirements for the project
5039 provided for in this subparagraph shall be met; and



5040 2. That if such commitments are not met, all
5041 or a portion of the funds provided by the state for the project as
5042 determined by the authority shall be repaid.

5043 (xx) Any planned mixed use development located on
5044 not less than four thousand (4,000) acres of land that will
5045 consist of commercial, recreational, resort, tourism and
5046 residential development with a capital investment from private
5047 sources of not less than Four Hundred Seventy-five Million Dollars
5048 (\$475,000,000.00) in the aggregate in any one (1) or any
5049 combination of tourism projects that will create at least three
5050 thousand five hundred (3,500) jobs in the aggregate. For the
5051 purposes of this paragraph (f)(xx), the term "tourism project"
5052 means and has the same definition as that term has in Section
5053 57-28-1. In order to meet the minimum capital investment required
5054 under this paragraph (f)(xx), at least Two Hundred Thirty-seven
5055 Million Five Hundred Thousand Dollars (\$237,500,000.00) of such
5056 investment must be made not later than June 1, 2015, and the
5057 remainder of the minimum capital investment must be made not later
5058 than June 1, 2017. In order to meet the minimum number of jobs
5059 required to be created under this paragraph (f)(xx), at least one
5060 thousand seven hundred fifty (1,750) of such jobs must be created
5061 not later than June 1, 2015, and the remainder of the jobs must be
5062 created not later than June 1, 2017. The authority shall require
5063 that binding commitments be entered into requiring that:

5064 1. The minimum requirements for the project
5065 provided for in this subparagraph shall be met; and

5066 2. That if such commitments are not met, all
5067 or a portion of the funds provided by the state for the project as
5068 determined by the authority shall be repaid.

5069 (xxi) Any enterprise owning or operating an
5070 automotive manufacturing and assembly plant and its affiliates for
5071 which construction begins after March 2, 2007, and not later than
5072 December 1, 2007, with an initial capital investment from private



5073 sources of not less than Five Hundred Million Dollars
5074 (\$500,000,000.00) which will create at least one thousand five
5075 hundred (1,500) jobs meeting criteria established by the
5076 authority, which criteria shall include, but not be limited to,
5077 the requirement that such jobs must be held by persons eligible
5078 for employment in the United States under applicable state and
5079 federal law. The authority shall require that binding commitments
5080 be entered into requiring that:

5081 1. The minimum requirements for the project
5082 provided for in this subparagraph shall be met; and

5083 2. That if such commitments are not met, all
5084 or a portion of the funds provided by the state for the project as
5085 determined by the authority shall be repaid.

5086 (xxii) Any enterprise owning or operating a major
5087 powertrain component manufacturing and assembly plant for which
5088 construction begins after May 11, 2007, and not later than
5089 December 1, 2007, with an initial capital investment from private
5090 sources of not less than Three Hundred Million Dollars
5091 (\$300,000,000.00) which will create at least five hundred (500)
5092 new full-time jobs meeting criteria established by the authority,
5093 which criteria shall include, but not be limited to, the
5094 requirement that such jobs must be held by persons eligible for
5095 employment in the United States under applicable state and federal
5096 law, and the requirement that the average annual wages and taxable
5097 benefits of such jobs shall be at least one hundred twenty-five
5098 percent (125%) of the most recently published average annual wage
5099 of the state or the most recently published average annual wage of
5100 the county in which the project is located as determined by the
5101 Mississippi Department of Employment Security, whichever is the
5102 lesser. The authority shall require that binding commitments be
5103 entered into requiring that:

5104 1. The minimum requirements for the project
5105 provided for in this subparagraph shall be met; and



5106 2. That if such commitments are not met, all
5107 or a portion of the funds provided by the state for the project as
5108 determined by the authority shall be repaid.

5109 (xxiii) Any biological and agricultural defense
5110 project operated by an agency of the government of the United
5111 States with an initial capital investment of not less than Four
5112 Hundred Fifty Million Dollars (\$450,000,000.00) from any source
5113 other than the State of Mississippi and its subdivisions, which
5114 will create at least two hundred fifty (250) new full-time jobs.
5115 All jobs created by the project must be held by persons eligible
5116 for employment in the United States under applicable state and
5117 federal law.

5118 (xxiv) Any enterprise owning or operating an
5119 existing tire manufacturing plant which adds to such plant capital
5120 assets of not less than Twenty-five Million Dollars
5121 (\$25,000,000.00) after January 1, 2009, and that maintains at
5122 least one thousand two hundred (1,200) full-time jobs in this
5123 state at one (1) location with an average annual salary, excluding
5124 benefits which are not subject to Mississippi income taxes, of at
5125 least Forty-five Thousand Dollars (\$45,000.00). The authority
5126 shall require that binding commitments be entered into requiring
5127 that:

5128 1. The minimum requirements for the project
5129 provided for in this subparagraph shall be met; and

5130 2. That if such commitments are not met, all
5131 or a portion of the funds provided by the state for the project as
5132 determined by the authority shall be repaid.

5133 (xxv) Any enterprise owning or operating a
5134 facility for the manufacture of composite components for the
5135 aerospace industry which will have an investment from private
5136 sources of not less than One Hundred Seventy-five Million Dollars
5137 (\$175,000,000.00) by not later than December 31, 2015, and which
5138 will result in the full-time employment at the project site of not



5139 less than two hundred seventy-five (275) persons by December 31,
5140 2011, and not less than four hundred twenty-five (425) persons by
5141 December 31, 2013, and not less than eight hundred (800) persons
5142 by December 31, 2017, all with an average annual compensation,
5143 excluding benefits which are not subject to Mississippi income
5144 taxes, of at least Fifty-three Thousand Dollars (\$53,000.00). The
5145 authority shall require that binding commitments be entered into
5146 requiring that:

5147 1. The minimum requirements for the project
5148 provided for in this subparagraph shall be met; and

5149 2. That if such commitments are not met, all
5150 or a portion of the funds provided by the state for the project as
5151 determined by the authority shall be repaid.

5152 (xxvi) Any enterprise owning or operating a
5153 facility for the manufacture of pipe which will have an investment
5154 from any source other than the State of Mississippi and its
5155 subdivisions of not less than Three Hundred Million Dollars
5156 (\$300,000,000.00) by not later than December 31, 2015, and which
5157 will create at least five hundred (500) new full-time jobs within
5158 five (5) years after the start of commercial production and
5159 maintain such jobs for at least ten (10) years, all with an
5160 average annual compensation, excluding benefits which are not
5161 subject to Mississippi income taxes, of at least Thirty-two
5162 Thousand Dollars (\$32,000.00). The authority shall require that
5163 binding commitments be entered into requiring that:

5164 1. The minimum requirements for the project
5165 provided for in this subparagraph shall be met; and

5166 2. That if such commitments are not met, all
5167 or a portion of the funds provided by the state for the project as
5168 determined by the authority shall be repaid.

5169 (xxvii) Any enterprise owning or operating a
5170 facility for the manufacture of solar panels which will have an
5171 investment from any source other than the State of Mississippi and



5172 its subdivisions of not less than One Hundred Thirty-two Million
5173 Dollars (\$132,000,000.00) by not later than December 31, 2015, and
5174 which will create at least five hundred (500) new full-time jobs
5175 within five (5) years after the start of commercial production and
5176 maintain such jobs for at least ten (10) years, all with an
5177 average annual compensation, excluding benefits which are not
5178 subject to Mississippi income taxes, of at least Thirty-four
5179 Thousand Dollars (\$34,000.00). The authority shall require that
5180 binding commitments be entered into requiring that:

5181 1. The minimum requirements for the project
5182 provided for in this subparagraph shall be met; and

5183 2. That if such commitments are not met, all
5184 or a portion of the funds provided by the state for the project as
5185 determined by the authority shall be repaid.

5186 (g) (i) "Project area" means the project site,
5187 together with any area or territory within the state lying within
5188 sixty-five (65) miles of any portion of the project site whether
5189 or not such area or territory be contiguous; however, for the
5190 project defined in paragraph (f)(iv) of this section the term
5191 "project area" means any area or territory within the state. The
5192 project area shall also include all territory within a county if
5193 any portion of such county lies within sixty-five (65) miles of
5194 any portion of the project site. "Project site" means the real
5195 property on which the principal facilities of the enterprise will
5196 operate. The provisions of this subparagraph (i) shall not apply
5197 to a project as defined in paragraph (f)(xxi) of this section.

5198 (ii) For the purposes of a project as defined in
5199 paragraph (f)(xxi) of this section, the term "project area" means
5200 the acreage authorized in the certificate of convenience and
5201 necessity issued by the Mississippi Development Authority to a
5202 regional economic development alliance under Section 57-64-1 et
5203 seq.

5204 (h) "Public agency" means:



5205 (i) Any department, board, commission, institution
5206 or other agency or instrumentality of the state;

5207 (ii) Any city, town, county, political
5208 subdivision, school district or other district created or existing
5209 under the laws of the state or any public agency of any such city,
5210 town, county, political subdivision or district or any other
5211 public entity created or existing under local and private
5212 legislation;

5213 (iii) Any department, commission, agency or
5214 instrumentality of the United States of America; and

5215 (iv) Any other state of the United States of
5216 America which may be cooperating with respect to location of the
5217 project within the state, or any agency thereof.

5218 (i) "State" means State of Mississippi.

5219 (j) "Fee-in-lieu" means a negotiated fee to be paid by
5220 the project in lieu of any franchise taxes imposed on the project
5221 by Chapter 13, Title 27, Mississippi Code of 1972. The
5222 fee-in-lieu shall not be less than Twenty-five Thousand Dollars
5223 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an
5224 enterprise operating an existing project defined in Section
5225 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated
5226 for other existing enterprises that fall within the definition of
5227 the term "project."

5228 (k) "Affiliate" means a subsidiary or related business
5229 entity which shares a common direct or indirect ownership with the
5230 enterprise owning or operating a project as defined in Section
5231 57-75-5(f)(xxi). The subsidiary or related business must provide
5232 services directly related to the core activities of the project.

5233 (l) "Tier One supplier" means a supplier of a project
5234 as defined in Section 57-75-5(f)(xxi) that is certified by the
5235 enterprise owning the project and creates a minimum of fifty (50)
5236 new full-time jobs.



5237 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is
5238 reenacted as follows:

5239 57-80-7. (1) From and after December 31, 2000, and until
5240 December 31, 2012, the following counties may apply to the MDA for
5241 the issuance of a certificate of public convenience and necessity:

5242 (a) Any county of this state which has an annualized
5243 unemployment rate that is at least two hundred percent (200%) of
5244 the state's unemployment rate as of December 31 of any year from
5245 2000 through 2012, as determined by the Mississippi Department of
5246 Employment Security's most recently published data;

5247 (b) Any county of this state in which thirty percent
5248 (30%) or more of the population of the county is at or below the
5249 federal poverty level according to the official data compiled by
5250 the United States Census Bureau as of August 30, 2000, for
5251 counties that apply before December 31, 2002, or the most recent
5252 official data compiled by the United States Census Bureau for
5253 counties that apply from and after December 31, 2002; or

5254 (c) Any county of this state having an eligible
5255 supervisors district.

5256 (2) The application, at a minimum, must contain (a) the
5257 Mississippi Department of Employment Security's most recently
5258 published figures that reflect the annualized unemployment rate of
5259 the applying county as of December 31 or the most recent official
5260 data by the United States Census Bureau required by subsection (1)
5261 of this section, as the case may be, and (b) an order or
5262 resolution of the county consenting to the designation of the
5263 county as a growth and prosperity county.

5264 (3) Any municipality of a designated growth and prosperity
5265 county or within an eligible supervisors district and not more
5266 than eight (8) miles from the boundary of the county that meets
5267 the criteria of subsection (1)(b) of this section may by order or
5268 resolution of the municipality consent to participation in the
5269 Growth and Prosperity Program.



5270 (4) No incentive or tax exemption shall be given under this
5271 chapter without the consent of the affected county or
5272 municipality.

5273 **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is
5274 reenacted as follows:

5275 69-2-5. (1) The Mississippi Cooperative Extension Service
5276 shall act as a clearinghouse for the dissemination of information
5277 regarding programs and services which may be available to help
5278 those persons and businesses which have been adversely affected by
5279 the present emergency in the agricultural community. The
5280 Cooperative Extension Service shall develop a plan of assistance
5281 which shall identify all programs and services available within
5282 the state which can be of assistance to those affected by the
5283 present emergency. The Department of Agriculture and Commerce,
5284 Department of Finance and Administration, Department of Human
5285 Services, Department of Mental Health, State Department of Health,
5286 Board of Trustees of State Institutions of Higher Learning, State
5287 Board for Community and Junior Colleges, Research and Development
5288 Center, Mississippi Development Authority, Department of
5289 Employment Security, Office of the Governor, Board of Vocational
5290 and Technical Education, Mississippi Authority for Educational
5291 Television, and other agencies of the state which have programs
5292 and services that can be of assistance to those affected by the
5293 present emergency, shall provide information regarding their
5294 programs and services to the Cooperative Extension Service for use
5295 in the clearinghouse. The types of programs and services shall
5296 include, but not be limited to, financial counseling, farm and
5297 small business management, employment services, labor market
5298 information, job retraining, vocational and technical training,
5299 food stamp programs, personal counseling, health services, and
5300 free or low cost legal services. The clearinghouse shall provide
5301 a single contact point to provide program information and referral
5302 services to individuals interested or needing services from



5303 state-funded assistance programs affecting agriculture,
5304 horticulture, aquaculture and other agribusinesses or related
5305 industries. Such assistance information shall identify all monies
5306 available under the Small Business Financing Act, the Business
5307 Investment Act, the Emerging Crops Fund legislation and any other
5308 sources which may be used singularly or combined, to provide a
5309 comprehensive financing package. The provisions of this section
5310 in establishing a single contact point for information and
5311 referral services shall not be construed to authorize the hiring
5312 of additional personnel.

5313 (2) The Cooperative Extension Service may accept monetary or
5314 in-kind contributions, gifts and grants for the establishment or
5315 operation of the clearinghouse.

5316 (3) The Cooperative Extension Service shall establish a
5317 method for the dissemination of information to those who can be
5318 benefited by the existing programs and services of the state.

5319 (4) The Cooperative Extension Service shall file an annual
5320 report with the Governor, Lieutenant Governor and Speaker of the
5321 House of Representatives regarding the efforts which have been
5322 made in the clearinghouse operation. The report shall also
5323 recommend any additional measures, including legislation, which
5324 may be needed or desired in providing programs and benefits to
5325 those affected by the agricultural emergency.

5326 **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is
5327 reenacted as follows:

5328 7-1-355. (1) The Mississippi Department of Employment
5329 Security, Office of the Governor, is designated as the sole
5330 administrator of all programs for which the state is the prime
5331 sponsor under Title 1(B) of Public Law 105-220, Workforce
5332 Investment Act of 1998, and the regulations promulgated
5333 thereunder, and may take all necessary action to secure to this
5334 state the benefits of that legislation. The Mississippi
5335 Department of Employment Security, Office of the Governor, may



5336 receive and disburse funds for those programs that become
5337 available to it from any source.

5338 (2) The Mississippi Department of Employment Security,
5339 Office of the Governor, shall establish guidelines on the amount
5340 and/or percentage of indirect and/or administrative expenses by
5341 the local fiscal agent or the Workforce Development Center
5342 operator. The Mississippi Department of Employment Security,
5343 Office of the Governor, shall develop an accountability system and
5344 make an annual report to the Legislature before December 31 of
5345 each year on Workforce Investment Act activities. The report
5346 shall include, but is not limited to, the following:

5347 (a) The total number of individuals served through the
5348 Workforce Development Centers and the percentage and number of
5349 individuals for which a quarterly follow-up is provided;

5350 (b) The number of individuals who receive core services
5351 by each center;

5352 (c) The number of individuals who receive intensive
5353 services by each center;

5354 (d) The number of Workforce Investment Act vouchers
5355 issued by the Workforce Development Centers including:

5356 (i) A list of schools and colleges to which these
5357 vouchers were issued and the average cost per school of the
5358 vouchers; and

5359 (ii) A list of the types of programs for which
5360 these vouchers were issued;

5361 (e) The number of individuals placed in a job through
5362 Workforce Development Centers;

5363 (f) The monies and the amount retained for
5364 administrative and other costs received from Workforce Investment
5365 Act funds for each agency or organization that Workforce
5366 Investment Act funds flow through as a percentage and actual
5367 dollar amount of all Workforce Investment Act funds received.



5368 **SECTION 58.** Section 60, Chapter 572, Laws of 2004, as
5369 amended by Section 58, Chapter 30, Laws of the First Extraordinary
5370 Session of 2008, as amended by Section 58, Chapter 559, Laws of
5371 2010 Regular Session, as amended by Section 59, Chapter 471, Laws
5372 of 2011, is amend as follows:

5373 Section 60. This act shall stand repealed on July 1, 2019.

5374 **SECTION 59.** The following shall be codified as Section
5375 71-5-545, Mississippi Code of 1972:

5376 71-5-545. **Self-Employment Assistance Program.** (1)

5377 **Definitions.** As used in this section:

5378 (a) "Self-employment assistance activities" means
5379 activities (including entrepreneurial training, business
5380 counseling, technical assistance and any other requirements set
5381 forth by the executive director in regulation) approved by the
5382 executive director in which an individual, identified through an
5383 established system consistent with the system requirements of
5384 Section 303(j)(1)(A) of the Social Security Act (SSA) as likely to
5385 exhaust regular unemployment benefits, participates for the
5386 purpose of establishing a business and becoming self-employed.

5387 (b) "Self-employment assistance allowance" means an
5388 allowance, payable in lieu of, and on the same schedule as,
5389 regular benefits and from the unemployment fund established under
5390 Section 71-5-451, to an individual participating in
5391 self-employment assistance activities who meets the requirements
5392 of this section.

5393 (c) "Regular benefits" means benefits payable to an
5394 individual under this act (including benefits payable to Federal
5395 civilian employees and to ex-service members pursuant to 5 USC
5396 Chapter 85) excluding emergency unemployment benefits and extended
5397 benefits.

5398 (d) "Full-time basis" shall have the meaning contained
5399 in regulations prescribed by the executive director who has
5400 authority to set, modify and rescind such regulations as are



5401 required for the proper and efficient administration of this
5402 section.

5403 (e) "SEAP" means the Self-Employment Assistance
5404 Program.

5405 (2) **Amount of self-employment assistance allowance.** The
5406 weekly allowance payable under this section to an individual shall
5407 be equal to the weekly benefit amount for regular benefits
5408 otherwise payable under Section 71-5-503.

5409 The sum of (a) the allowance paid under this section, and (b)
5410 regular benefits paid under this act with respect to any benefit
5411 year shall not exceed the maximum benefit amount as established by
5412 Section 71-5-507 with respect to such benefit year.

5413 (3) **Eligibility for self-employment assistance allowance.**
5414 The allowance described in subsection (1) of this section shall be
5415 payable to an individual at the same interval, on the same terms,
5416 and subject to the same conditions as regular benefits under this
5417 act, except that:

5418 (a) The requirements of Sections 71-5-511 and 71-5-513
5419 relating to availability for work, active search for work, and
5420 refusal to accept work are not applicable to an individual while
5421 engaged in establishment of a business;

5422 (b) The requirements of Section 71-5-505 relating to
5423 other earnings are not applicable to income earned from
5424 self-employment by such individual while engaged in establishment
5425 of a business;

5426 (c) An individual who meets the requirements of this
5427 section shall be considered to be unemployed under Section
5428 71-5-501 et seq.; and

5429 (d) An individual who fails to participate in
5430 self-employment assistance activities as prescribed by this
5431 section or by the executive director, or who fails to actively
5432 engage on a full-time basis in activities (which may include
5433 training) relating to the establishment of a business and becoming



5434 self-employed, shall be disqualified for any week in which the
5435 failure occurs.

5436 (4) **Limitation on receipt of self-employment assistance**
5437 **allowances.** The aggregate number of individuals receiving the
5438 allowance under this section at any time shall not exceed five
5439 percent (5%) of the number of individuals receiving regular
5440 benefits as defined in Section 71-5-541.

5441 (5) **Steering committee membership.** The executive director
5442 shall appoint a steering committee. Each member of the steering
5443 committee shall have equal voting rights on the SEAP Steering
5444 Committee. The voting members of the board who are not state
5445 employees or state elected officials shall be entitled to
5446 reimbursement of their reasonable expenses incurred in carrying
5447 out their duties under this chapter, from any funds available for
5448 that purpose.

5449 (6) **Steering committee purpose.** The steering committee
5450 shall initially adopt the rules of operation for the SEAP and
5451 shall select and certify SEAP training programs. The rules shall
5452 be enforced by the department. Rules shall include the continuing
5453 role of the steering committee. Participants in training programs
5454 that are not certified by the SEAP shall not be paid SEAP benefits
5455 and any benefits paid to them shall be considered overpaid and
5456 shall be due to be repaid to the department and the Unemployment
5457 Trust Fund.

5458 (7) **Rules and regulations for operation of SEAP by the**
5459 **Mississippi Department of Employment Security.** The executive
5460 director shall cause regulations adopted by the SEAP Steering
5461 Committee to be adopted by the department and the executive
5462 director may adopt other regulations as necessary for proper
5463 administration of this section.

5464 (8) **Financing costs of self-employment assistance**
5465 **allowances.** Allowances paid under this section shall not be
5466 charged to employers as provided under provisions of this chapter



5467 relating to the noncharging of regular benefits as defined in
5468 Section 71-5-541, and shall be used in the computation of the
5469 annual unemployment tax rate as noncharges for receipt of
5470 unemployment benefits paid by this chapter. Noncharging
5471 provisions do not apply to unemployment compensation for federal
5472 employees, unemployment compensation for ex-servicemen or
5473 unemployment compensation paid to individuals based upon their
5474 wages earned with reimbursing employers, except as allowed by
5475 Section 71-5-357(b) (iv). In the event federal regulations allow
5476 changes to noncharging provisions associated with the SEAP,
5477 regulations may be adopted by the SEAP Steering Committee to make
5478 such changes as are reasonable and appropriate to the Mississippi
5479 program and charging or not charging of SEAP benefits.

5480 (9) **Federal law and regulations.** Nothing in this section or
5481 the rules adopted related to this section or any other provision
5482 of this chapter is intended to be inconsistent with laws and
5483 regulations prescribed by the United States Department of Labor.
5484 Any part of this section or this chapter that is determined to not
5485 be in conformity with United State Department of labor regulations
5486 and applicable federal laws will not be enforced until such time
5487 as the deficiencies can be remedied.

5488 (10) **Effective date and termination date.** The provisions of
5489 this section will apply to weeks beginning on or after the first
5490 Sunday sixty (60) days following passage, or after any plan
5491 required by the United States Department of Labor is approved by
5492 such department, whichever date is later. The authority provided
5493 by this section shall terminate as of the end of the week
5494 preceding the date when federal law no longer authorizes the
5495 provisions of this section, unless such date is a Saturday in
5496 which case the authority shall terminate as of such date.

5497 **SECTION 60.** Section 71-5-355, Mississippi Code of 1972, is
5498 amended as follows:



5499 71-5-355. (1) As used in this section, the following words
5500 and phrases shall have the following meanings, unless the context
5501 clearly requires otherwise:

5502 (a) "Tax year" means any period beginning on January 1
5503 and ending on December 31 of a year.

5504 (b) "Computation date" means June 30 of any calendar
5505 year immediately preceding the tax year during which the
5506 particular contribution rates are effective.

5507 (c) "Effective date" means January 1 of the tax year.

5508 (d) Except as hereinafter provided, "payroll" means the
5509 total of all wages paid for employment by an employer as defined
5510 in Section 71-5-11, subsection I, plus the total of all
5511 remuneration paid by such employer excluded from the definition of
5512 wages by Section 71-5-351. For the computation of modified rates,
5513 "payroll" means the total of all wages paid for employment by an
5514 employer as defined in Section 71-5-11, subsection I.

5515 (e) For the computation of modified rates, "eligible
5516 employer" means an employer whose experience-rating record has
5517 been chargeable with benefits throughout the thirty-six (36)
5518 consecutive calendar-month period ending on the computation date,
5519 except that any employer who has not been subject to the
5520 Mississippi Employment Security Law for a period of time
5521 sufficient to meet the thirty-six (36) consecutive calendar-month
5522 requirement shall be an eligible employer if his experience-rating
5523 record has been chargeable throughout not less than the twelve
5524 (12) consecutive calendar-month period ending on the computation
5525 date. No employer shall be considered eligible for a contribution
5526 rate less than five and four-tenths percent (5.4%) with respect to
5527 any tax year, who has failed to file any two (2) quarterly reports
5528 within the qualifying period by September 30 following the
5529 computation date. No employer or employing unit shall be eligible
5530 for a contribution rate of less than five and four-tenths percent
5531 (5.4%) for the tax year in which the employing unit is found by



5532 the department to be in violation of Section 71-5-19(2) or (3) and
5533 for the next two (2) succeeding tax years. No representative of
5534 such employing unit who was a party to a violation as described in
5535 Section 71-5-19(2) or (3), if such representative was or is an
5536 employing unit in this state, shall be eligible for a contribution
5537 rate of less than five and four-tenths percent (5.4%) for the tax
5538 year in which such violation was detected by the department and
5539 for the next two (2) succeeding tax years.

5540 (f) With respect to any tax year, "reserve ratio" means
5541 the ratio which the total amount available for the payment of
5542 benefits in the Unemployment Compensation Fund, excluding any
5543 amount which has been credited to the account of this state under
5544 Section 903 of the Social Security Act, as amended, and which has
5545 been appropriated for the expenses of administration pursuant to
5546 Section 71-5-457 whether or not withdrawn from such account, on
5547 October 31 (close of business) of each calendar year bears to the
5548 aggregate of the taxable payrolls of all employers for the twelve
5549 (12) calendar months ending on June 30 next preceding.

5550 (g) "Modified rates" means the rates of employer
5551 contributions determined under the provisions of this chapter and
5552 the rates of newly subject employers, as provided in Section
5553 71-5-353.

5554 (h) For the computation of modified rates, "qualifying
5555 period" means a period of not less than the thirty-six (36)
5556 consecutive calendar months ending on the computation date
5557 throughout which an employer's experience-rating record has been
5558 chargeable with benefits; except that with respect to any eligible
5559 employer who has not been subject to this article for a period of
5560 time sufficient to meet the thirty-six (36) consecutive
5561 calendar-month requirement, "qualifying period" means the period
5562 ending on the computation date throughout which his
5563 experience-rating record has been chargeable with benefits, but in
5564 no event less than the twelve (12) consecutive calendar-month



5565 period ending on the computation date throughout which his
5566 experience-rating record has been so chargeable.

5567 (i) The "exposure criterion" (EC) is defined as the
5568 cash balance of the Unemployment Compensation Fund which is
5569 available for the payment of benefits as of November 16 of each
5570 calendar year or the next working day if November 16 falls on a
5571 holiday or a weekend, divided by the total wages, exclusive of
5572 wages paid by all state agencies, all political subdivisions,
5573 reimbursable nonprofit corporations, and tax-exempt public service
5574 employment, for the twelve-month period ending June 30 immediately
5575 preceding such date. The EC shall be computed to four (4) decimal
5576 places and rounded up if any fraction remains.

5577 (j) The "cost rate criterion" (CRC) is defined as
5578 follows: Beginning with January 1974, the benefits paid for the
5579 twelve-month period ending December 1974 are summed and divided by
5580 the total wages for the twelve-month period ending on June 30,
5581 1975. Similar ratios are computed by subtracting the earliest
5582 month's benefit payments and adding the benefits of the next month
5583 in the sequence and dividing each sum of twelve (12) months'
5584 benefits by the total wages for the twelve-month period ending on
5585 the June 30 which is nearest to the final month of the period used
5586 to compute the numerator. If December is the final month of the
5587 period used to compute the numerator, then the twelve-month period
5588 ending the following June 30 will be used for the denominator.
5589 Benefits and total wages used in the computation of the cost rate
5590 criterion shall exclude all benefits and total wages applicable to
5591 state agencies, political subdivisions, reimbursable nonprofit
5592 corporations, and tax-exempt PSE employment.

5593 The CRC shall be computed as the average for the highest
5594 monthly value of the cost rate criterion computations during each
5595 of the economic cycles since the calendar year 1974 as defined by
5596 the National Bureau of Economic Research. The CRC shall be



5597 computed to four (4) decimal places and any remainder shall be
5598 rounded up.

5599 The CRC shall be adjusted only through annual computations
5600 and additions of future economic cycles.

5601 (k) "Size of fund index" (SOFI) is defined as the ratio
5602 of the exposure criterion (EC) to the cost rate criterion (CRC).
5603 For years following December 31, 2009, the target size of fund
5604 index will be fixed at 1.0. If the insured unemployment rate
5605 (IUR) exceeds a four and five-tenths percent (4.5%) average for
5606 the most recent completed July to June period, the target SOFI
5607 will be .8 and will remain at that level until the computed SOFI
5608 (the average exposure criterion of the current year and the
5609 preceding year divided by the average cost rate criterion) equals
5610 1.0 or the average IUR falls to four and five-tenths percent
5611 (4.5%) or less for any period July to June. However, if the IUR
5612 falls below two and five-tenths percent (2.5%) for any period July
5613 to June the target SOFI shall be 1.2 until such time as the
5614 computed SOFI is equal to or greater than 1.0 or the IUR is equal
5615 to or greater than two and five-tenths percent (2.5%), at which
5616 point the target SOFI shall return to 1.0.

5617 (l) No employer's contribution rate shall exceed five
5618 and four-tenths percent (5.4%), nor be less than four-tenths of
5619 one percent (.4%). However, from and after January 1, 2005,
5620 through December 31, 2009, no employer's unemployment contribution
5621 rate shall be less than one-tenth of one percent (.1%). For years
5622 subsequent to calendar year 2010 the general experience rate in no
5623 event shall be less than two-tenths of one percent (.2%). For any
5624 year the general experience rate computes as an amount less than
5625 two-tenths of one percent (.2%) the general experience rate shall
5626 be established at two-tenths of one percent (.2%). From and after
5627 January 1, 2012, accrual rules shall apply for purposes of
5628 computing contribution rates including associated functions.



5629 (m) The term "general experience rate" has the same
5630 meaning as the minimum tax rate.

5631 (2) Modified rates:

5632 (a) For any tax year, when the reserve ratio on the
5633 preceding November 16, in the case of any tax year, equals or
5634 exceeds three percent (3%), the modified rates, as hereinafter
5635 prescribed, shall be in effect. In computation of this reserve
5636 ratio, any remainder shall be rounded down.

5637 (b) Modified rates shall be determined for the tax year
5638 for each eligible employer on the basis of his experience-rating
5639 record in the following manner:

5640 (i) The department shall maintain an
5641 experience-rating record for each employer. Nothing in this
5642 chapter shall be construed to grant any employer or individuals
5643 performing services for him any prior claim or rights to the
5644 amounts paid by the employer into the fund.

5645 (ii) Benefits paid to an eligible individual shall
5646 be charged against the experience-rating record of his base period
5647 employers in the proportion to which the wages paid by each base
5648 period employer bears to the total wages paid to the individual by
5649 all the base period employers, provided that benefits shall not be
5650 charged to an employer's experience-rating record if the
5651 department finds that the individual:

5652 1. Voluntarily left the employ of such
5653 employer without good cause attributable to the employer;

5654 2. Was discharged by such employer for
5655 misconduct connected with his work;

5656 3. Refused an offer of suitable work by such
5657 employer without good cause, and the department further finds that
5658 such benefits are based on wages for employment for such employer
5659 prior to such voluntary leaving, discharge or refusal of suitable
5660 work, as the case may be;



5661 4. Had base period wages which included wages
5662 for previously uncovered services as defined in Section
5663 71-5-511(e) to the extent that the Unemployment Compensation Fund
5664 is reimbursed for such benefits pursuant to Section 121 of Public
5665 Law 94-566;

5666 5. Extended benefits paid under the
5667 provisions of Section 71-5-541 which are not reimbursable from
5668 federal funds shall be charged to the experience-rating record of
5669 base period employers;

5670 6. Is still working for such employer on a
5671 regular part-time basis under the same employment conditions as
5672 hired. Provided, however, that benefits shall be charged against
5673 an employer if an eligible individual is paid benefits who is
5674 still working for such employer on a part-time "as-needed" basis;

5675 7. Was hired to replace a United States
5676 serviceman or servicewoman called into active duty and was laid
5677 off upon the return to work by that serviceman or servicewoman,
5678 unless such employer is a state agency or other political
5679 subdivision or instrumentality of the state;

5680 8. Was paid benefits during any week while in
5681 training with the approval of the department, under the provisions
5682 of Section 71-5-513B, or for any week while in training approved
5683 under Section 236(a)(1) of the Trade Act of 1974, under the
5684 provisions of Section 71-5-513C; or

5685 9. Is not required to serve the one-week
5686 waiting period as described in Section 71-5-505(2). In that
5687 event, only the benefits paid in lieu of the waiting period week
5688 may be noncharged.

5689 (iii) The department shall compute a benefit ratio
5690 for each eligible employer, which shall be the quotient obtained
5691 by dividing the total benefits charged to his experience-rating
5692 record during the period his experience-rating record has been
5693 chargeable, but not less than the twelve (12) consecutive



5694 calendar-month period nor more than the thirty-six (36)
 5695 consecutive calendar-month period ending on the computation date,
 5696 by his total taxable payroll for the same period on which all
 5697 contributions due have been paid on or before the September 30
 5698 immediately following the computation date. Such benefit ratio
 5699 shall be computed to the tenth of a percent (.1%), rounding any
 5700 remainder to the next higher tenth.

5701 The following table shall be applied to reduce contribution
 5702 rates from and after January 1, 2005, through December 31, 2009,
 5703 and is not intended for use for any rate years subsequent to
 5704 December 31, 2009:

5705	Benefit Ratio	Individual Experience Rate:
5706	0.0%	- 0.3%
5707	0.1	- 0.2
5708	0.2	- 0.10
5709	0.3	0.0
5710	0.4	0.1
5711	0.5	0.2
5712	0.6	0.3
5713	0.7	0.4
5714	0.8	0.5
5715	0.9	0.6
5716	1.0	0.7
5717	1.1	0.8
5718	1.2	0.9
5719	1.3	1.0
5720	1.4	1.1
5721	1.5	1.2
5722	1.6	1.3
5723	1.7	1.4
5724	1.8	1.5
5725	1.9	1.6
5726	2.0	1.7



5727	2.1	1.8
5728	2.2	1.9
5729	2.3	2.0
5730	2.4	2.1
5731	2.5	2.2
5732	2.6	2.3
5733	2.7	2.4
5734	2.8	2.5
5735	2.9	2.6
5736	3.0	2.7
5737	3.1	2.8
5738	3.2	2.9
5739	3.3	3.0
5740	3.4	3.1
5741	3.5	3.2
5742	3.6	3.3
5743	3.7	3.4
5744	3.8	3.5
5745	3.9	3.6
5746	4.0	3.7
5747	4.1	3.8
5748	4.2	3.9
5749	4.3	4.0
5750	4.4	4.1
5751	4.5	4.2
5752	4.6	4.3
5753	4.7	4.4
5754	4.8	4.5
5755	4.9	4.6
5756	5.0	4.7
5757	5.1	4.8
5758	5.2	4.9
5759	5.3	5.0



5760	5.4	5.1
5761	5.5	5.2
5762	5.6	5.3
5763	5.7 and above	5.4

5764 (iv) 1. The unemployment insurance contribution
5765 rate for each eligible employer shall be the sum of two (2) rates:
5766 his individual experience rate in the range from zero percent (0%)
5767 to five and four-tenths percent (5.4%), plus a general experience
5768 rate. In no event shall the resulting rate be in excess of five
5769 and four-tenths percent (5.4%), however, it is the intent of this
5770 section to provide the ability for employers to have a tax rate,
5771 the general experience rate plus the individual experience rate,
5772 of up to five and four-tenths percent (5.4%).

5773 2. The employer's individual experience rate
5774 shall be equal to his benefit ratio as computed under subsection
5775 (2)(b)(iii) above.

5776 3. The general experience rate shall be
5777 determined in the following manner: The department shall
5778 determine annually, for the thirty-six (36) consecutive
5779 calendar-month period ending on the computation date, the amount
5780 of benefits which were not charged to the record of any employer
5781 and of benefits which were ineffectively charged to the employer's
5782 experience-rating record. For the purposes of this item 3, the
5783 term "ineffectively charged benefits" shall include:

5784 a. The total of the amounts of benefits
5785 charged to the experience-rating records of all eligible employers
5786 which caused their benefit ratios to exceed five and four-tenths
5787 percent (5.4%);

5788 b. The total of the amounts of benefits
5789 charged to the experience-rating records of all ineligible
5790 employers which would cause their benefit ratios to exceed five
5791 and four-tenths percent (5.4%) if they were eligible employers;
5792 and



5793 c. The total of the amounts of benefits
5794 charged or chargeable to the experience-rating record of any
5795 employer who has discontinued his business or whose coverage has
5796 been terminated within such period; provided, that solely for the
5797 purposes of determining the amounts of ineffectively charged
5798 benefits as herein defined, a "benefit ratio" shall be computed
5799 for each ineligible employer, which shall be the quotient obtained
5800 by dividing the total benefits charged to his experience-rating
5801 record throughout the period ending on the computation date,
5802 during which his experience-rating record has been chargeable with
5803 benefits, by his total taxable payroll for the same period on
5804 which all contributions due have been paid on or before the
5805 September 30 immediately following the computation date; and
5806 provided further, that such benefit ratio shall be computed to the
5807 tenth of one percent (.1%) and any remainder shall be rounded to
5808 the next higher tenth.

5809 The ratio of the sum of these amounts (subsection
5810 (2) (b) (iv) 3a, b and c) to the taxable wages paid during the same
5811 period divided by all eligible employers whose benefit ratio did
5812 not exceed five and four-tenths percent (5.4%), computed to the
5813 next higher tenth of one percent (.1%), shall be the general
5814 experience rate.

5815 4. The general experience rate shall be
5816 adjusted by use of the size of fund index factor. This factor may
5817 be positive or negative, and shall be determined as follows: From
5818 the target SOFI, as defined in subsection (1) (k) of this section,
5819 subtract the simple average of the current and preceding years'
5820 exposure criteria divided by the cost rate criterion, as defined
5821 in subsection (1) (j) of this section. The result is then
5822 multiplied by the product of the CRC, as defined in subsection
5823 (1) (j) of this section, and total wages for the twelve-month
5824 period ending June 30 divided by the taxable wages for the
5825 twelve-month period ending June 30. This is the percentage



5826 positive or negative added to the general experience rate. The
5827 sum of the general experience rate and the trust fund adjustment
5828 factor shall be multiplied by fifty percent (50%) and this product
5829 shall be computed to one (1) decimal place, and rounded to the
5830 next higher tenth.

5831 5. Notwithstanding any other provisions of
5832 subsection (2) (b) (iv), if the general experience rate for any tax
5833 year as computed and adjusted on the basis of the size of fund
5834 index is a negative percentage, it shall be disregarded and in no
5835 year shall the general experience rate be less than two-tenths of
5836 one percent (.2%).

5837 6. The department shall include in its annual
5838 rate notice to employers a brief explanation of the elements of
5839 the general experience rate, and shall include in its regular
5840 publications an annual analysis of benefits not charged to the
5841 record of any employer, and of the benefit experience of employers
5842 by industry group whose benefit ratio exceeds four percent (4%),
5843 and of any other factors which may affect the size of the general
5844 experience rate.

5845 (v) When any employing unit in any manner succeeds
5846 to or acquires the organization, trade, business or substantially
5847 all the assets thereof of an employer, excepting any assets
5848 retained by such employer incident to the liquidation of his
5849 obligations, whether or not such acquiring employing unit was an
5850 employer within the meaning of Section 71-5-11, subsection I,
5851 prior to such acquisition, and continues such organization, trade
5852 or business, the experience-rating and payroll records of the
5853 predecessor employer shall be transferred as of the date of
5854 acquisition to the successor employer for the purpose of rate
5855 determination.

5856 (vi) When any employing unit succeeds to or
5857 acquires a distinct and severable portion of an organization,
5858 trade or business, the experience-rating and payroll records of



5859 such portion, if separately identifiable, shall be transferred to
5860 the successor upon:

5861 1. The mutual consent of the predecessor and
5862 the successor;

5863 2. Approval of the department;

5864 3. Continued operation of the transferred
5865 portion by the successor after transfer; and

5866 4. The execution and the filing with the
5867 department by the predecessor employer of a waiver relinquishing
5868 all rights to have the experience-rating and payroll records of
5869 the transferred portion used for the purpose of determining
5870 modified rates of contribution for such predecessor.

5871 (vii) If the successor was an employer subject to
5872 this chapter prior to the date of acquisition, it shall continue
5873 to pay contributions at the rate applicable to it from the date
5874 the acquisition occurred until the end of the then current tax
5875 year. If the successor was not an employer prior to the date of
5876 acquisition, it shall pay contributions at the rate applicable to
5877 the predecessor or, if more than one (1) predecessor and the same
5878 rate is applicable to both, the rate applicable to the predecessor
5879 or predecessors, from the date the acquisition occurred until the
5880 end of the then current tax year. If the successor was not an
5881 employer prior to the date the acquisition occurred and
5882 simultaneously acquires the businesses of two (2) or more
5883 employers to whom different rates of contributions are applicable,
5884 it shall pay contributions from the date of the acquisition until
5885 the end of the current tax year at a rate computed on the basis of
5886 the combined experience-rating and payroll records of the
5887 predecessors as of the computation date for such tax year. In all
5888 cases the rate of contributions applicable to such successor for
5889 each succeeding tax year shall be computed on the basis of the
5890 combined experience-rating and payroll records of the successor
5891 and the predecessor or predecessors.



5892 (viii) The department shall notify each employer
5893 quarterly of the benefits paid and charged to his
5894 experience-rating record; and such notification, in the absence of
5895 an application for redetermination filed within thirty (30) days
5896 after the date of such notice, shall be final, conclusive and
5897 binding upon the employer for all purposes. A redetermination,
5898 made after notice and opportunity for a fair hearing, by a hearing
5899 officer designated by the department who shall consider and decide
5900 these and related applications and protests; and the finding of
5901 fact in connection therewith may be introduced into any subsequent
5902 administrative or judicial proceedings involving the determination
5903 of the rate of contributions of any employer for any tax year, and
5904 shall be entitled to the same finality as is provided in this
5905 subsection with respect to the findings of fact in proceedings to
5906 redetermine the contribution rate of an employer.

5907 (ix) The department shall notify each employer of
5908 his rate of contribution as determined for any tax year as soon as
5909 reasonably possible after September 1 of the preceding year. Such
5910 determination shall be final, conclusive and binding upon such
5911 employer unless, within thirty (30) days after the date of such
5912 notice to his last known address, the employer files with the
5913 department an application for review and redetermination of his
5914 contribution rate, setting forth his reasons therefor. If the
5915 department grants such review, the employer shall be promptly
5916 notified thereof and shall be afforded an opportunity for a fair
5917 hearing by a hearing officer designated by the department who
5918 shall consider and decide these and related applications and
5919 protests; but no employer shall be allowed, in any proceeding
5920 involving his rate of contributions or contribution liability, to
5921 contest the chargeability to his account of any benefits paid in
5922 accordance with a determination, redetermination or decision
5923 pursuant to Sections 71-5-515 through 71-5-533 except upon the
5924 ground that the services on the basis of which such benefits were



5925 found to be chargeable did not constitute services performed in
5926 employment for him, and then only in the event that he was not a
5927 party to such determination, redetermination, decision or to any
5928 other proceedings provided in this chapter in which the character
5929 of such services was determined. The employer shall be promptly
5930 notified of the denial of this application or of the
5931 redetermination, both of which shall become final unless, within
5932 ten (10) days after the date of notice thereof, there shall be an
5933 appeal to the department itself. Any such appeal shall be on the
5934 record before said designated hearing officer, and the decision of
5935 said department shall become final unless, within thirty (30) days
5936 after the date of notice thereof to the employer's last known
5937 address, there shall be an appeal to the Circuit Court of the
5938 First Judicial District of Hinds County, Mississippi, in
5939 accordance with the provisions of law with respect to review of
5940 civil causes by certiorari.

5941 (3) Notwithstanding any other provision of law, the
5942 following shall apply regarding assignment of rates and transfers
5943 of experience:

5944 (a) (i) If an employer transfers its trade or
5945 business, or a portion thereof, to another employer and, at the
5946 time of the transfer, there is substantially common ownership,
5947 management or control of the two (2) employers, then the
5948 unemployment experience attributable to the transferred trade or
5949 business shall be transferred to the employer to whom such
5950 business is so transferred. The rates of both employers shall be
5951 recalculated and made effective on January 1 of the year following
5952 the year the transfer occurred.

5953 (ii) If, following a transfer of experience under
5954 subparagraph (i) of this paragraph (a), the department determines
5955 that a substantial purpose of the transfer of trade or business
5956 was to obtain a reduced liability of contributions, then the
5957 experience-rating accounts of the employers involved shall be



5958 combined into a single account and a single rate assigned to such
5959 account.

5960 (b) Whenever a person who is not an employer or an
5961 employing unit under this chapter at the time it acquires the
5962 trade or business of an employer, the unemployment experience of
5963 the acquired business shall not be transferred to such person if
5964 the department finds that such person acquired the business solely
5965 or primarily for the purpose of obtaining a lower rate of
5966 contributions. Instead, such person shall be assigned the new
5967 employer rate under Section 71-5-353. In determining whether the
5968 business was acquired solely or primarily for the purpose of
5969 obtaining a lower rate of contributions, the department shall use
5970 objective factors which may include the cost of acquiring the
5971 business, whether the person continued the business enterprise of
5972 the acquired business, how long such business enterprise was
5973 continued, or whether a substantial number of new employees were
5974 hired for performance of duties unrelated to the business activity
5975 conducted prior to acquisition.

5976 (c) (i) If a person knowingly violates or attempts to
5977 violate paragraph (a) or (b) of this subsection or any other
5978 provision of this chapter related to determining the assignment of
5979 a contribution rate, or if a person knowingly advises another
5980 person in a way that results in a violation of such provision, the
5981 person shall be subject to the following penalties:

5982 1. If the person is an employer, then such
5983 employer shall be assigned the highest rate assignable under this
5984 chapter for the rate year during which such violation or attempted
5985 violation occurred and the three (3) rate years immediately
5986 following this rate year. However, if the person's business is
5987 already at such highest rate for any year, or if the amount of
5988 increase in the person's rate would be less than two percent (2%)
5989 for such year, then a penalty rate of contributions of two percent
5990 (2%) of taxable wages shall be imposed for such year. The penalty



5991 rate will apply to the successor business as well as the related
5992 entity from which the employees were transferred in an effort to
5993 obtain a lower rate of contributions.

5994 2. If the person is not an employer, such
5995 person shall be subject to a civil money penalty of not more than
5996 Five Thousand Dollars (\$5,000.00). Each such transaction for
5997 which advice was given and each occurrence or reoccurrence after
5998 notification being given by the department shall be a separate
5999 offense and punishable by a separate penalty. Any such fine shall
6000 be deposited in the penalty and interest account established under
6001 Section 71-5-114.

6002 (ii) For purposes of this paragraph (c), the term
6003 "knowingly" means having actual knowledge of or acting with
6004 deliberate ignorance or reckless disregard for the prohibition
6005 involved.

6006 (iii) For purposes of this paragraph (c), the term
6007 "violates or attempts to violate" includes, but is not limited to,
6008 intent to evade, misrepresentation or willful nondisclosure.

6009 (iv) In addition to the penalty imposed by
6010 subparagraph (i) of this paragraph (c), any violation of this
6011 subsection may be punishable by a fine of not more than Ten
6012 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
6013 five (5) years, or by both such fine and imprisonment. This
6014 subsection shall prohibit prosecution under any other criminal
6015 statute of this state.

6016 (d) The department shall establish procedures to
6017 identify the transfer or acquisition of a business for purposes of
6018 this subsection.

6019 (e) For purposes of this subsection:

6020 (i) "Person" has the meaning given such term by
6021 Section 7701(a) (1) of the Internal Revenue Code of 1986; and

6022 (ii) "Employing unit" has the meaning as set forth
6023 in Section 71-5-11.



6024 (f) This subsection shall be interpreted and applied in
6025 such a manner as to meet the minimum requirements contained in any
6026 guidance or regulations issued by the United States Department of
6027 Labor.

6028 **SECTION 61.** Section 60 of this act shall take effect and be
6029 in force from and after its passage, and the remainder of this act
6030 shall take effect and be in force from and after July 1, 2012.

