

## **Senate Amendments to House Bill No. 757**

**TO THE CLERK OF THE HOUSE:**

**THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:**

### **AMENDMENT NO. 1**

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

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

63           37-153-1. This chapter shall be known and may be cited as  
64 the "Mississippi Comprehensive Workforce Training and Education  
65 Consolidation Act of 2004."

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

68           37-153-3. It is the intent of the Legislature by the passage  
69 of Chapter 572, Laws of 2004, to establish one (1) comprehensive  
70 workforce development system in the State of Mississippi that is  
71 focused on achieving results, using resources efficiently and  
72 ensuring that workers and employers can easily access needed  
73 services. This system shall reflect a consolidation of the  
74 Mississippi Workforce Development Advisory Council and the  
75 Mississippi State Workforce Investment Act Board. The purpose of  
76 Chapter 572, Laws of 2004, is to provide workforce activities,  
77 through a statewide system that maximizes cooperation among state

78 agencies, that increase the employment, retention and earnings of  
79 participants, and increase occupational skill attainment by  
80 participants and as a result, improve the quality of the  
81 workforce, reduce welfare dependency and enhance the productivity  
82 and competitiveness of the State of Mississippi.

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

85 37-153-5. For purposes of this chapter, the following words  
86 and phrases shall have the meanings respectively ascribed in this  
87 section unless the context clearly indicates otherwise:

88 (a) "State board" means the Mississippi State Workforce  
89 Investment Board;

90 (b) "District councils" means the Local Workforce  
91 Development Councils;

92 (c) "Local workforce investment board" means the board  
93 that oversees the workforce development activities of local  
94 workforce areas under the federal Workforce Investment Act.

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

97 37-153-7. (1) There is created the Mississippi State  
98 Workforce Investment Board. The Mississippi State Workforce  
99 Investment Board shall be composed of forty-one (41) voting  
100 members, of which a majority shall be representatives of business  
101 and industry in accordance with the federal Workforce Investment  
102 Act.

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

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

107                   (ii) The Executive Director of the Mississippi  
108 Municipal League;

109                   (iii) One (1) elected mayor;

110                   (iv) One (1) representative of an apprenticeship  
111 program in the state;

112                   (v) One (1) representative of labor organizations,  
113 who has been nominated by state labor federations;

114                   (vi) One (1) representative of individuals and  
115 organizations that has experience with respect to youth  
116 activities;

117                   (vii) One (1) representative of the Mississippi  
118 Association of Planning and Development Districts;

119                   (viii) One (1) representative from each of the  
120 four (4) workforce areas in the state, who has been nominated by  
121 the community colleges in each respective area, with the consent  
122 of the elected county supervisors within the respective workforce  
123 area;

124                   (ix) The chair of the Mississippi Association of  
125 Community and Junior Colleges; and

126                   (x) Twenty-one (21) representatives of business  
127 owners nominated by business and industry organizations, which may

128 include representatives of the various planning and development  
129 districts in Mississippi.

130 (b) The following state officials shall be members of  
131 the board:

132 (i) The Executive Director of the Mississippi  
133 Department of Employment Security;

134 (ii) The Executive Director of the Department of  
135 Rehabilitation Services;

136 (iii) The State Superintendent of Public  
137 Education;

138 (iv) The Executive Director of the Mississippi  
139 Development Authority;

140 (v) The Executive Director of the Mississippi  
141 Department of Human Services;

142 (vi) The Executive Director of the Mississippi  
143 Community College Board; and

144 (vii) The Commissioner of the Institutions of  
145 Higher Learning.

146 (c) The Governor, or his designee, shall serve as a  
147 member.

148 (d) Four (4) legislators, who shall serve in a  
149 nonvoting capacity, two (2) of whom shall be appointed by the  
150 Lieutenant Governor from the membership of the Mississippi Senate,  
151 and two (2) of whom shall be appointed by the Speaker of the House  
152 from the membership of the Mississippi House of Representatives.

153           (e) The membership of the board shall reflect the  
154 diversity of the State of Mississippi.

155           (f) The Governor shall designate the Chairman of the  
156 Mississippi State Workforce Investment Board from among the voting  
157 members of the board, and a quorum of the board shall consist of a  
158 majority of the voting members of the board.

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

163           (2) The Mississippi Department of Employment Security shall  
164 establish limits on administrative costs for each portion of  
165 Mississippi's workforce development system consistent with the  
166 federal Workforce Investment Act or any future federal workforce  
167 legislation.

168           (3) The Mississippi State Workforce Investment Board shall  
169 have the following duties:

170           (a) Develop and submit to the Governor a strategic plan  
171 for an integrated state workforce development system that aligns  
172 resources and structures the system to more effectively and  
173 efficiently meet the demands of Mississippi's employers and job  
174 seekers. This plan will comply with the federal Workforce  
175 Investment Act of 1998, as amended, the federal Workforce  
176 Innovation and Opportunity Act of 2014 and amendments and  
177 successor legislation to these acts;

178           (b) Assist the Governor in the development and  
179 continuous improvement of the statewide workforce investment  
180 system that shall include:

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

183                   (ii) Review local workforce development plans that  
184 reflect the use of funds from the federal Workforce Investment  
185 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser  
186 Act and the amendment or successor legislation to the acts, and  
187 the Mississippi Comprehensive Workforce Training and Education  
188 Consolidation Act;

189           (c) Recommend the designation of local workforce  
190 investment areas as required in Section 116 of the federal  
191 Workforce Investment Act of 1998 and the Workforce Innovation and  
192 Opportunity Act of 2014. There shall be four (4) workforce  
193 investment areas that are generally aligned with the planning and  
194 development district structure in Mississippi. Planning and  
195 development districts will serve as the fiscal agents to manage  
196 Workforce Investment Act funds, oversee and support the local  
197 workforce investment boards aligned with the area and the local  
198 programs and activities as delivered by the one-stop employment  
199 and training system. The planning and development districts will  
200 perform this function through the provisions of the county  
201 cooperative service districts created under Sections 19-3-101  
202 through 19-3-115; however, planning and development districts  
203 currently performing this function under the Interlocal

204 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may  
205 continue to do so;

206 (d) Assist the Governor in the development of an  
207 allocation formula for the distribution of funds for adult  
208 employment and training activities and youth activities to local  
209 workforce investment areas;

210 (e) Recommend comprehensive, results-oriented measures  
211 that shall be applied to all of Mississippi's workforce  
212 development system programs;

213 (f) Assist the Governor in the establishment and  
214 management of a one-stop employment and training system conforming  
215 to the requirements of the federal Workforce Investment Act of  
216 1998 and the Workforce Innovation and Opportunity Act of 2014, as  
217 amended, recommending policy for implementing the Governor's  
218 approved plan for employment and training activities and services  
219 within the state. In developing this one-stop career operating  
220 system, the Mississippi State Workforce Investment Board, in  
221 conjunction with local workforce investment boards, shall:

222 (i) Design broad guidelines for the delivery of  
223 workforce development programs;

224 (ii) Identify all existing delivery agencies and  
225 other resources;

226 (iii) Define appropriate roles of the various  
227 agencies to include an analysis of service providers' strengths  
228 and weaknesses;

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

231 (v) Develop a financial plan to support the  
232 delivery system that shall, at a minimum, include an  
233 accountability system;

234 (g) Assist the Governor in reducing duplication of  
235 services by urging the local workforce investment boards to  
236 designate the local community/junior college as the operator of  
237 the WIN Job Center. Incentive grants of Two Hundred Thousand  
238 Dollars (\$200,000.00) from federal Workforce Investment Act funds  
239 may be awarded to the local workforce boards where the  
240 community/junior college district is designated as the WIN Job  
241 Center. These grants must be provided to the community and junior  
242 colleges for the extraordinary costs of coordinating with the  
243 Workforce Investment Act, advanced technology centers and advanced  
244 skills centers. In no case shall these funds be used to supplant  
245 state resources being used for operation of workforce development  
246 programs;

247 (h) To provide authority, in accordance with any  
248 executive order of the Governor, for developing the necessary  
249 collaboration among state agencies at the highest level for  
250 accomplishing the purposes of this chapter;

251 (i) To monitor the effectiveness of the workforce  
252 development centers and WIN job centers;

253 (j) To advise the Governor, public schools,  
254 community/junior colleges and institutions of higher learning on



255 effective school-to-work transition policies and programs that  
256 link students moving from high school to higher education and  
257 students moving between community colleges and four-year  
258 institutions in pursuit of academic and technical skills training;

259 (k) To work with industry to identify barriers that  
260 inhibit the delivery of quality workforce education and the  
261 responsiveness of educational institutions to the needs of  
262 industry;

263 (l) To provide periodic assessments on effectiveness  
264 and results of the overall Mississippi comprehensive workforce  
265 development system and district councils; and

266 (m) To assist the Governor in carrying out any other  
267 responsibility required by the federal Workforce Investment Act of  
268 1998, as amended and the Workforce Innovation and Opportunity Act,  
269 successor legislation and amendments.

270 (4) The Mississippi State Workforce Investment Board shall  
271 coordinate all training programs and funds in the State of  
272 Mississippi.

273 Each state agency director responsible for workforce training  
274 activities shall advise the Mississippi State Workforce Investment  
275 Board of appropriate federal and state requirements. Each such  
276 state agency director shall remain responsible for the actions of  
277 his agency; however, each state agency and director shall work  
278 cooperatively, and shall be individually and collectively  
279 responsible to the Governor for the successful implementation of  
280 the statewide workforce investment system. The Governor, as the

281 Chief Executive Officer of the state, shall have complete  
282 authority to enforce cooperation among all entities within the  
283 state that utilize federal or state funding for the conduct of  
284 workforce development activities.

285 (5) The State Workforce Investment Board shall establish a  
286 Rules Committee. The Rules Committee, in consultation with the  
287 full board, shall be designated as the body with the sole  
288 authority to promulgate rules and regulations for distribution of  
289 Mississippi Works Funds created in Section 71-5-353. The State  
290 Workforce Investment Board Rules Committee shall develop and  
291 submit rules and regulations in accordance with the Mississippi  
292 Administrative Procedures Act, within sixty (60) days of March 21,  
293 2016. The State Workforce Investment Board Rules Committee shall  
294 consist of the following State Workforce Investment Board members:

295 (a) The Executive Director of the Mississippi  
296 Development Authority;

297 (b) The Executive Director of the Mississippi  
298 Department of Employment Security;

299 (c) The Executive Director of the Mississippi Community  
300 College Board;

301 (d) The Chair of the Mississippi Association of  
302 Community and Junior Colleges;

303 (e) The Chair of the State Workforce Investment Board;

304 (f) A representative from the workforce areas selected  
305 by the Mississippi Association of Workforce Areas, Inc.;

306 (g) A business representative currently serving on the  
307 board, selected by the Chairman of the State Workforce Investment  
308 Board; and

309 (h) Two (2) legislators, who shall serve in a nonvoting  
310 capacity, one (1) of whom shall be appointed by the Lieutenant  
311 Governor from the membership of the Mississippi Senate and one (1)  
312 of whom shall be appointed by the Speaker of the House of  
313 Representatives from the membership of the Mississippi House of  
314 Representatives.

315 (6) The Mississippi State Workforce Investment Board shall  
316 create and implement performance metrics for the Mississippi Works  
317 Fund to determine the added value to the local and state economy  
318 and the contribution to the future growth of the state economy. A  
319 report on the performance of the fund shall be made to the  
320 Governor, Lieutenant Governor and Speaker of the House of  
321 Representatives annually, throughout the life of the fund.

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

324 37-153-9. (1) In accordance with the federal Workforce  
325 Investment Act of 1998, there shall be established, for each of  
326 the four (4) state workforce areas prescribed in Section 37-153-3  
327 (2)(c), a local workforce investment board to set policy for the  
328 portion of the state workforce investment system within the local  
329 area and carry out the provisions of the Workforce Investment Act.

330 (2) Each community college district shall have an affiliated  
331 District Workforce Development Council. The district council

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

347 The Workforce Development Council shall have the following  
348 advisory duties:

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

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

353 (ii) Sets short-term and long-term goals for  
354 industry-specific training and upgrading and for general  
355 development of the workforce; and

356 (iii) Provides for coordination of all training  
357 programs, including ABE/High School Equivalency Diploma, Skills

358 Enhancement and Industrial Services, and shall work  
359 collaboratively with the State Literacy Resource Center;

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

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

364 (d) To encourage continuous improvement through  
365 evaluation and assessment; and

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

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

370 37-153-11. (1) There are created workforce development  
371 centers to provide assessment, training and placement services to  
372 individuals needing retraining, training and upgrading for small  
373 business and local industry. Each workforce development center  
374 shall be affiliated with a separate public community or junior  
375 college district.

376 (2) Each workforce development center shall be staffed and  
377 organized locally by the affiliated community college. The  
378 workforce development center shall serve as staff to the  
379 affiliated district council.

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

- 384 (a) For individuals needing training and retraining:
- 385 (i) Recruiting, assessing, counseling and
- 386 referring to training or jobs;
- 387 (ii) Preemployment training for those with no
- 388 experience in the private enterprise system;
- 389 (iii) Basic literacy skills training and high
- 390 school equivalency education;
- 391 (iv) Vocational and technical training, full-time
- 392 or part-time; and
- 393 (v) Short-term skills training for educationally
- 394 and economically disadvantaged adults in cooperation with
- 395 federally established employment and training programs;
- 396 (b) For specific small businesses, industries or firms
- 397 within the district:
- 398 (i) Job analysis, testing and curriculum
- 399 development;
- 400 (ii) Development of specific long-range training
- 401 plans;
- 402 (iii) Industry or firm-related preemployment
- 403 training;
- 404 (iv) Workplace basic skills and literacy training;
- 405 (v) Customized skills training;
- 406 (vi) Assistance in developing the capacity for
- 407 total quality management training;
- 408 (vii) Technology transfer information and referral
- 409 services to business of local applications of new research in

410 cooperation with the University Research Center, the state's  
411 universities and other laboratories; and

412 (viii) Development of business plans;

413 (c) For public schools within the district technical  
414 assistance to secondary schools in curriculum coordination,  
415 development of tech prep programs, instructional development and  
416 resource coordination; and

417 (d) For economic development, a local forum and  
418 resource center for all local industrial development groups to  
419 meet and promote regional economic development.

420 (4) Each workforce development center shall compile and make  
421 accessible to the Mississippi Workforce Investment Board necessary  
422 information for use in evaluating outcomes of its efforts and in  
423 improving the quality of programs at each community college, and  
424 shall include information on literacy initiatives. Each workforce  
425 development center shall, through an interagency management  
426 information system, maintain records on new small businesses,  
427 placement, length of time on the job after placement and wage  
428 rates of those placed in a form containing such information as  
429 established by the state council.

430 (5) The Mississippi Community College Board is authorized to  
431 designate one or more workforce development centers at the request  
432 of affiliated community or junior colleges to provide skills  
433 training to individuals to enhance their ability to be employed in  
434 the motion picture industry in this state.

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

437           37-153-13. The Mississippi Community College Board is  
438 designated as the primary support agency to the workforce  
439 development centers. The Mississippi Community College Board may  
440 exercise the following powers:

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

443           (b) To provide the workforce development centers  
444 consistent standards and benchmarks to guide development of the  
445 local workforce development system and to provide a means by which  
446 the outcomes of local services can be measured;

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

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

452           (ii) Establishing rigorous and comprehensive local  
453 preemployment training programs;

454           (iii) Developing local institutional capacity to  
455 deliver total quality management training;

456           (iv) Developing local institutional capacity to  
457 transfer new technologists into the marketplace;

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

460           (vi) Developing data for strategic planning;



461 (d) To collaborate with the Mississippi Development  
462 Authority and other economic development organizations to increase  
463 the community college systems' economic development potential;

464 (e) To administer presented and approved certification  
465 programs by the community colleges for tax credits and partnership  
466 funding for corporate training;

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

472 (g) To develop internal capacity to provide services  
473 and to contract for services from universities and other providers  
474 directly to local institutions;

475 (h) To develop and administer an incentive  
476 certification program;

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

479 (j) To collaborate, partner and contract for services  
480 with community-based organizations and disadvantaged businesses in  
481 the delivery of workforce training and career information  
482 especially to youth, as defined by the federal Workforce  
483 Investment Act, and to those adults who are in low income jobs or  
484 whose individual skill levels are so low as to be unable initially  
485 to be aided by a workforce development center. Community-based  
486 organizations and disadvantaged businesses must meet

487 performance-based certification requirements set by the  
488 Mississippi Community College Board.

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

491 71-5-5. The Legislature finds and declares that the  
492 existence and continued operation of a federal tax upon employers,  
493 against which some portion of the contributions required under  
494 this chapter may be credited, will protect Mississippi employers  
495 from undue disadvantages in their competition with employers in  
496 other states. If at any time, upon a formal complaint to the  
497 Governor, he shall find that Title IX of the Social Security Act  
498 has been amended or repealed by Congress or has been held  
499 unconstitutional by the Supreme Court of the United States, and  
500 that, as a result thereof, the provisions of this chapter  
501 requiring Mississippi employers to pay contributions will subject  
502 them to a serious competitive disadvantage in relation to  
503 employers in other states, he shall publish such findings and  
504 proclaim that the operation of the provisions of this chapter  
505 requiring the payment of contributions and benefits shall be  
506 suspended for a period of not more than six (6) months. The  
507 Department of Employment Security shall thereupon requisition from  
508 the Unemployment Trust Fund all monies therein standing to its  
509 credit, and shall deposit such monies, together with any other  
510 monies in the Unemployment Compensation Fund, as a special fund in  
511 any banks or public depositories in this state in which general  
512 funds of the state may be deposited.

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

515           If within the aforesaid six-month period the Governor shall  
516 find that other federal legislation has been enacted which avoids  
517 the competitive disadvantage herein described, he shall forthwith  
518 publicly so proclaim, and upon the date of such proclamation, the  
519 provisions of this chapter requiring the payment of contributions  
520 and benefits shall again become fully operative as of the date of  
521 such suspension with the same effect as if such suspension had not  
522 occurred. If within such six-month period no such other federal  
523 legislation is enacted or the Legislature of this state has not  
524 otherwise prescribed, the Department of Employment Security shall,  
525 under regulations prescribed by it, refund, without interest, to  
526 each employer by whom contributions have been paid his pro rata  
527 share of the total contributions paid under this chapter. Any  
528 interest or earnings of the fund shall be available to the  
529 Department of Employment Security to pay for the costs of making  
530 such refunds. When the Department of Employment Security shall  
531 have executed the duties herein prescribed and performed such  
532 other acts as are incidental to the termination of its duties  
533 under this chapter, the Governor shall, by public proclamation,  
534 declare that the provisions of this chapter, in their entirety,  
535 shall cease to be operative.

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

538           71-5-11. As used in this chapter, unless the context clearly  
539 requires otherwise:

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

543           B. "Benefit year" with respect to any individual means the  
544 period beginning with the first day of the first week with respect  
545 to which he first files a valid claim for benefits, and ending  
546 with the day preceding the same day of the same month in the next  
547 calendar year; and, thereafter, the period beginning with the  
548 first day of the first week with respect to which he next files  
549 his valid claim for benefits, and ending with the day preceding  
550 the same day of the same month in the next calendar year. Any  
551 claim for benefits made in accordance with Section 71-5-515 shall  
552 be deemed to be a "valid claim" for purposes of this subsection if  
553 the individual has been paid the wages for insured work required  
554 under Section 71-5-511(e).

555           C. "Contributions" means the money payments to the State  
556 Unemployment Compensation Fund required by this chapter.

557           D. "Calendar quarter" means the period of three (3)  
558 consecutive calendar months ending on March 31, June 30, September  
559 30, or December 31.

560           E. "Department" or "commission" means the Mississippi  
561 Department of Employment Security, Office of the Governor.

562 F. "Executive director" means the Executive Director of the  
563 Mississippi Department of Employment Security, Office of the  
564 Governor, appointed under Section 71-5-107.

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

588 provided the employing unit had actual or constructive knowledge  
589 of the work. All individuals performing services in the employ of  
590 an elected fee-paid county official, other than those related by  
591 blood or marriage within the third degree computed by the rule of  
592 the civil law to such fee-paid county official, shall be deemed to  
593 be employed by such county as the employing unit for all the  
594 purposes of this chapter. For purposes of defining an "employing  
595 unit" which shall pay contributions on remuneration paid to  
596 individuals, if two (2) or more related corporations concurrently  
597 employ the same individual and compensate such individual through  
598 a common paymaster which is one (1) of such corporations, then  
599 each such corporation shall be considered to have paid as  
600 remuneration to such individual only the amounts actually  
601 disbursed by it to such individual and shall not be considered to  
602 have paid as remuneration to such individual such amounts actually  
603 disbursed to such individual by another of such corporations.

604 H. "Employer" means:

605 (1) Any employing unit which,

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

610 (b) For some portion of a day in each of twenty  
611 (20) different calendar weeks, whether or not such weeks were  
612 consecutive, in either the current or the preceding calendar year  
613 had in employment at least one (1) individual (irrespective of

614 whether the same individual was in employment in each such day),  
615 except as provided in paragraph (9) of this subsection;

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

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

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

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

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

630 (6) Any individual or employing unit which acquired its  
631 organization, trade, business, or substantially all the assets  
632 thereof, from another employing unit, if the employment record of  
633 the acquiring individual or employing unit subsequent to such  
634 acquisition, together with the employment record of the acquired  
635 organization, trade, or business prior to such acquisition, both  
636 within the same calendar year, would be sufficient to constitute  
637 an employing unit as an employer subject to this chapter under  
638 paragraph (1) or (3) of this subsection;

639           (7) Any employing unit which, having become an employer  
640 under paragraph (1), (3), (5) or (6) of this subsection or under  
641 any other provisions of this chapter, has not, under Section  
642 71-5-361, ceased to be an employer subject to this chapter;

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

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

651           (b) In determining whether or not an employing  
652 unit for which service other than agricultural labor is also  
653 performed is an employer under paragraph (1) or (4)(b) of this  
654 subsection, the wages earned or the employment of an employee  
655 performing services in agricultural labor, shall not be taken into  
656 account. If an employing unit is determined an employer of  
657 agricultural labor, such employing unit shall be determined an  
658 employer for purposes of paragraph (1) of this subsection;

659           (10) All entities utilizing the services of any  
660 employee leasing firm shall be considered the employer of the  
661 individuals leased from the employee leasing firm. Temporary help  
662 firms shall be considered the employer of the individuals they  
663 provide to perform services for other individuals or  
664 organizations.



665 I. "Employment" means and includes:

666 (1) Any service performed, which was employment as  
667 defined in this section and, subject to the other provisions of  
668 this subsection, including service in interstate commerce,  
669 performed for wages or under any contract of hire, written or  
670 oral, express or implied.

671 (2) Services performed for remuneration for a  
672 principal:

673 (a) As an agent-driver or commission-driver  
674 engaged in distributing meat products, vegetable products, fruit  
675 products, bakery products, beverages (other than milk), or laundry  
676 or dry-cleaning services;

677 (b) As a traveling or city salesman, other than as  
678 an agent-driver or commission-driver, engaged upon a full-time  
679 basis in the solicitation on behalf of, and the transmission to, a  
680 principal (except for sideline sales activities on behalf of some  
681 other person) of orders from wholesalers, retailers, contractors,  
682 or operator of hotels, restaurants, or other similar  
683 establishments for merchandise for resale or supplies for use in  
684 their business operations.

685 However, for purposes of this subsection, the term  
686 "employment" shall include services described in subsection  
687 I(2) (a) and (b) of this section, only if:

688 (i) The contract of service contemplates that  
689 substantially all of the services are to be performed personally  
690 by such individual;

691                   (ii) The individual does not have a  
692 substantial investment in facilities used in connection with the  
693 performance of the services (other than in facilities for  
694 transportation); and

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

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

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

714                   (b) The organization had four (4) or more  
715 individuals in employment for some portion of a day in each of  
716 twenty (20) different weeks, whether or not such weeks were

717 consecutive, within the current or preceding calendar year,  
718 regardless of whether they were employed at the same moment of  
719 time.

720 (5) For the purposes of subsection I(3) and (4) of this  
721 section, the term "employment" does not apply to service  
722 performed:

723 (a) In the employ of:

724 (i) A church or convention or association of  
725 churches; or

726 (ii) An organization which is operated  
727 primarily for religious purposes and which is operated,  
728 supervised, controlled, or principally supported by a church or  
729 convention or association of churches; or

730 (b) By a duly ordained, commissioned, or licensed  
731 minister of a church in the exercise of his ministry, or by a  
732 member of a religious order in the exercise of duties required by  
733 such order; or

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

737 (i) As an elected official;

738 (ii) As a member of a legislative body, or a  
739 member of the judiciary, of a state or political subdivision or a  
740 member of an Indian tribal council;

741 (iii) As a member of the State National Guard  
742 or Air National Guard;

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

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

749 1. A major nontenured policy-making or  
750 advisory position, or

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

754 (d) In a facility conducted for the purpose of  
755 carrying out a program of rehabilitation for individuals whose  
756 earning capacity is impaired by age or physical or mental  
757 deficiency or injury, or providing remunerative work for  
758 individuals who because of their impaired physical or mental  
759 capacity cannot be readily absorbed in the competitive labor  
760 market, by an individual receiving such rehabilitation or  
761 remunerative work; or

762 (e) By an inmate of a custodial or penal  
763 institution; or

764 (f) As part of an unemployment work-relief or  
765 work-training program assisted or financed, in whole or in part,  
766 by any federal agency or agency of a state or political  
767 subdivision thereof or of an Indian tribe, by an individual

768 receiving such work relief or work training, unless coverage of  
769 such service is required by federal law or regulation.

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

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

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

777 (ii) For some portion of a day in each of  
778 twenty (20) different calendar weeks, whether or not such weeks  
779 were consecutive, in either the current or the preceding calendar  
780 year, employed in agricultural labor ten (10) or more individuals,  
781 regardless of whether they were employed at the same moment of  
782 time.

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

787 (i) If such crew leader holds a valid  
788 certificate of registration under the Farm Labor Contractor  
789 Registration Act of 1963; or substantially all the members of such  
790 crew operate or maintain tractors, mechanized harvesting or crop  
791 dusting equipment, or any other mechanized equipment, which is  
792 provided by such crew leader; and

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

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

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

802                   (ii) Such other person shall be treated as  
803 having paid cash remuneration to such individual in an amount  
804 equal to the amount of cash remuneration paid to such individual  
805 by the crew leader (either on his own behalf or on behalf of such  
806 other person) for the service in agricultural labor performed for  
807 such other person.

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

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

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

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

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

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

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

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

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

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

839           (9) Services not covered under paragraph (8) of this  
840 subsection and performed entirely without this state, with respect  
841 to no part of which contributions are required and paid under an  
842 unemployment compensation law of any other state or of the federal  
843 government, shall be deemed to be employment subject to this

844 chapter if the individual performing such services is a resident  
845 of this state and the department approves the election of the  
846 employing unit for whom such services are performed that the  
847 entire service of such individual shall be deemed to be employment  
848 subject to this chapter.

849 (10) Service shall be deemed to be localized within a  
850 state if:

851 (a) The service is performed entirely within such  
852 state; or

853 (b) The service is performed both within and  
854 without such state, but the service performed without such state  
855 is incidental to the individual's service within the state; for  
856 example, is temporary or transitory in nature or consists of  
857 isolated transactions.

858 (11) The services of an individual who is a citizen of  
859 the United States, performed outside the United States (except in  
860 Canada), in the employ of an American employer (other than service  
861 which is deemed "employment" under the provisions of paragraph  
862 (8), (9) or (10) of this subsection or the parallel provisions of  
863 another state's law), if:

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

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

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



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

872 (iii) The employer is a partnership or a  
873 trust and the number of the partners or trustees who are residents  
874 of this state is greater than the number who are residents of any  
875 one (1) other state; or

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

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

883 (i) An individual who is a resident of the  
884 United States; or

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

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

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

891 (12) All services performed by an officer or member of  
892 the crew of an American vessel on or in connection with such  
893 vessel, if the operating office from which the operations of such  
894 vessel operating on navigable waters within, or within and  
895 without, the United States are ordinarily and regularly

896 supervised, managed, directed and controlled, is within this  
897 state, notwithstanding the provisions of subsection I(8).

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

905 (14) Services performed by an individual for wages  
906 shall be deemed to be employment subject to this chapter unless  
907 and until it is shown to the satisfaction of the department that  
908 such individual has been and will continue to be free from control  
909 and direction over the performance of such services both under his  
910 contract of service and in fact; and the relationship of employer  
911 and employee shall be determined in accordance with the principles  
912 of the common law governing the relation of master and servant.

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

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

917 (i) On a farm or in a forest in the employ of  
918 any employing unit in connection with cultivating the soil, in  
919 connection with cutting, planting, deadening, marking or otherwise  
920 improving timber, or in connection with raising or harvesting any  
921 agricultural or horticultural commodity, including the raising,

922 shearing, feeding, caring for, training, and management of  
923 livestock, bees, poultry, fur-bearing animals and wildlife;

924 (ii) In the employ of the owner or tenant or  
925 other operator of a farm, in connection with the operation,  
926 management, conservation, improvement or maintenance of such farm  
927 and its tools and equipment, or in salvaging timber or clearing  
928 land of brush and other debris left by a hurricane, if the major  
929 part of such service is performed on a farm;

930 (iii) In connection with the production or  
931 harvesting of naval stores products or any commodity defined in  
932 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),  
933 or in connection with the raising or harvesting of mushrooms, or  
934 in connection with the ginning of cotton, or in connection with  
935 the operation or maintenance of ditches, canals, reservoirs, or  
936 waterways not owned or operated for profit, used exclusively for  
937 supplying and storing water for farming purposes;

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

945 (B) In the employ of a group of  
946 operators of farms (or a cooperative organization of which such  
947 operators are members) in the performance of service described in

948 subitem (A), but only if such operators produced more than  
949 one-half (1/2) of the commodity with respect to which such service  
950 is performed;

951 (C) The provisions of subitems (A) and  
952 (B) shall not be deemed to be applicable with respect to service  
953 performed in connection with commercial canning or commercial  
954 freezing or in connection with any agricultural or horticultural  
955 commodity after its delivery to a terminal market for distribution  
956 for consumption;

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

959 (vi) As used in paragraph (15)(a) of this  
960 subsection, the term "farm" includes stock, dairy, poultry, fruit,  
961 fur-bearing animals, and truck farms, plantations, ranches,  
962 nurseries, ranges, greenhouses, or other similar structures used  
963 primarily for the raising of agricultural or horticultural  
964 commodities, and orchards.

965 (b) Domestic service in a private home, local  
966 college club, or local chapter of a college fraternity or  
967 sorority, except as provided in subsection I(7) of this section,  
968 or service performed as a "sitter" at a hospital in the employ of  
969 an individual.

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

972 (d) Service performed by an individual in the  
973 employ of his son, daughter, or spouse, and service performed by a

974 child under the age of twenty-one (21) in the employ of his father  
975 or mother.

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

993 (f) Service performed in the employ of an  
994 "employer" as defined by the Railroad Unemployment Insurance Act,  
995 45 USCS Section 351(a), or as an "employee representative" as  
996 defined by the Railroad Unemployment Insurance Act, 45 USCS  
997 Section 351(f), and service with respect to which unemployment  
998 compensation is payable under an unemployment compensation system  
999 for maritime employees, or under any other unemployment

1000 compensation system established by an act of Congress; however,  
1001 the department is authorized and directed to enter into agreements  
1002 with the proper agencies under such act or acts of Congress, which  
1003 agreements shall become effective ten (10) days after publication  
1004 thereof in the manner provided in Section 71-5-117 for general  
1005 rules, to provide reciprocal treatment to individuals who have,  
1006 after acquiring potential rights to benefits under this chapter,  
1007 acquired rights to unemployment compensation under such act or  
1008 acts of Congress or who have, after acquiring potential rights to  
1009 unemployment compensation under such act or acts of Congress,  
1010 acquired rights to benefits under this chapter.

1011 (g) Service performed in any calendar quarter in  
1012 the employ of any organization exempt from income tax under the  
1013 Internal Revenue Code, 26 USCS Section 501(a) (other than an  
1014 organization described in 26 USCS Section 401(a)), or exempt from  
1015 income tax under 26 USCS Section 521 if the remuneration for such  
1016 service is less than Fifty Dollars (\$50.00).

1017 (h) Service performed in the employ of a school,  
1018 college, or university if such service is performed:

1019 (i) By a student who is enrolled and is  
1020 regularly attending classes at such school, college or university,  
1021 or

1022 (ii) By the spouse of such a student if such  
1023 spouse is advised, at the time such spouse commences to perform  
1024 such service, that

1025 (A) The employment of such spouse to  
1026 perform such service is provided under a program to provide  
1027 financial assistance to such student by such school, college, or  
1028 university, and

1029 (B) Such employment will not be covered  
1030 by any program of unemployment insurance.

1031 (i) Service performed by an individual under the  
1032 age of twenty-two (22) who is enrolled at a nonprofit or public  
1033 educational institution which normally maintains a regular faculty  
1034 and curriculum and normally has a regularly organized body of  
1035 students in attendance at the place where its educational  
1036 activities are carried on, as a student in a full-time program  
1037 taken for credit at such institution, which combines academic  
1038 instruction with work experience, if such service is an integral  
1039 part of such program and such institution has so certified to the  
1040 employer, except that this subparagraph shall not apply to service  
1041 performed in a program established for or on behalf of an employer  
1042 or group of employers.

1043 (j) Service performed in the employ of a hospital,  
1044 if such service is performed by a patient of the hospital, as  
1045 defined in subsection M of this section.

1046 (k) Service performed as a student nurse in the  
1047 employ of a hospital or a nurses' training school by an individual  
1048 who is enrolled and is regularly attending classes in a nurses'  
1049 training school chartered or approved pursuant to state law; and  
1050 services performed as an intern in the employ of a hospital by an

1051 individual who has completed a four-year course in a medical  
1052 school chartered or approved pursuant to state law.

1053 (l) Service performed by an individual as an  
1054 insurance agent or as an insurance solicitor, if all such service  
1055 performed by such individual is performed for remuneration solely  
1056 by way of commission.

1057 (m) Service performed by an individual in the  
1058 delivery or distribution of newspapers or shopping news, not  
1059 including delivery or distribution to any point for subsequent  
1060 delivery or distribution, except those employed by political  
1061 subdivisions, state and local governments, nonprofit organizations  
1062 and Indian tribes, as defined by this chapter, or any other  
1063 entities for which coverage is required by federal statute and  
1064 regulation.

1065 (n) If the services performed during one-half  
1066 (1/2) or more of any pay period by an employee for the employing  
1067 unit employing him constitute employment, all the services of such  
1068 employee for such period shall be deemed to be employment; but if  
1069 the services performed during more than one-half (1/2) of any such  
1070 pay period by an employee for the employing unit employing him do  
1071 not constitute employment, then none of the services of such  
1072 employee for such period shall be deemed to be employment. As  
1073 used in this subsection, the term "pay period" means a period (of  
1074 not more than thirty-one (31) consecutive days) for which a  
1075 payment of remuneration is ordinarily made to the employee by the  
1076 employing unit employing him.



1077                   (o) Service performed by a barber or beautician  
1078 whose work station is leased to him or her by the owner of the  
1079 shop in which he or she works and who is compensated directly by  
1080 the patrons he or she serves and who is free from direction and  
1081 control by the lessor.

1082                   (p) Service performed by a "direct seller" if:

1083                   (i) Such person is engaged in the trade or  
1084 business of selling (or soliciting the sale of) consumer products  
1085 to any buyer on a buy-sell basis, a deposit-commission basis, or  
1086 any similar basis which the department prescribes by regulations,  
1087 for resale (by the buyer or any other person) in the home or  
1088 otherwise than in a permanent retail establishment; or such person  
1089 is engaged in the trade or business of selling (or soliciting the  
1090 sale of) consumer products in the home or otherwise than in a  
1091 permanent retail establishment;

1092                   (ii) Substantially all the remuneration  
1093 (whether or not paid in cash) for the performance of the services  
1094 described in item (i) of this subparagraph is directly related to  
1095 sales or other output (including the performance of services)  
1096 rather than to the number of hours worked; and

1097                   (iii) The services performed by the person  
1098 are performed pursuant to a written contract between such person  
1099 and the person for whom the services are performed and such  
1100 contract provides that the person will not be treated as an  
1101 employee with respect to such services for federal tax purposes.

1102           J. "Employment office" means a free public employment office  
1103 or branch thereof, operated by this state or maintained as a part  
1104 of the state controlled system of public employment offices.

1105           K. "Public employment service" means the operation of a  
1106 program that offers free placement and referral services to  
1107 applicants and employers, including job development.

1108           L. "Fund" means the Unemployment Compensation Fund  
1109 established by this chapter, to which all contributions required  
1110 and from which all benefits provided under this chapter shall be  
1111 paid.

1112           M. "Hospital" means an institution which has been licensed,  
1113 certified, or approved by the State Department of Health as a  
1114 hospital.

1115           N. "Institution of higher learning," for the purposes of  
1116 this section, means an educational institution which:

1117                 (1) Admits as regular students only individuals having  
1118 a certificate of graduation from a high school, or the recognized  
1119 equivalent of such a certificate;

1120                 (2) Is legally authorized in this state to provide a  
1121 program of education beyond high school;

1122                 (3) Provides an educational program for which it awards  
1123 a bachelor's or higher degree, or provides a program which is  
1124 acceptable for full credit toward such a degree, a program of  
1125 postgraduate or postdoctoral studies, or a program of training to  
1126 prepare students for gainful employment in a recognized  
1127 occupation;

1128           (4) Is a public or other nonprofit institution;  
1129           (5) Notwithstanding any of the foregoing provisions of  
1130 this subsection, all colleges and universities in this state are  
1131 institutions of higher learning for purposes of this section.

1132           O. "Re-employment assistance" means money payments payable  
1133 to an individual as provided in this chapter and in accordance  
1134 with Section 3304(a)(4) and 3306(h) of the Federal Unemployment  
1135 Tax Act and Section 303(a)(5) of the Social Security Act, with  
1136 respect to his unemployment through no fault of his own. Wherever  
1137 the terms "benefits" or "unemployment benefits" appear in this  
1138 chapter, they shall mean re-employment assistance.

1139           P. (1) "State" includes, in addition to the states of the  
1140 United States of America, the District of Columbia, Commonwealth  
1141 of Puerto Rico and the Virgin Islands.

1142           (2) The term "United States" when used in a  
1143 geographical sense includes the states, the District of Columbia,  
1144 Commonwealth of Puerto Rico and the Virgin Islands.

1145           (3) The provisions of paragraphs (1) and (2) of  
1146 subsection P, as including the Virgin Islands, shall become  
1147 effective on the day after the day on which the United States  
1148 Secretary of Labor approves for the first time under Section  
1149 3304(a) of the Internal Revenue Code of 1954 an unemployment  
1150 compensation law submitted to the secretary by the Virgin Islands  
1151 for such approval.

1152           Q. "Unemployment."

1153           (1) An individual shall be deemed "unemployed" in any  
1154 week during which he performs no services and with respect to  
1155 which no wages are payable to him, or in any week of less than  
1156 full-time work if the wages payable to him with respect to such  
1157 week are less than his weekly benefit amount as computed and  
1158 adjusted in Section 71-5-505. The department shall prescribe  
1159 regulations applicable to unemployed individuals, making such  
1160 distinctions in the procedure as to total unemployment, part-total  
1161 unemployment, partial unemployment of individuals attached to  
1162 their regular jobs, and other forms of short-time work, as the  
1163 department deems necessary.

1164           (2) An individual's week of total unemployment shall be  
1165 deemed to commence only after his registration at an employment  
1166 office, except as the department may by regulation otherwise  
1167 prescribe.

1168           R. (1) "Wages" means all remuneration for personal  
1169 services, including commissions and bonuses and the cash value of  
1170 all remuneration in any medium other than cash, except that  
1171 "wages," for purposes of determining employer's coverage and  
1172 payment of contributions for agricultural and domestic service  
1173 means cash remuneration only. The reasonable cash value of  
1174 remuneration in any medium other than cash shall be estimated and  
1175 determined in accordance with rules prescribed by the department;  
1176 however, that the term "wages" shall not include:

1177                   (a) The amount of any payment made to, or on  
1178 behalf of, an employee under a plan or system established by an

1179 employer which makes provision for his employees generally or for  
1180 a class or classes of his employees (including any amount paid by  
1181 an employer for insurance or annuities, or into a fund, to provide  
1182 for any such payment), on account of:

1183 (i) Retirement, or

1184 (ii) Sickness or accident disability, or

1185 (iii) Medical or hospitalization expenses in  
1186 connection with sickness or actual disability, or

1187 (iv) Death, provided the employee:

1188 (A) Has not the option to receive,  
1189 instead of provision for such death benefit, any part of such  
1190 payment or, if such death benefit is insured, any part of the  
1191 premiums (or contributions to premiums) paid by his employer, and

1192 (B) Has not the right, under the  
1193 provisions of the plan or system or policy of insurance providing  
1194 for such death benefit, to assign such benefit or to receive a  
1195 cash consideration in lieu of such benefit, either upon his  
1196 withdrawal from the plan or system providing for such benefit or  
1197 upon termination of such plan or system or policy of insurance or  
1198 of his employment with such employer;

1199 (b) Dismissal payments which the employer is not  
1200 legally required to make;

1201 (c) Payment by an employer (without deduction from  
1202 the remuneration of an employee) of the tax imposed by the  
1203 Internal Revenue Code, 26 USCS Section 3101;

1204 (d) From and after January 1, 1992, the amount of  
1205 any payment made to or on behalf of an employee for a "cafeteria"  
1206 plan, which meets the following requirements:

- 1207 (i) Qualifies under Section 125 of the
- 1208 Internal Revenue Code;
- 1209 (ii) Covers only employees;
- 1210 (iii) Covers only noncash benefits;
- 1211 (iv) Does not include deferred compensation
- 1212 plans.

1213 (2) [Not enacted].

1214 S. "Week" means calendar week or such period of seven (7)  
1215 consecutive days as the department may by regulation prescribe.  
1216 The department may by regulation prescribe that a week shall be  
1217 deemed to be in, within, or during any benefit year which includes  
1218 any part of such week.

1219 T. "Insured work" means "employment" for "employers."

1220 U. The term "includes" and "including," when used in a  
1221 definition contained in this chapter, shall not be deemed to  
1222 exclude other things otherwise within the meaning of the term  
1223 defined.

1224 V. "Employee leasing arrangement" means any agreement  
1225 between an employee leasing firm and a client, whereby specified  
1226 client responsibilities such as payment of wages, reporting of  
1227 wages for unemployment insurance purposes, payment of unemployment  
1228 insurance contributions and other such administrative duties are  
1229 to be performed by an employee leasing firm, on an ongoing basis.

1230           W. "Employee leasing firm" means any entity which provides  
1231 specified duties for a client company such as payment of wages,  
1232 reporting of wages for unemployment insurance purposes, payment of  
1233 unemployment insurance contributions and other administrative  
1234 duties, in connection with the client's employees, that are  
1235 directed and controlled by the client and that are providing  
1236 ongoing services for the client.

1237           X. (1) "Temporary help firm" means an entity which hires  
1238 its own employees and provides those employees to other  
1239 individuals or organizations to perform some service, to support  
1240 or supplement the existing workforce in special situations such as  
1241 employee absences, temporary skill shortages, seasonal workloads  
1242 and special assignments and projects, with the expectation that  
1243 the worker's position will be terminated upon the completion of  
1244 the specified task or function.

1245           (2) "Temporary employee" means an employee assigned to  
1246 work for the clients of a temporary help firm.

1247           Y. For the purposes of this chapter, the term "notice" shall  
1248 include any official communication, statement or other  
1249 correspondence required under the administration of this chapter,  
1250 and sent by the department through the United States Postal  
1251 Service or electronic or digital transfer, via modem or the  
1252 Internet.

1253           **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is  
1254 reenacted as follows:

1255           71-5-19. (1) Whoever makes a false statement or  
1256 representation knowing it to be false, or knowingly fails to  
1257 disclose a material fact, to obtain or increase any benefit or  
1258 other payment under this chapter or under an employment security  
1259 law of any other state, of the federal government or of a foreign  
1260 government, either for himself or for any other person, shall be  
1261 punished by a fine of not less than One Hundred Dollars (\$100.00)  
1262 nor more than Five Hundred Dollars (\$500.00), or by imprisonment  
1263 for not longer than thirty (30) days, or by both such fine and  
1264 imprisonment; and each such false statement or representation or  
1265 failure to disclose a material fact shall constitute a separate  
1266 offense.

1267           (2) Any employing unit, any officer or agent of an employing  
1268 unit or any other person who makes a false statement or  
1269 representation knowing it to be false, or who knowingly fails to  
1270 disclose a material fact, to prevent or reduce the payment of  
1271 benefits to any individual entitled thereto, or to avoid becoming  
1272 or remaining subject hereto, or to avoid or reduce any  
1273 contribution or other payment required from any employing unit  
1274 under this chapter, or who willfully fails or refuses to make any  
1275 such contribution or other payment, or to furnish any reports  
1276 required hereunder or to produce or permit the inspection or  
1277 copying of records as required hereunder, shall be punished by a  
1278 fine of not less than One Hundred Dollars (\$100.00) nor more than  
1279 One Thousand Dollars (\$1,000.00), or by imprisonment for not  
1280 longer than sixty (60) days, or by both such fine and



1281 imprisonment; and each such false statement, or representation, or  
1282 failure to disclose a material fact, and each day of such failure  
1283 or refusal shall constitute a separate offense. In lieu of such  
1284 fine and imprisonment, the employing unit or representative, or  
1285 both employing unit and representative, if such representative is  
1286 an employing unit in this state and is found to be a party to such  
1287 violation, shall not be eligible for a contributions rate of less  
1288 than five and four-tenths percent (5.4%) for the tax year in which  
1289 such violation is discovered by the department and for the next  
1290 two (2) succeeding tax years.

1291 (3) Any person who shall willfully violate any provision of  
1292 this chapter or any other rule or regulation thereunder, the  
1293 violation of which is made unlawful or the observance of which is  
1294 required under the terms of this chapter and for which a penalty  
1295 is neither prescribed herein nor provided by any other applicable  
1296 statute, shall be punished by a fine of not less than One Hundred  
1297 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),  
1298 or by imprisonment for not longer than sixty (60) days, or by both  
1299 such fine and imprisonment; and each day such violation continues  
1300 shall be deemed to be a separate offense. In lieu of such fine  
1301 and imprisonment, the employing unit or representative, or both  
1302 employing unit and representative, if such representative is an  
1303 employing unit in this state and is found to be a party to such  
1304 violation, shall not be eligible for a contributions rate of less  
1305 than five and four-tenths percent (5.4%) for the tax year in which

1306 the violation is discovered by the department and for the next two  
1307 (2) succeeding tax years.

1308 (4) (a) An overpayment of benefits occurs when a person  
1309 receives benefits under this chapter:

1310 (i) While any conditions for the receipt of  
1311 benefits imposed by this chapter were not fulfilled in his case;

1312 (ii) While he was disqualified from receiving  
1313 benefits; or

1314 (iii) When such person receives benefits and is  
1315 later found to be disqualified or ineligible for any reason,  
1316 including, but not limited to, a redetermination or reversal by  
1317 the department or the courts of a previous decision to award such  
1318 person benefits.

1319 (b) Any person receiving an overpayment shall, in the  
1320 discretion of the department, be liable to have such sum deducted  
1321 from any future benefits payable to him under this chapter and  
1322 shall be liable to repay to the department for the Unemployment  
1323 Compensation Fund a sum equal to the overpayment amount so  
1324 received by him; and such sum shall be collectible in the manner  
1325 provided in Sections 71-5-363 through 71-5-383 for the collection  
1326 of past-due contributions. In addition to Sections 71-5-363  
1327 through 71-5-383, the following shall apply to cases involving  
1328 damages for overpaid unemployment benefits which have been  
1329 obtained and/or received through fraud as defined by department  
1330 regulations and laws governing the department. By definition,  
1331 fraud can include failure to report earnings while filing for

1332 unemployment benefits. In the event of fraud, a penalty of twenty  
1333 percent (20%) of the amount of the overpayment shall be assessed.  
1334 Three-fourths (3/4) of that twenty percent (20%) penalty shall be  
1335 deposited into the unemployment trust fund and shall be used only  
1336 for the purpose of payment of unemployment benefits. The  
1337 remainder of that twenty percent (20%) penalty shall be deposited  
1338 into the Special Employment Security Administrative Fund.  
1339 Interest on the overpayment balance shall accrue at a rate of one  
1340 percent (1%) per month on the unpaid balance until repaid and  
1341 shall be deposited into the Special Employment Security  
1342 Administration Fund. All interest, penalties and damages  
1343 deposited into the Special Employment Security Administration Fund  
1344 shall be used by the department for administration of the  
1345 Mississippi Department of Employment Security.

1346 (c) Any such judgment against such person for  
1347 collection of such overpayment shall be in the form of a  
1348 seven-year renewable lien. Unless action be brought thereon prior  
1349 to expiration of the lien, the department must refile the notice  
1350 of the lien prior to its expiration at the end of seven (7) years.  
1351 There shall be no limit upon the number of times the department  
1352 may refile notices of liens for collection of overpayments.

1353 (d) All warrants issued by the department for the  
1354 collection of any unemployment tax or for an overpayment of  
1355 benefits imposed by statute and collected by the department shall  
1356 be used to levy on salaries, compensation or other monies due the  
1357 delinquent employer or claimant. No such warrant shall be issued

1358 until after the delinquent employer or claimant has exhausted all  
1359 appeal rights associated with the debt. The warrants shall be  
1360 served by mail or by delivery by an agent of the department on the  
1361 person or entity responsible or liable for the payment of the  
1362 monies due the delinquent employer or claimant. Once served, the  
1363 employer or other person owing compensation due the delinquent  
1364 employer or claimant shall pay the monies over to the department  
1365 in complete or partial satisfaction of the liability. An answer  
1366 shall be made within thirty (30) days after service of the warrant  
1367 in the form and manner determined satisfactory by the department.  
1368 Failure to pay the money over to the department as required by  
1369 this section shall result in the served party being personally  
1370 liable for the full amount of the monies owed and the levy and  
1371 collection process may be issued against the party in the same  
1372 manner as other debts owed to the department. Except as otherwise  
1373 provided by this section, the answer, the amount payable under the  
1374 warrant and the obligation of the payor to continue payment shall  
1375 be governed by the garnishment laws of this state but shall be  
1376 payable to the department.

1377 (5) The department, by agreement with another state or the  
1378 United States, as provided under Section 303(g) of the Social  
1379 Security Act, may recover any overpayment of benefits paid to any  
1380 individual under the laws of this state or of another state or  
1381 under an unemployment benefit program of the United States. Any  
1382 overpayments subject to this subsection may be deducted from any  
1383 future benefits payable to the individual under the laws of this

1384 state or of another state or under an unemployment program of the  
1385 United States.

1386         **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is  
1387 reenacted as follows:

1388         71-5-101. There is established the Mississippi Department of  
1389 Employment Security, Office of the Governor. The Department of  
1390 Employment Security shall be the Mississippi Employment Security  
1391 Commission and shall retain all powers and duties as granted to  
1392 the Mississippi Employment Security Commission. Wherever the term  
1393 "Employment Security Commission" appears in any law, the same  
1394 shall mean the Mississippi Department of Employment Security,  
1395 Office of the Governor. The Executive Director of the Department  
1396 of Employment Security may assign to the appropriate offices such  
1397 powers and duties deemed appropriate to carry out the lawful  
1398 functions of the department.

1399         **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is  
1400 reenacted as follows:

1401         71-5-107. The department shall administer this chapter  
1402 through a full-time salaried executive director, to be appointed  
1403 by the Governor, with the advice and consent of the Senate. He  
1404 shall be responsible for the administration of this chapter under  
1405 authority delegated to him by the Governor.

1406         **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is  
1407 reenacted as follows:

1408         71-5-109. There is created a Board of Review consisting of  
1409 three (3) members to be appointed by the executive director. The

1410 executive director shall designate one (1) member of the Board of  
1411 Review as chairman. Each member shall be paid a salary or per  
1412 diem at a rate to be determined by the executive director, and  
1413 such expenses as may be allowed by the executive director. All  
1414 salaries, per diem and expenses of the Board of Review shall be  
1415 paid from the Employment Security Administration Fund.

1416 **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is  
1417 reenacted as follows:

1418 71-5-111. There is created in the State Treasury a special  
1419 fund to be known as the Employment Security Administration Fund.  
1420 All monies which are deposited or paid into this fund are  
1421 appropriated and made available to the department. All monies in  
1422 this fund shall be expended solely for the purpose of defraying  
1423 the cost of administration of this chapter, and for no other  
1424 purpose whatsoever. The fund shall consist of all monies  
1425 appropriated by this state and all monies received from the United  
1426 States of America, or any agency thereof, or from any other source  
1427 for such purpose. Notwithstanding any provision of this section,  
1428 all monies requisitioned and deposited in this fund pursuant to  
1429 Section 71-5-457 shall remain part of the Employment Security  
1430 Administration Fund and shall be used only in accordance with the  
1431 conditions specified in that section. All monies in this fund  
1432 shall be deposited, administered and disbursed in the same manner  
1433 and under the same conditions and requirements as is provided by  
1434 law for other special funds in the State Treasury. The State  
1435 Treasurer shall be liable on his official bond for the faithful

1436 performance of his duties in connection with the Employment  
1437 Security Administration Fund under this chapter.

1438         **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is  
1439 reenacted as follows:

1440             71-5-112. All funds received by the Mississippi Department  
1441 of Employment Security shall clear through the State Treasury as  
1442 provided and required by Sections 71-5-111 and 71-5-453. All  
1443 expenditures from the administration fund of the department  
1444 authorized by Section 71-5-111 shall be expended only pursuant to  
1445 appropriation approved by the Legislature and as provided by law.

1446         **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is  
1447 reenacted as follows:

1448             71-5-113. All monies received from the Social Security Board  
1449 or its successors for the administration of this chapter shall be  
1450 expended solely for the purposes and in the amounts found  
1451 necessary by the Social Security Board or its successors for the  
1452 proper and efficient administration of this chapter.

1453             It shall be the duty of the department to take appropriate  
1454 action with respect to the replacement, within a reasonable time,  
1455 of any monies received from the Social Security Board, or its  
1456 successors, for the administration of this chapter, and monies  
1457 used to match grants pursuant to the provisions of the  
1458 Wagner-Peyser Act, which the board, or its successors, find,  
1459 because of any action or contingency, have been lost or have been  
1460 expended for purposes other than, or in amounts in excess of those  
1461 found necessary by the Social Security Board, or its successors,

1462 for the proper administration of this chapter. Funds which have  
1463 been expended by the department or its agents in accordance with  
1464 the budget approved by the Social Security Board, or its  
1465 successors, or in accordance with the general standards and  
1466 limitations promulgated by the Social Security Board, or its  
1467 successors, prior to such expenditure (where proposed expenditures  
1468 have not been specifically disapproved by the Social Security  
1469 Board, or its successors), shall not be deemed to require  
1470 replacement. To effectuate the purposes of this paragraph, it  
1471 shall be the duty of the department to take such action to  
1472 safeguard the expenditure of the funds referred to herein as it  
1473 deems necessary. In the event of a loss of such funds or an  
1474 improper expenditure thereof as herein defined, it shall be the  
1475 duty of the department to notify the Governor of any such loss or  
1476 improper expenditure and submit to him a request for an  
1477 appropriation in the amount thereof. The Governor shall transmit  
1478 to the next regular session of the Legislature following such  
1479 notification, the department's request for an appropriation in an  
1480 amount necessary to replace funds which have been lost or  
1481 improperly expended as defined above. Such request of the  
1482 department for an appropriation shall not be subject to the  
1483 provisions of Sections 27-103-101 through 27-103-139. The  
1484 Legislature recognizes its obligation to replace such funds as may  
1485 be necessary and shall make necessary appropriations in accordance  
1486 with such requests.



1487           **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is  
1488 reenacted as follows:

1489           71-5-114. There is created in the State Treasury a special  
1490 fund, to be known as the "Special Employment Security  
1491 Administration Fund," into which shall be deposited or transferred  
1492 all interest, penalties and damages collected on and after July 1,  
1493 1982, pursuant to Sections 71-5-363 through 71-5-379 and all  
1494 interest and penalties required to be deposited into the fund  
1495 pursuant to Section 71-5-19(4)(b). Interest, penalties and  
1496 damages collected on delinquent payments deposited during any  
1497 calendar quarter in the clearing account in the Unemployment Trust  
1498 Fund shall, as soon as practicable after the close of such  
1499 calendar quarter, be transferred to the Special Employment  
1500 Security Administration Fund. All monies in this fund shall be  
1501 deposited, administered and disbursed in the same manner and under  
1502 the same conditions and requirements as is provided by law for  
1503 other special funds in the State Treasury. The State Treasurer  
1504 shall be liable on his official bond for the faithful performance  
1505 of his duties in connection with the Special Employment Security  
1506 Administration Fund under this chapter. Those monies may be  
1507 expended for any programs for which the department has  
1508 administrative responsibility but shall not be expended or made  
1509 available for expenditure in any manner which would permit their  
1510 substitution for (or permit a corresponding reduction in) federal  
1511 funds which would, in the absence of those monies, be available to  
1512 finance expenditures for the administration of the state

1513 unemployment compensation and employment service laws or any other  
1514 laws directing the administration of any programs for which the  
1515 department has the administrative responsibility. Nothing in this  
1516 section shall prevent those monies in this fund from being used as  
1517 a revolving fund to cover expenditures necessary and proper under  
1518 the law for which federal funds have been duly requested but not  
1519 yet received, subject to the charging of such expenditures against  
1520 such funds when necessary. The monies in this fund may be used by  
1521 the department for the payment of costs of administration of the  
1522 employment security laws of this state which are found not to be  
1523 or not to have been properly and validly chargeable against funds  
1524 obtained from federal sources. All monies in this Special  
1525 Employment Security Administration Fund shall be continuously  
1526 available to the department for expenditure in accordance with the  
1527 provisions of this chapter, and shall not lapse at any time. The  
1528 monies in this fund are specifically made available to replace, as  
1529 contemplated by Section 71-5-113, expenditures from the Employment  
1530 Security Administration Fund established by Section 71-5-111,  
1531 which have been found, because of any action or contingency, to  
1532 have been lost or improperly expended.

1533         The department, whenever it is of the opinion that the money  
1534 in the Special Employment Security Administration Fund is more  
1535 than ample to pay for all foreseeable needs for which such special  
1536 fund is set up, may, by written order, order the transfer  
1537 therefrom to the Unemployment Compensation Fund of such amount of  
1538 money in the Special Employment Security Administration Fund as it

1539 deems proper, and the same shall thereupon be immediately  
1540 transferred to the Unemployment Compensation Fund.

1541         **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is  
1542 reenacted as follows:

1543         71-5-115. It shall be the duty of the executive director to  
1544 administer this chapter; and the executive director shall have the  
1545 power and authority to adopt, amend or rescind such rules and  
1546 regulations, to employ such persons, make such expenditures,  
1547 require such reports, make such investigations, and take such  
1548 other action as he deems necessary or suitable to that end. Such  
1549 rules and regulations shall be effective upon publication in the  
1550 manner, not inconsistent with the provisions of this chapter,  
1551 which the executive director shall prescribe. The executive  
1552 director shall determine the department's own organization and  
1553 methods of procedure in accordance with the provisions of this  
1554 chapter, and shall have an official seal which shall be judicially  
1555 noticed. Not later than the first day of February in each year,  
1556 the executive director shall submit to the Governor a report  
1557 covering the administration and operation of this chapter during  
1558 the preceding fiscal year and shall make such recommendations for  
1559 amendments to this chapter as the executive director deems proper.  
1560 Whenever the executive director believes that a change in  
1561 contribution or benefit rates will become necessary to protect the  
1562 solvency of the fund, he shall promptly so inform the Governor and  
1563 the Legislature, and make recommendations with respect thereto.

1564           **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is  
1565 reenacted as follows:

1566           71-5-117. General rules may be adopted, amended or rescinded  
1567 by the executive director only after public hearing or opportunity  
1568 to be heard thereon, of which proper notice has been given.  
1569 General rules shall become effective ten (10) days after filing  
1570 with the Secretary of State and publication in one or more  
1571 newspapers of general circulation in this state. Regulations may  
1572 be adopted, amended or rescinded by the executive director and  
1573 shall become effective in the manner and at the time prescribed by  
1574 the executive director.

1575           **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is  
1576 reenacted as follows:

1577           71-5-119. The department shall cause to be available for  
1578 distribution to the public the text of this chapter, its  
1579 regulations and general rules, its reports to the Governor, and  
1580 any other material it deems relevant and suitable, and shall  
1581 furnish the same to any person upon application therefor.

1582           **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is  
1583 reenacted as follows:

1584           71-5-121. Subject to other provisions of this chapter, the  
1585 executive director is authorized to appoint, fix the compensation,  
1586 and prescribe the duties and powers of such officers, accountants,  
1587 attorneys, experts and other persons as may be necessary in the  
1588 performance of department duties; however, all personnel who were  
1589 former members of the Armed Forces of the United States of America

1590 shall be given credit regardless of rate, rank or commission. All  
1591 positions shall be filled by persons selected and appointed on a  
1592 nonpartisan merit basis, in accordance with Section 25-9-101 et  
1593 seq., that provides for a state service personnel system. The  
1594 executive director shall not employ any person who is an officer  
1595 or committee member of any political party organization. The  
1596 executive director may delegate to any such person so appointed  
1597 such power and authority as he deems reasonable and proper for the  
1598 effective administration of this chapter, and may in his  
1599 discretion bond any person handling monies or signing checks  
1600 hereunder. The veteran status of an individual shall be  
1601 considered and preference given in accordance with the provisions  
1602 of the State Personnel Board.

1603         The department and its employees are exempt from Sections  
1604 25-15-101 and 25-15-103.

1605         The department may use federal granted funds to provide such  
1606 group health, life, accident and hospitalization insurance for its  
1607 employees as may be agreed upon by the department and the federal  
1608 granting authorities.

1609         The department shall adopt a "layoff formula" to be used  
1610 wherever it is determined that, because of reduced workload,  
1611 budget reductions or in order to effect a more economical  
1612 operation, a reduction in force shall occur in any group.

1613         In establishing this formula, the department shall give  
1614 effect to the principle of seniority and shall provide that  
1615 seniority points may be added for disabled veterans and veterans,

1616 with due regard to the efficiency of the service. Any such layoff  
1617 formula shall be implemented according to the policies, rules and  
1618 regulations of the State Personnel Board.

1619         **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is  
1620 reenacted as follows:

1621         71-5-123. The executive director shall retain all powers and  
1622 duties as granted to the state advisory council appointed by the  
1623 former Employment Security Commission. The executive director may  
1624 appoint local advisory councils, composed in each case of an equal  
1625 number of employer representatives and employee representatives  
1626 who may fairly be regarded as representative because of their  
1627 vocation, employment or affiliations, and of such members  
1628 representing the general public as the executive director may  
1629 designate. Such councils shall aid the department in formulating  
1630 policies and discussing problems related to the administration of  
1631 this chapter and in assuring impartiality and freedom from  
1632 political influence in the solution of such problems. Members of  
1633 the advisory councils shall receive a per diem in accordance with  
1634 Section 25-3-69 for attendance upon meetings of the council, and  
1635 shall be reimbursed for actual and necessary traveling expenses.  
1636 The per diem and expenses herein authorized shall be paid from the  
1637 Employment Security Administration Fund.

1638         **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is  
1639 reenacted as follows:

1640         71-5-125. The department shall take all appropriate steps to  
1641 reduce and prevent unemployment; to encourage and assist in the

1642 adoption of practical methods of vocational training, retraining  
1643 and vocational guidance; to investigate, recommend, advise and  
1644 assist in the establishment and operation, by municipalities,  
1645 counties, school districts and the state, of reserves for public  
1646 works to be used in times of business depression and unemployment;  
1647 to promote the reemployment of unemployed workers throughout the  
1648 state in every other way that may be feasible; and to these ends  
1649 to carry on and publish the results of investigation and research  
1650 studies.

1651         **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is  
1652 reenacted as follows:

1653         71-5-127. (1) Any information or records concerning an  
1654 individual or employing unit obtained by the department pursuant  
1655 to the administration of this chapter or any other federally  
1656 funded programs for which the department has responsibility shall  
1657 be private and confidential, except as otherwise provided in this  
1658 article or by regulation. Information or records may be released  
1659 by the department when the release is required by the federal  
1660 government in connection with, or as a condition of funding for, a  
1661 program being administered by the department.

1662         (2) Each employing unit shall keep true and accurate work  
1663 records, containing such information as the department may  
1664 prescribe. Such records shall be open to inspection and be  
1665 subject to being copied by the department or its authorized  
1666 representatives at any reasonable time and as often as may be  
1667 necessary. The department, Board of Review and any referee may

1668 require from any employing unit any sworn or unsworn reports with  
1669 respect to persons employed by it which they or any of them deem  
1670 necessary for the effective administration of this chapter.  
1671 Information, statements, transcriptions of proceedings,  
1672 transcriptions of recordings, electronic recordings, letters,  
1673 memoranda, and other documents and reports thus obtained or  
1674 obtained from any individual pursuant to the administration of  
1675 this chapter shall, except to the extent necessary for the proper  
1676 administration of this chapter, be held confidential and shall not  
1677 be published or be opened to public inspection (other than to  
1678 public employees in the performance of their public duties) in any  
1679 manner revealing the individual's or employing unit's identity.

1680 (3) Any claimant or his legal representative at a hearing  
1681 before an appeal tribunal or the Board of Review shall be supplied  
1682 with information from such records to the extent necessary for the  
1683 proper presentation of his claim in any proceeding pursuant to  
1684 this chapter.

1685 (4) Any employee or member of the Board of Review or any  
1686 employee of the department who violates any provisions of this  
1687 section shall be fined not less than Twenty Dollars (\$20.00) nor  
1688 more than Two Hundred Dollars (\$200.00), or imprisoned for not  
1689 longer than ninety (90) days, or both.

1690 (5) The department may make the state's records relating to  
1691 the administration of this chapter available to the Railroad  
1692 Retirement Board, and may furnish the Railroad Retirement Board,  
1693 at the expense of such board, such copies thereof as the Railroad



1694 Retirement Board deems necessary for its purposes. The department  
1695 may afford reasonable cooperation with every agency of the United  
1696 States charged with the administration of any unemployment  
1697 insurance law.

1698         **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is  
1699 reenacted as follows:

1700         71-5-129. Records hereinafter designated, which are found by  
1701 the department to be useless, may be disposed of in accordance  
1702 with approved records control schedules.

1703                 (a) Records which have been preserved by it for not  
1704 less than three (3) years:

- 1705                         (1) Initial claims for benefits,
- 1706                         (2) Continued claims for benefits,
- 1707                         (3) Correspondence and master index cards in  
1708 connection with such claims for benefits, and
- 1709                         (4) Individual wage slips filed by employers  
1710 subject to the provisions of the Unemployment Compensation Law.

1711                 (b) Records which have been preserved by it for not  
1712 less than six (6) months after becoming inactive:

- 1713                         (1) Work applications,
- 1714                         (2) Cross-index cards for work applications,
- 1715                         (3) Test records,
- 1716                         (4) Employer records,
- 1717                         (5) Work orders,
- 1718                         (6) Clearance records,
- 1719                         (7) Counseling records,

- 1720 (8) Farm placement records, and  
1721 (9) Correspondence relating to all such records.

1722 Nothing herein contained shall be construed as authorizing  
1723 the destruction or disposal of basic fiscal records reflecting the  
1724 financial operations of the department and no records may be  
1725 destroyed without the approval of the Director of the Department  
1726 of Archives and History.

1727 **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is  
1728 reenacted as follows:

1729 71-5-131. All letters, reports, communications, or any other  
1730 matters, either oral or written, from the employer or employee to  
1731 each other or to the department or any of its agents,  
1732 representatives or employees, which shall have been written, sent,  
1733 delivered or made in connection with the requirements and  
1734 administration of this chapter shall be absolutely privileged and  
1735 shall not be made the subject matter or basis of any suit for  
1736 slander or libel in any court of the State of Mississippi unless  
1737 the same be false in fact and maliciously written, sent, delivered  
1738 or made for the purpose of causing a denial of benefits under this  
1739 chapter.

1740 **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is  
1741 reenacted as follows:

1742 71-5-133. In any case where an employing unit or any  
1743 officer, member or agent thereof, or any other person having  
1744 possession of the records thereof, shall fail or refuse upon  
1745 demand by the department or its duly appointed agents to produce

1746 or permit the examination or copying of any book, paper, account,  
1747 record or other data pertaining to payrolls or employment or  
1748 ownership of interests or stock in any employing unit, or bearing  
1749 upon the correctness of any report, or for the purpose of making a  
1750 report as required by this chapter where none has been made, then  
1751 and in that event the department or its duly authorized agents  
1752 may, by the issuance of a subpoena, require the attendance of such  
1753 employing unit or any officer, member or agent thereof, or any  
1754 other person having possession of the records thereof, and take  
1755 testimony with respect to any such matter and may require any such  
1756 person to produce any books or records specified in such subpoena.  
1757 The department or its authorized agents at any such hearing shall  
1758 have power to administer oaths to any such person or persons.  
1759 When any person called as a witness by a subpoena signed by the  
1760 department or its agents and served upon him by the sheriff of a  
1761 county of which such person is a resident, or wherein is located  
1762 the principal office of such employing unit or wherein such  
1763 records are located or kept, shall fail to obey such subpoena to  
1764 appear before the department or its authorized agent, or shall  
1765 refuse to testify or to answer any questions or to produce any  
1766 book, record, paper or other data when required to do so, such  
1767 failure or refusal shall be reported to the Attorney General, who  
1768 shall thereupon institute proceedings by the filing of a petition  
1769 in the name of the State of Mississippi, on the relation of the  
1770 department, in the circuit court or other court of competent  
1771 jurisdiction of the county where such witness resides, or wherein

1772 such records are located or kept, to compel the obedience of such  
1773 witness. Such petition shall set forth the facts and  
1774 circumstances of the demand for and refusal or failure to permit  
1775 the examination or copying of such records, or the failure or  
1776 refusal of such witness to testify in answer to such subpoena or  
1777 to produce the records so required by such subpoena. Such court,  
1778 upon the filing and docketing of such petition, shall thereupon  
1779 promptly issue an order to the defendants named in the petition to  
1780 produce forthwith in such court, or at a place in such county  
1781 designated in such order for the examination or copying by the  
1782 department or its duly appointed agents, the records, books or  
1783 documents so described, and to testify concerning matters  
1784 described in such petition. Unless such defendants to such  
1785 petition shall appear in the court upon a day specified in such  
1786 order, which day shall be not more than ten (10) days after the  
1787 date of issuance of such order, and offer, under oath, good and  
1788 sufficient reasons why such examination or copying should not be  
1789 permitted, or why such subpoena should not be obeyed, such court  
1790 shall thereupon deliver to the department or its agents, for  
1791 examination or copying, the records, books and documents so  
1792 described in the petition and so produced in such court, and shall  
1793 order the defendants to appear in answer to the subpoena of the  
1794 department or its agents, and to testify concerning matters  
1795 inquired about by the department. Any employing unit or any  
1796 officer, member or agent thereof, or any other person having  
1797 possession of the records thereof, who shall willfully disobey

1798 such order of the court after the same shall have been served upon  
1799 him shall be guilty of indirect contempt of such court from which  
1800 such order shall have issued, and may be adjudged in contempt of  
1801 the court and punished therefor as provided by law.

1802         **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is  
1803 reenacted as follows:

1804         71-5-135. If any employing unit fails to make any report  
1805 required by this chapter, the department or its authorized agents  
1806 shall give notice to such employing unit to make and file such  
1807 report within fifteen (15) days from the date of such notice. If  
1808 such employing unit, by its proper members, officers or agents,  
1809 shall fail or refuse to make and file such reports within such  
1810 time, then and in that event such report shall be made by the  
1811 department or its authorized agents from the best information  
1812 available, and the amount of contributions due shall be computed  
1813 thereon; and such report shall be prima facie correct for the  
1814 purposes of this chapter.

1815         **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is  
1816 reenacted as follows:

1817         71-5-137. In the discharge of the duties imposed by this  
1818 chapter, the department, any referee, the members of the Board of  
1819 Review, and any duly authorized representative of any of them  
1820 shall have power to administer oaths and affirmations, to take  
1821 depositions, certify to official acts, and issue subpoenas to  
1822 compel the attendance of witnesses and the production of books,  
1823 papers, correspondence, memoranda and other records deemed

1824 necessary as evidence in connection with a disputed claim or the  
1825 administration of this chapter.

1826           **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is  
1827 reenacted as follows:

1828           71-5-139. In case of contumacy or refusal to obey a subpoena  
1829 issued to any person, any court in this state within the  
1830 jurisdiction of which the inquiry is carried on, or within the  
1831 jurisdiction of which the person guilty of contumacy or refusal to  
1832 obey is found or resides or transacts business, upon application  
1833 by the department, the Board of Review, any referee, or any duly  
1834 authorized representative of any of them, shall have jurisdiction  
1835 to issue to such person an order requiring such person to appear  
1836 before the department, the Board of Review, any referee, or any  
1837 duly authorized representative of any of them, there to produce  
1838 evidence if so ordered or there to give testimony touching the  
1839 matter under investigation or in question. Any failure to obey  
1840 such order of the court may be punished by the court as a contempt  
1841 thereof. Any person who shall, without just cause, fail or refuse  
1842 to attend and testify or to answer any lawful inquiry or to  
1843 produce books, papers, correspondence, memoranda and other records  
1844 if it is in his power so to do, in obedience to a subpoena of the  
1845 department, the Board of Review, any referee, or any duly  
1846 authorized representative of any of them, shall be punished by a  
1847 fine of not more than Two Hundred Dollars (\$200.00), or by  
1848 imprisonment for not longer than sixty (60) days, or by both such

1849 fine and imprisonment; and each day such violation continues shall  
1850 be deemed to be a separate offense.

1851           **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is  
1852 reenacted as follows:

1853           71-5-141. No person shall be excused from attending and  
1854 testifying or from producing books, papers, correspondence,  
1855 memoranda and other records before the department, the Board of  
1856 Review, any referee, or any duly authorized representative of any  
1857 of them, or in obedience to the subpoena of any of them in any  
1858 cause or proceeding before the department, the Board of Review or  
1859 an appeal tribunal, on the ground that the testimony or evidence,  
1860 documentary or otherwise, required of him may tend to incriminate  
1861 him or subject him to a penalty or forfeiture; but no individual  
1862 shall be prosecuted or subjected to any penalty or forfeiture for  
1863 or on account of any transaction, matter or thing concerning which  
1864 he is compelled, after having claimed his privilege against  
1865 self-incrimination, to testify or produce evidence, documentary or  
1866 otherwise, except that such individual so testifying shall not be  
1867 exempt from prosecution and punishment for perjury committed in so  
1868 testifying.

1869           **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is  
1870 reenacted as follows:

1871           71-5-143. In the administration of this chapter, the  
1872 department shall cooperate, to the fullest extent consistent with  
1873 the provisions of this chapter, with the Social Security Board  
1874 created by the Social Security Act, approved August 14, 1935, as

1875 amended; shall make such reports in such form and containing such  
1876 information as the Social Security Board may from time to time  
1877 require, and shall comply with such provisions as the Social  
1878 Security Board may from time to time find necessary to assure the  
1879 correctness and verification of such reports; and shall comply  
1880 with the reasonable, valid and lawful regulations prescribed by  
1881 the Social Security Board pursuant to and under the authority of  
1882 the Social Security Act, governing the expenditures of such sums  
1883 as may be allotted and paid to this state under Title III of the  
1884 Social Security Act, as amended, for the purpose of assisting in  
1885 the administration of this chapter.

1886       Upon request therefor, the department shall furnish to any  
1887 agency of the United States charged with the administration of  
1888 public works, or assistance through public employment, the name,  
1889 address, ordinary occupation and employment status of each  
1890 recipient of benefits, and such recipient's rights to further  
1891 benefits under this chapter.

1892       **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is  
1893 reenacted as follows:

1894       71-5-201. The Mississippi State Employment Service is  
1895 established in the Mississippi Department of Employment Security,  
1896 Office of the Governor. The department, in the conduct of such  
1897 service, shall establish and maintain free public employment  
1898 offices in such number and in such places as may be necessary for  
1899 the proper administration of this article and for the purpose of  
1900 performing such functions as are within the purview of the act of



1901 Congress entitled "An act to provide for the establishment of a  
1902 national employment system and for cooperation with the states in  
1903 the promotion of such system, and for other purposes" (29 USCS  
1904 Section 49 et seq.). Any existing free public employment offices  
1905 maintained by the state but not heretofore under the jurisdiction  
1906 of the department shall be transferred to the jurisdiction of the  
1907 department, and upon such transfer all duties and powers conferred  
1908 upon any other department, agency or officers of this state  
1909 relating to the establishment, maintenance and operation of free  
1910 public employment offices shall be vested in the department. The  
1911 Mississippi State Employment Service shall be administered by the  
1912 department, which is charged with the duty to cooperate with any  
1913 official or agency of the United States having powers or duties  
1914 under the provisions of the act of Congress, as amended, and to do  
1915 and perform all things necessary to secure to this state the  
1916 benefits of that act of Congress, as amended, in the promotion and  
1917 maintenance of a system of public employment offices. The  
1918 provisions of that act of Congress, as amended, are accepted by  
1919 this state, in conformity with 29 USCS Section 49c, and this state  
1920 will observe and comply with the requirements thereof. The  
1921 department is designated and constituted the agency of this state  
1922 for the purposes of that act. The department may cooperate with  
1923 or enter into agreements with the Railroad Retirement Board or  
1924 veteran's organization with respect to the establishment,  
1925 maintenance and use of free employment service facilities.

1926           **SECTION 34.** Section 71-5-357, Mississippi Code of 1972, is  
1927 reenacted as follows:

1928           71-5-357. Benefits paid to employees of nonprofit  
1929 organizations shall be financed in accordance with the provisions  
1930 of this section. For the purpose of this section, a nonprofit  
1931 organization is an organization (or group of organizations)  
1932 described in Section 501(c) (3) of the Internal Revenue Code of  
1933 1954 which is exempt from income tax under Section 501(a) of such  
1934 code (26 USCS Section 501).

1935           (a) Any nonprofit organization which, under Section  
1936 71-5-11, subsection H(3), is or becomes subject to this chapter  
1937 shall pay contributions under the provisions of Sections 71-5-351  
1938 through 71-5-355 unless it elects, in accordance with this  
1939 paragraph, to pay to the department for the unemployment fund an  
1940 amount equal to the amount of regular benefits and one-half (1/2)  
1941 of the extended benefits paid, that is attributable to service in  
1942 the employ of such nonprofit organization, to individuals for  
1943 weeks of unemployment which begin during the effective period of  
1944 such election.

1945           (i) Any nonprofit organization which becomes  
1946 subject to this chapter may elect to become liable for payments in  
1947 lieu of contributions for a period of not less than twelve (12)  
1948 months, beginning with the date on which such subjectivity begins,  
1949 by filing a written notice of its election with the department not  
1950 later than thirty (30) days immediately following the date of the  
1951 determination of such subjectivity.

1952                   (ii) Any nonprofit organization which makes an  
1953 election in accordance with subparagraph (i) of this paragraph  
1954 will continue to be liable for payments in lieu of contributions  
1955 unless it files with the department a written termination notice  
1956 not later than thirty (30) days prior to the beginning of the tax  
1957 year for which such termination shall first be effective.

1958                   (iii) Any nonprofit organization which has been  
1959 paying contributions under this chapter may change to a  
1960 reimbursable basis by filing with the department, not later than  
1961 thirty (30) days prior to the beginning of any tax year, a written  
1962 notice of election to become liable for payments in lieu of  
1963 contributions. Such election shall not be terminable by the  
1964 organization for that and the next tax year.

1965                   (iv) The department may for good cause extend the  
1966 period within which a notice of election or a notice of  
1967 termination must be filed, and may permit an election to be  
1968 retroactive.

1969                   (v) The department, in accordance with such  
1970 regulations as it may prescribe, shall notify each nonprofit  
1971 organization of any determination which it may make of its status  
1972 as an employer, of the effective date of any election which it  
1973 makes and of any termination of such election. Such  
1974 determinations shall be subject to reconsideration, appeal and  
1975 review in accordance with the provisions of Sections 71-5-351  
1976 through 71-5-355.

1977                   (b) Payments in lieu of contributions shall be made in  
1978 accordance with the provisions of subparagraph (i) of this  
1979 paragraph.

1980                   (i) At the end of each calendar quarter, or at the  
1981 end of any other period as determined by the department, the  
1982 department shall bill each nonprofit organization (or group of  
1983 such organizations) which has elected to make payments in lieu of  
1984 contributions, for an amount equal to the full amount of regular  
1985 benefits plus one-half (1/2) of the amount of extended benefits  
1986 paid during such quarter or other prescribed period that is  
1987 attributable to service in the employ of such organization.

1988                   (ii) Payment of any bill rendered under  
1989 subparagraph (i) of this paragraph shall be made not later than  
1990 forty-five (45) days after such bill was delivered to the  
1991 nonprofit organization, unless there has been an application for  
1992 review and redetermination in accordance with subparagraph (v) of  
1993 this paragraph.

1994                   1. All of the enforcement procedures for the  
1995 collection of delinquent contributions contained in Sections  
1996 71-5-363 through 71-5-383 shall be applicable in all respects for  
1997 the collection of delinquent payments due by nonprofit  
1998 organizations who have elected to become liable for payments in  
1999 lieu of contributions.

2000                   2. If any nonprofit organization is  
2001 delinquent in making payments in lieu of contributions, the  
2002 department may terminate such organization's election to make

2003 payments in lieu of contributions as of the beginning of the next  
2004 tax year, and such termination shall be effective for the balance  
2005 of such tax year.

2006 (iii) Payments made by any nonprofit organization  
2007 under the provisions of this paragraph shall not be deducted or  
2008 deductible, in whole or in part, from the remuneration of  
2009 individuals in the employ of the organization.

2010 (iv) Payments due by employers who elect to  
2011 reimburse the fund in lieu of contributions as provided in this  
2012 paragraph may not be noncharged under any condition. The  
2013 reimbursement must be on a dollar-for-dollar basis (One Dollar  
2014 (\$1.00) reimbursement for each dollar paid in benefits) in every  
2015 case, so that the trust fund shall be reimbursed in full, such  
2016 reimbursement to include, but not be limited to, benefits or  
2017 payments erroneously or incorrectly paid, or paid as a result of a  
2018 determination of eligibility which is subsequently reversed, or  
2019 paid as a result of claimant fraud. However, political  
2020 subdivisions who are reimbursing employers may elect to pay to the  
2021 fund an amount equal to five-tenths percent (.5%) through December  
2022 31, 2010, and shall pay twenty-five one-hundredths percent (.25%)  
2023 thereafter of the taxable wages paid during the calendar year with  
2024 respect to employment, and those employers who so elect shall be  
2025 relieved of liability for reimbursement of benefits paid under the  
2026 same conditions that benefits are not charged to the  
2027 experience-rating record of a contributing employer as provided in  
2028 Section 71-5-355(2) (b) (ii) other than Clause 5 thereof. Benefits

2029 paid in such circumstances for which reimbursing employers are  
2030 relieved of liability for reimbursement shall not be considered  
2031 attributable to service in the employment of such reimbursing  
2032 employer.

2033                   (v) The amount due specified in any bill from the  
2034 department shall be conclusive on the organization unless, not  
2035 later than fifteen (15) days after the bill was delivered to it,  
2036 the organization files an application for redetermination by the  
2037 department, setting forth the grounds for such application or  
2038 appeal. The department shall promptly review and reconsider the  
2039 amount due specified in the bill and shall thereafter issue a  
2040 redetermination in any case in which such application for  
2041 redetermination has been filed. Any such redetermination shall be  
2042 conclusive on the organization unless, not later than fifteen (15)  
2043 days after the redetermination was delivered to it, the  
2044 organization files an appeal to the Circuit Court of the First  
2045 Judicial District of Hinds County, Mississippi, in accordance with  
2046 the provisions of law with respect to review of civil causes by  
2047 certiorari.

2048                   (vi) Past-due payments of amounts in lieu of  
2049 contributions shall be subject to the same interest and penalties  
2050 that, pursuant to Section 71-5-363, apply to past-due  
2051 contributions.

2052                   (c) Each employer that is liable for payments in lieu  
2053 of contributions shall pay to the department for the fund the  
2054 amount of regular benefits plus the amount of one-half (1/2) of

2055 extended benefits paid are attributable to service in the employ  
2056 of such employer. If benefits paid to an individual are based on  
2057 wages paid by more than one (1) employer and one or more of such  
2058 employers are liable for payments in lieu of contributions, the  
2059 amount payable to the fund by each employer that is liable for  
2060 such payments shall be determined in accordance with the  
2061 provisions of subparagraph (i) or subparagraph (ii) of this  
2062 paragraph.

2063                   (i) If benefits paid to an individual are based on  
2064 wages paid by one or more employers that are liable for payment in  
2065 lieu of contributions and on wages paid by one or more employers  
2066 who are liable for contributions, the amount of benefits payable  
2067 by each employer that is liable for payments in lieu of  
2068 contributions shall be an amount which bears the same ratio to the  
2069 total benefits paid to the individual as the total base period  
2070 wages paid to the individual by such employer bear to the total  
2071 base period wages paid to the individual by all of his base period  
2072 employers.

2073                   (ii) If benefits paid to an individual are based  
2074 on wages paid by two (2) or more employers that are liable for  
2075 payments in lieu of contributions, the amount of benefits payable  
2076 by each such employer shall be an amount which bears the same  
2077 ratio to the total benefits paid to the individual as the total  
2078 base period wages paid to the individual by such employer bear to  
2079 the total base period wages paid to the individual by all of his  
2080 base period employers.

2081           (d) In the discretion of the department, any nonprofit  
2082 organization that elects to become liable for payments in lieu of  
2083 contributions shall be required to execute and file with the  
2084 department a surety bond approved by the department, or it may  
2085 elect instead to deposit with the department money or securities.  
2086 The amount of such bond or deposit shall be determined in  
2087 accordance with the provisions of this paragraph.

2088           (i) The amount of the bond or deposit required by  
2089 paragraph (d) shall be equal to two and seven-tenths percent  
2090 (2.7%) thereafter to December 31, 2010, and one and thirty-five  
2091 one-hundredths percent (1.35%) thereafter, of the organization's  
2092 taxable wages paid for employment as defined in Section 71-5-11,  
2093 subsection I(4), for the four (4) calendar quarters immediately  
2094 preceding the effective date of the election, the renewal date in  
2095 the case of a bond, or the biennial anniversary of the effective  
2096 date of election in the case of a deposit of money or securities,  
2097 whichever date shall be most recent and applicable. If the  
2098 nonprofit organization did not pay wages in each of such four (4)  
2099 calendar quarters, the amount of the bond or deposit shall be as  
2100 determined by the department.

2101           (ii) Any bond deposited under paragraph (d) shall  
2102 be in force for a period of not less than two (2) tax years and  
2103 shall be renewed with the approval of the department at such times  
2104 as the department may prescribe, but not less frequently than at  
2105 intervals of two (2) years as long as the organization continues  
2106 to be liable for payments in lieu of contributions. The



2107 department shall require adjustments to be made in a previously  
2108 filed bond as it deems appropriate. If the bond is to be  
2109 increased, the adjusted bond shall be filed by the organization  
2110 within thirty (30) days of the date notice of the required  
2111 adjustment was delivered to it. Failure by any organization  
2112 covered by such bond to pay the full amount of payments in lieu of  
2113 contributions when due, together with any applicable interest and  
2114 penalties provided in paragraph (b) (v) of this section, shall  
2115 render the surety liable on the bond to the extent of the bond, as  
2116 though the surety was such organization.

2117 (iii) Any deposit of money or securities in  
2118 accordance with paragraph (d) shall be retained by the department  
2119 in an escrow account until liability under the election is  
2120 terminated, at which time it shall be returned to the  
2121 organization, less any deductions as hereinafter provided. The  
2122 department may deduct from the money deposited under paragraph (d)  
2123 by a nonprofit organization, or sell the securities it has so  
2124 deposited, to the extent necessary to satisfy any due and unpaid  
2125 payments in lieu of contributions and any applicable interest and  
2126 penalties provided for in paragraph (b) (v) of this section. The  
2127 department shall require the organization, within thirty (30) days  
2128 following any deduction from a money deposit or sale of deposited  
2129 securities under the provisions hereof, to deposit sufficient  
2130 additional money or securities to make whole the organization's  
2131 deposit at the prior level. Any cash remaining from the sale of  
2132 such securities shall be a part of the organization's escrow

2133 account. The department may, at any time, review the adequacy of  
2134 the deposit made by any organization. If, as a result of such  
2135 review, it determines that an adjustment is necessary, it shall  
2136 require the organization to make additional deposit within thirty  
2137 (30) days of notice of its determination or shall return to it  
2138 such portion of the deposit as it no longer considers necessary,  
2139 whichever action is appropriate. Disposition of income from  
2140 securities held in escrow shall be governed by the applicable  
2141 provisions of the state law.

2142 (iv) If any nonprofit organization fails to file a  
2143 bond or make a deposit, or to file a bond in an increased amount,  
2144 or to increase or make whole the amount of a previously made  
2145 deposit as provided under this subparagraph, the department may  
2146 terminate such organization's election to make payments in lieu of  
2147 contributions, and such termination shall continue for not less  
2148 than the four (4) consecutive calendar-quarter periods beginning  
2149 with the quarter in which such termination becomes effective;  
2150 however, the department may extend for good cause the applicable  
2151 filing, deposit or adjustment period by not more than thirty (30)  
2152 days.

2153 (v) Group account shall be established according  
2154 to regulations prescribed by the department.

2155 (e) Any employer which elects to make payments in lieu  
2156 of contributions into the Unemployment Compensation Fund as  
2157 provided in this paragraph shall not be liable to make such  
2158 payments with respect to the benefits paid to any individual whose

2159 base period wages include wages for previously uncovered services  
2160 as defined in Section 71-5-511(e) to the extent that the  
2161 Unemployment Compensation Fund is reimbursed for such benefits  
2162 pursuant to Section 121 of Public Law 94-566.

2163         **SECTION 35.** Section 71-5-359, Mississippi Code of 1972, is  
2164 reenacted as follows:

2165         71-5-359. (1) The Department of Finance and Administration  
2166 shall, in the manner provided in subsection (3) of this section,  
2167 pay, upon notice issued by the department, to the department for  
2168 the Unemployment Compensation Fund an amount equal to the regular  
2169 benefits and one-half (1/2) of the extended benefits paid that are  
2170 attributable to service in the employ of a state agency. The  
2171 amount required to be reimbursed by a certain agency shall be  
2172 billed to the Department of Finance and Administration and shall  
2173 be paid from the Employment Compensation Revolving Fund pursuant  
2174 to subsection (3) of this section not later than thirty (30) days  
2175 after such bill was sent, unless there has been an application for  
2176 review and redetermination in accordance with Section  
2177 71-5-357(b) (v) .

2178         (2) The Department of Finance and Administration shall, in  
2179 the manner provided in subsection (3) of this section, pay, upon a  
2180 notice issued by the department, to the department for the  
2181 Unemployment Compensation Fund an amount equal to the regular  
2182 benefits and the extended benefits paid that are attributable to  
2183 service in the employ of a state agency. The amount required to  
2184 be reimbursed by a certain agency shall be billed to the

2185 Department of Finance and Administration and shall be paid from  
2186 the Employment Compensation Revolving Fund pursuant to subsection  
2187 (3) of this section not later than thirty (30) days after such  
2188 bill was sent, unless there has been an application for review and  
2189 redetermination in accordance with Section 71-5-357(b) (v) .

2190 (3) Each agency of state government shall deposit monthly  
2191 for a period of twenty-four (24) months an amount equal to  
2192 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand  
2193 Dollars (\$6,000.00) paid to each employee thereof during the next  
2194 preceding year into the Employment Compensation Revolving Fund  
2195 that is created in the State Treasury. The Department of Finance  
2196 and Administration shall determine the percentage to be applied to  
2197 the amount of covered wages paid in order to maintain a balance in  
2198 the revolving fund of not less than the amount determined by an  
2199 actuary through an annual actuarial evaluation. The State  
2200 Treasurer shall invest all funds in the Employment Compensation  
2201 Revolving Fund and all interest earned shall be credited to the  
2202 Employment Compensation Revolving Fund.

2203 The reimbursement of benefits paid by the Mississippi  
2204 Department of Employment Security shall be paid by the Department  
2205 of Finance and Administration from the Employment Compensation  
2206 Revolving Fund upon notice from the department; and the Department  
2207 of Finance and Administration shall issue warrants or may contract  
2208 for the performance of the duties prescribed by subsections (2)  
2209 and (3) of this section, and other duties necessarily related  
2210 thereto.

2211 (4) Any political subdivision of this state shall pay to the  
2212 department for the unemployment compensation fund an amount equal  
2213 to the regular benefits and the extended benefits paid that are  
2214 attributable to service in the employ of such political  
2215 subdivision unless it elects to make contributions to the  
2216 unemployment fund as provided in subsection (9) of this section.  
2217 The amount required to be reimbursed shall be billed and shall be  
2218 paid as provided in Section 71-5-357, with respect to similar  
2219 payments for nonprofit organizations.

2220 (5) Each political subdivision, unless it elects to make  
2221 contributions to the unemployment compensation fund as provided in  
2222 subsection (9) of this section, shall establish a revolving fund  
2223 and deposit an amount equal to two percent (2%) of the first Six  
2224 Thousand Dollars (\$6,000.00) paid to each employee thereof during  
2225 the next preceding year. However, the department shall by  
2226 regulation establish a procedure to allow reimbursing political  
2227 subdivisions to elect to maintain the balance in the revolving  
2228 fund as required under this paragraph or to annually execute a  
2229 surety bond to be approved by the department in an amount not less  
2230 than two percent (2%) of the covered wages paid during the next  
2231 preceding year.

2232 (6) In the event any political subdivision becomes  
2233 delinquent in payments due under this chapter, upon due notice,  
2234 and upon certification of the delinquency by the department to the  
2235 Department of Finance and Administration, the Department of  
2236 Revenue, the Department of Environmental Quality and the

2237 Department of Insurance, or any of them, or any other agencies of  
2238 the State of Mississippi that may be indebted to such delinquent  
2239 political subdivision, such agencies shall direct the issuance of  
2240 warrants which in the aggregate shall be the amount of such  
2241 delinquency payable to the department and drawn upon any funds in  
2242 the State Treasury which may be available to such political  
2243 subdivision in satisfaction of any such delinquency. This remedy  
2244 shall be in addition to any other collection remedies in this  
2245 chapter or otherwise provided by law.

2246 (7) Payments made by any political subdivision under the  
2247 provisions of this section shall not be deducted or deductible, in  
2248 whole or in part, from the remuneration of individuals in the  
2249 employ of the organization.

2250 (8) Any governmental entity shall not be liable to make  
2251 payments to the unemployment fund with respect to the benefits  
2252 paid to any individual whose base period wages include wages for  
2253 previously uncovered services as defined in Section 71-5-511,  
2254 subsection (e), to the extent that the Unemployment Compensation  
2255 Fund is reimbursed for such benefits pursuant to Section 121 of  
2256 Public Law 94-566.

2257 (9) Any political subdivision of this state may elect to  
2258 make contributions to the unemployment fund instead of making  
2259 reimbursement for benefits paid as provided in subsections (4) and  
2260 (5) of this section. A political subdivision which makes this  
2261 election shall so notify the department, not later than three (3)  
2262 months after it is officially organized or is otherwise

2263 established, and shall be subject to the provisions of Section  
2264 71-5-351, with regard to the payment of contributions. A  
2265 political subdivision which makes this election shall pay  
2266 contributions equal to two percent (2%) of taxable wages through  
2267 calendar year 2010, and one percent (1%) of taxable wages  
2268 thereafter paid by it during each calendar quarter it is subject  
2269 to this chapter. The department shall by regulation establish a  
2270 procedure to allow political subdivisions the option periodically  
2271 to elect either the reimbursement or the contribution method of  
2272 financing unemployment compensation coverage.

2273 **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is  
2274 reenacted as follows:

2275 71-5-451. There is established as a special fund, separate  
2276 and apart from all public monies or funds of this state, an  
2277 Unemployment Compensation Fund, which shall be administered by the  
2278 department exclusively for:

2279 (a) All contributions collected under this chapter;

2280 (b) Interest earned upon any monies in the fund;

2281 (c) Any property or securities acquired through the use  
2282 of monies belonging to the fund;

2283 (d) All earnings of such property or securities;

2284 (e) All monies credited to this state's account in the  
2285 Unemployment Trust Fund pursuant to the Social Security Act, 42  
2286 USCS, Section 1104; and

2287 (f) By way of reimbursement in accordance with Section  
2288 204 of the Federal-State Extended Unemployment Compensation Act of

2289 1970 (84 Stat. 711). All monies in the fund shall be mingled and  
2290 undivided.

2291 **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is  
2292 reenacted as follows:

2293 71-5-457. (1) Except as otherwise provided in subsection  
2294 (5), money credited to the account of this state in the  
2295 Unemployment Trust Fund by the Secretary of the Treasury of the  
2296 United States of America pursuant to the Social Security Act, 42  
2297 USCS Section 1103, may be requisitioned and used for the payment  
2298 of expenses incurred for the administration of this law pursuant  
2299 to a specific appropriation by the Legislature, provided that the  
2300 expenses are incurred and the money is requisitioned after the  
2301 enactment of an appropriation law which:

2302 (a) Specifies the purposes for which such money is  
2303 appropriated and the amounts appropriated therefor;

2304 (b) Limits the period within which such money may be  
2305 obligated to a period ending not more than two (2) years after the  
2306 date of the enactment of the appropriation law; and

2307 (c) Limits the amount which may be obligated during a  
2308 twelve-month period beginning on July 1 and ending on the next  
2309 June 30 to an amount which does not exceed the amount by which:

2310 (i) The aggregate of the amounts credited to the  
2311 account of this state pursuant to the Social Security Act, 42 USCS  
2312 Section 1103, during the same twelve-month period and the  
2313 thirty-four (34) preceding twelve-month periods exceeds.



2314 (ii) The aggregate of the amounts obligated  
2315 pursuant to this section and charged against the amounts credited  
2316 to the account of this state during such thirty-five (35)  
2317 twelve-month periods.

2318 For the purposes of this section, amounts obligated during  
2319 any such twelve-month period shall be charged against equivalent  
2320 amounts which were first credited and which are not already so  
2321 charged; except that no amount obligated for administration during  
2322 any such twelve-month period may be charged against any amount  
2323 credited during such a twelve-month period earlier than the  
2324 thirty-fourth preceding such period.

2325 (2) Money credited to the account of this state pursuant to  
2326 the Social Security Act, 42 USCS Section 1103, may not be  
2327 withdrawn or used except for the payment of benefits and for the  
2328 payment of expenses for the administration of this law and of  
2329 public employment offices pursuant to this section.

2330 (3) Money appropriated as provided herein for the payment of  
2331 expenses of administration shall be requisitioned as needed for  
2332 the payment of obligations incurred under such appropriation and,  
2333 upon requisition, shall be deposited in the Employment Security  
2334 Administration Fund, from which such payments shall be made.  
2335 Money so deposited shall, until expended, remain a part of the  
2336 Unemployment Compensation Fund and, if it will not be expended,  
2337 shall be returned promptly to the account of this state in the  
2338 Unemployment Trust Fund.

2339 (4) The thirty-five-year limitation provided in this section  
2340 is no longer in force, effective October 1, 1991.

2341 (5) Notwithstanding subsection (1), monies credited with  
2342 respect to federal fiscal years 1999, 2000 and 2001 shall be used  
2343 by the department solely for the administration of the  
2344 unemployment compensation program.

2345 **SECTION 38.** Section 71-5-511, Mississippi Code of 1972, is  
2346 reenacted as follows:

2347 71-5-511. An unemployed individual shall be eligible to  
2348 receive benefits with respect to any week only if the department  
2349 finds that:

2350 (a) (i) He has registered for work at and thereafter  
2351 has continued to report to the department in accordance with such  
2352 regulations as the department may prescribe; except that the  
2353 department may, by regulation, waive or alter either or both of  
2354 the requirements of this subparagraph as to such types of cases or  
2355 situations with respect to which it finds that compliance with  
2356 such requirements would be oppressive or would be inconsistent  
2357 with the purposes of this chapter; and

2358 (ii) He participates in reemployment services,  
2359 such as job search assistance services, if, in accordance with a  
2360 profiling system established by the department, it has been  
2361 determined that he is likely to exhaust regular benefits and needs  
2362 reemployment services, unless the department determines that:

2363 1. The individual has completed such  
2364 services; or

2365                                   2. There is justifiable cause for the  
2366 claimant's failure to participate in such services.

2367                                   (b) He has made a claim for benefits in accordance with  
2368 the provisions of Section 71-5-515 and in accordance with such  
2369 regulations as the department may prescribe thereunder.

2370                                   (c) He is able to work, available for work and actively  
2371 seeking work.

2372                                   (d) He has been unemployed for a waiting period of one  
2373 (1) week. No week shall be counted as a week of unemployment for  
2374 the purposes of this subsection:

2375                                   (i) Unless it occurs within the benefit year which  
2376 includes the week with respect to which he claims payment of  
2377 benefits;

2378                                   (ii) If benefits have been paid with respect  
2379 thereto;

2380                                   (iii) Unless the individual was eligible for  
2381 benefits with respect thereto, as provided in Sections 71-5-511  
2382 and 71-5-513, except for the requirements of this subsection.

2383                                   (e) For weeks beginning on or before July 1, 1982, he  
2384 has, during his base period, been paid wages for insured work  
2385 equal to not less than thirty-six (36) times his weekly benefit  
2386 amount; he has been paid wages for insured work during at least  
2387 two (2) quarters of his base period; and he has, during that  
2388 quarter of his base period in which his total wages were highest,  
2389 been paid wages for insured work equal to not less than sixteen  
2390 (16) times the minimum weekly benefit amount. For benefit years

2391 beginning after July 1, 1982, he has, during his base period, been  
2392 paid wages for insured work equal to not less than forty (40)  
2393 times his weekly benefit amount; he has been paid wages for  
2394 insured work during at least two (2) quarters of his base period,  
2395 and he has, during that quarter of his base period in which his  
2396 total wages were highest, been paid wages for insured work equal  
2397 to not less than twenty-six (26) times the minimum weekly benefit  
2398 amount. For purposes of this subsection, wages shall be counted  
2399 as "wages for insured work" for benefit purposes with respect to  
2400 any benefit year only if such benefit year begins subsequent to  
2401 the date on which the employing unit by which such wages were paid  
2402 has satisfied the conditions of Section 71-5-11, subsection H, or  
2403 Section 71-5-361, subsection (3), with respect to becoming an  
2404 employer.

2405 (f) No individual may receive benefits in a benefit  
2406 year unless, subsequent to the beginning of the next preceding  
2407 benefit year during which he received benefits, he performed  
2408 service in "employment" as defined in Section 71-5-11, subsection  
2409 I, and earned remuneration for such service in an amount equal to  
2410 not less than eight (8) times his weekly benefit amount applicable  
2411 to his next preceding benefit year.

2412 (g) Benefits based on service in employment defined in  
2413 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,  
2414 subsection (4) shall be payable in the same amount, on the same  
2415 terms, and subject to the same conditions as compensation payable  
2416 on the basis of other service subject to this chapter, except that

2417 benefits based on service in an instructional, research or  
2418 principal administrative capacity in an institution of higher  
2419 learning (as defined in Section 71-5-11, subsection N) with  
2420 respect to service performed prior to January 1, 1978, shall not  
2421 be paid to an individual for any week of unemployment which begins  
2422 during the period between two (2) successive academic years, or  
2423 during a similar period between two (2) regular terms, whether or  
2424 not successive, or during a period of paid sabbatical leave  
2425 provided for in the individual's contract, if the individual has a  
2426 contract or contracts to perform services in any such capacity for  
2427 any institution or institutions of higher learning for both such  
2428 academic years or both such terms.

2429 (h) Benefits based on service in employment defined in  
2430 Section 71-5-11, subsection I(3) and I(4), shall be payable in the  
2431 same amount, on the same terms and subject to the same conditions  
2432 as compensation payable on the basis of other service subject to  
2433 this chapter, except that:

2434 (i) With respect to service performed in an  
2435 instructional, research or principal administrative capacity for  
2436 an educational institution, benefits shall not be paid based on  
2437 such services for any week of unemployment commencing during the  
2438 period between two (2) successive academic years, or during a  
2439 similar period between two (2) regular but not successive terms,  
2440 or during a period of paid sabbatical leave provided for in the  
2441 individual's contract, to any individual, if such individual  
2442 performs such services in the first of such academic years or

2443 terms and if there is a contract or a reasonable assurance that  
2444 such individual will perform services in any such capacity for any  
2445 educational institution in the second of such academic years or  
2446 terms, and provided that subsection (g) of this section shall  
2447 apply with respect to such services prior to January 1, 1978. In  
2448 no event shall benefits be paid unless the individual employee was  
2449 terminated by the employer.

2450                   (ii) With respect to services performed in any  
2451 other capacity for an educational institution, benefits shall not  
2452 be paid on the basis of such services to any individual for any  
2453 week which commences during a period between two (2) successive  
2454 academic years or terms, if such individual performs such services  
2455 in the first of such academic years or terms and there is a  
2456 reasonable assurance that such individual will perform such  
2457 services in the second of such academic years or terms, except  
2458 that if compensation is denied to any individual under this  
2459 subparagraph and such individual was not offered an opportunity to  
2460 perform such services for the educational institution for the  
2461 second of such academic years or terms, such individual shall be  
2462 entitled to a retroactive payment of compensation for each week  
2463 for which the individual filed a timely claim for compensation and  
2464 for which compensation was denied solely by reason of this clause.  
2465 In no event shall benefits be paid unless the individual employee  
2466 was terminated by the employer.

2467                   (iii) With respect to services described in  
2468 subsection (h) (i) and (ii), benefits shall not be payable on the

2469 basis of services in any such capacities to any individual for any  
2470 week which commences during an established and customary vacation  
2471 period or holiday recess if such individual performs such services  
2472 in the first of such academic years or terms, or in the period  
2473 immediately before such vacation period or holiday recess, and  
2474 there is a reasonable assurance that such individual will perform  
2475 such services in the period immediately following such vacation  
2476 period or holiday recess.

2477                   (iv) With respect to any services described in  
2478 subsection (h) (i) and (ii), benefits shall not be payable on the  
2479 basis of services in any such capacities as specified in  
2480 subsection (h) (i), (ii) and (iii) to any individual who performed  
2481 such services in an educational institution while in the employ of  
2482 an educational service agency. For purposes of this subsection,  
2483 the term "educational service agency" means a governmental agency  
2484 or governmental entity which is established and operated  
2485 exclusively for the purpose of providing such services to one or  
2486 more educational institutions.

2487                   (v) With respect to services to which Sections  
2488 71-5-357 and 71-5-359 apply, if such services are provided to or  
2489 on behalf of an educational institution, benefits shall not be  
2490 payable under the same circumstances and subject to the same terms  
2491 and conditions as described in subsection (h) (i), (ii), (iii) and  
2492 (iv).

2493                   (i) Subsequent to December 31, 1977, benefits shall not  
2494 be paid to any individual on the basis of any services

2495 substantially all of which consist of participating in sports or  
2496 athletic events or training or preparing to so participate, for  
2497 any week which commences during the period between two (2)  
2498 successive sports seasons (or similar periods) if such individual  
2499 performs such services in the first of such seasons (or similar  
2500 periods) and there is a reasonable assurance that such individual  
2501 will perform such services in the later of such seasons (or  
2502 similar periods).

2503           (j) (i) Subsequent to December 31, 1977, benefits  
2504 shall not be payable on the basis of services performed by an  
2505 alien, unless such alien is an individual who was lawfully  
2506 admitted for permanent residence at the time such services were  
2507 performed, was lawfully present for purposes of performing such  
2508 services, or was permanently residing in the United States under  
2509 color of law at the time such services were performed (including  
2510 an alien who was lawfully present in the United States as a result  
2511 of the application of the provisions of Section 203(a)(7) or  
2512 Section 212(d)(5) of the Immigration and Nationality Act).

2513           (ii) Any data or information required of  
2514 individuals applying for benefits to determine whether benefits  
2515 are not payable to them because of their alien status shall be  
2516 uniformly required from all applicants for benefits.

2517           (iii) In the case of an individual whose  
2518 application for benefits would otherwise be approved, no  
2519 determination that benefits to such individual are not payable



2520 because of his alien status shall be made, except upon a  
2521 preponderance of the evidence.

2522 (k) An individual shall be deemed prima facie  
2523 unavailable for work, and therefore ineligible to receive  
2524 benefits, during any period which, with respect to his employment  
2525 status, is found by the department to be a holiday or vacation  
2526 period.

2527 (l) A temporary employee of a temporary help firm is  
2528 considered to have left the employee's last work voluntarily  
2529 without good cause connected with the work if the temporary  
2530 employee does not contact the temporary help firm for reassignment  
2531 on completion of an assignment. A temporary employee is not  
2532 considered to have left work voluntarily without good cause  
2533 connected with the work under this paragraph unless the temporary  
2534 employee has been advised in writing:

2535 (i) That the temporary employee is obligated to  
2536 contact the temporary help firm on completion of assignments; and

2537 (ii) That unemployment benefits may be denied if  
2538 the temporary employee fails to do so.

2539 **SECTION 39.** Section 71-5-513, Mississippi Code of 1972, is  
2540 reenacted as follows:

2541 71-5-513. A. An individual shall be disqualified for  
2542 benefits:

2543 (1) (a) For the week, or fraction thereof, which  
2544 immediately follows the day on which he left work voluntarily  
2545 without good cause, if so found by the department, and for each

2546 week thereafter until he has earned remuneration for personal  
2547 services performed for an employer, as in this chapter defined,  
2548 equal to not less than eight (8) times his weekly benefit amount,  
2549 as determined in each case; however, marital, filial and domestic  
2550 circumstances and obligations shall not be deemed good cause  
2551 within the meaning of this subsection. Pregnancy shall not be  
2552 deemed to be a marital, filial or domestic circumstance for the  
2553 purpose of this subsection.

2554                   (b) For the week, or fraction thereof, which  
2555 immediately follows the day on which he was discharged for  
2556 misconduct connected with his work, if so found by the department,  
2557 and for each week thereafter until he has earned remuneration for  
2558 personal services performed for an employer, as in this chapter  
2559 defined, equal to not less than eight (8) times his weekly benefit  
2560 amount, as determined in each case.

2561                   (c) The burden of proof of good cause for leaving  
2562 work shall be on the claimant, and the burden of proof of  
2563 misconduct shall be on the employer.

2564                   (2) For the week, or fraction thereof, with respect to  
2565 which he willfully makes a false statement, a false representation  
2566 of fact, or willfully fails to disclose a material fact for the  
2567 purpose of obtaining or increasing benefits under the provisions  
2568 of this law, if so found by the department, and such individual's  
2569 maximum benefit allowance shall be reduced by the amount of  
2570 benefits so paid to him during any such week of disqualification;  
2571 and additional disqualification shall be imposed for a period not

2572 exceeding fifty-two (52) weeks, the length of such period of  
2573 disqualification and the time when such period begins to be  
2574 determined by the department, in its discretion, according to the  
2575 circumstances in each case.

2576 (3) If the department finds that he has failed, without  
2577 good cause, either to apply for available suitable work when so  
2578 directed by the employment office or the department, to accept  
2579 suitable work when offered him, or to return to his customary  
2580 self-employment (if any) when so directed by the department, such  
2581 disqualification shall continue for the week in which such failure  
2582 occurred and for not more than the twelve (12) weeks which  
2583 immediately follow such week, as determined by the department  
2584 according to the circumstances in each case.

2585 (a) In determining whether or not any work is  
2586 suitable for an individual, the department shall consider among  
2587 other factors the degree of risk involved to his health, safety  
2588 and morals, his physical fitness and prior training, his  
2589 experience and prior earnings, his length of unemployment and  
2590 prospects for securing local work in his customary occupation, and  
2591 the distance of the available work from his residence; however,  
2592 offered employment paying the minimum wage or higher, if such  
2593 minimum or higher wage is that prevailing for his customary  
2594 occupation or similar work in the locality, shall be deemed to be  
2595 suitable employment after benefits have been paid to the  
2596 individual for a period of eight (8) weeks.

2597                   (b) Notwithstanding any other provisions of this  
2598 chapter, no work shall be deemed suitable and benefits shall not  
2599 be denied under this chapter to any otherwise eligible individual  
2600 for refusing to accept new work under any of the following  
2601 conditions:

2602                               (i) If the position offered is vacant due  
2603 directly to a strike, lockout or other labor dispute;

2604                               (ii) If the wages, hours or other conditions  
2605 of the work offered are substantially unfavorable or unreasonable  
2606 to the individual's work. The department shall have the sole  
2607 discretion to determine whether or not there has been an  
2608 unfavorable or unreasonable condition placed on the individual's  
2609 work. Moreover, the department may consider, but shall not be  
2610 limited to a consideration of, whether or not the unfavorable  
2611 condition was applied by the employer to all workers in the same  
2612 or similar class or merely to this individual;

2613                               (iii) If as a condition of being employed the  
2614 individual would be required to join a company union or to resign  
2615 from or refrain from joining any bona fide labor organization;

2616                               (iv) If unsatisfactory or hazardous working  
2617 conditions exist that could result in a danger to the physical or  
2618 mental well-being of the worker. In any such determination the  
2619 department shall consider, but shall not be limited to a  
2620 consideration of, the following: the safety measures used or the  
2621 lack thereof and the condition of equipment or lack of proper  
2622 equipment. No work shall be considered hazardous if the working

2623 conditions surrounding a worker's employment are the same or  
2624 substantially the same as the working conditions generally  
2625 prevailing among workers performing the same or similar work for  
2626 other employers engaged in the same or similar type of activity.

2627 (c) Pursuant to Section 303(1) of the Social  
2628 Security Act (42 USCS 503), the department may conduct drug tests  
2629 of applicants for unemployment compensation for the unlawful use  
2630 of controlled substances as a condition for receiving such  
2631 compensation, if such applicant:

2632 (i) Was terminated from employment with the  
2633 claimant's most recent employer, as defined by Mississippi law,  
2634 because of the unlawful use of controlled substances; or

2635 (ii) Is an individual for whom suitable work,  
2636 as defined by Mississippi law, is only available in an occupation  
2637 (as determined under regulations issued by the U.S. Secretary of  
2638 Labor) that requires drug testing.

2639 The department may deny unemployment compensation to any  
2640 applicant based on the result of a drug test conducted by the  
2641 department in accordance with this subsection. A positive drug  
2642 test result shall be deemed by the department to be a failure to  
2643 accept suitable work, and shall subject the applicant to the  
2644 disqualification provisions set forth in this subsection A(3).  
2645 During the disqualification period imposed by the department under  
2646 this subsection, the individual may provide information to end the  
2647 disqualification period early by submitting acceptable proof to

2648 the department of a negative test result from a testing facility  
2649 approved by the department.

2650 (iii) Pursuant to the provisions set forth in  
2651 this subsection A(3)(c), the department shall have the authority  
2652 to institute a random drug testing program for all individuals who  
2653 meet the requirements set forth in this section. Moreover, the  
2654 department shall have the authority to create the necessary  
2655 regulations, policies rules, guidelines and procedures to  
2656 implement such a program.

2657 Any term or provision set forth in this subsection A(3)(c)  
2658 that otherwise conflicts with federal or state law shall be  
2659 disregarded but shall not, in any way, affect the remaining  
2660 provisions.

2661 (4) For any week with respect to which the department  
2662 finds that his total unemployment is due to a stoppage of work  
2663 which exists because of a labor dispute at a factory,  
2664 establishment or other premises at which he is or was last  
2665 employed; however, this subsection shall not apply if it is shown  
2666 to the satisfaction of the department:

2667 (a) He is unemployed due to a stoppage of work  
2668 occasioned by an unjustified lockout, if such lockout was not  
2669 occasioned or brought about by such individual acting alone or  
2670 with other workers in concert; or

2671 (b) He is not participating in or directly  
2672 interested in the labor dispute which caused the stoppage of work;  
2673 and

2674                   (c) He does not belong to a grade or class of  
2675 workers of which, immediately before the commencement of stoppage,  
2676 there were members employed at the premises at which the stoppage  
2677 occurs, any of whom are participating in or directly interested in  
2678 the dispute.

2679           If in any case separate branches of work which are commonly  
2680 conducted as separate businesses in separate premises are  
2681 conducted in separate departments of the same premises, each such  
2682 department shall, for the purposes of this subsection, be deemed  
2683 to be a separate factory, establishment or other premises.

2684           (5) For any week with respect to which he has received  
2685 or is seeking unemployment compensation under an unemployment  
2686 compensation law of another state or of the United States.  
2687 However, if the appropriate agency of such other state or of the  
2688 United States finally determines that he is not entitled to such  
2689 unemployment compensation benefits, this disqualification shall  
2690 not apply. Nothing in this subsection contained shall be  
2691 construed to include within its terms any law of the United States  
2692 providing unemployment compensation or allowances for honorably  
2693 discharged members of the Armed Forces.

2694           (6) For any week with respect to which he is receiving  
2695 or has received remuneration in the form of payments under any  
2696 governmental or private retirement or pension plan, system or  
2697 policy which a base-period employer is maintaining or contributing  
2698 to or has maintained or contributed to on behalf of the  
2699 individual; however, if the amount payable with respect to any

2700 week is less than the benefits which would otherwise be due under  
2701 Section 71-5-501, he shall be entitled to receive for such week,  
2702 if otherwise eligible, benefits reduced by the amount of such  
2703 remuneration. However, on or after the first Sunday immediately  
2704 following July 1, 2001, no social security payments, to which the  
2705 employee has made contributions, shall be deducted from  
2706 unemployment benefits paid for any period of unemployment  
2707 beginning on or after the first Sunday following July 1, 2001.  
2708 This one hundred percent (100%) exclusion shall not apply to any  
2709 other governmental or private retirement or pension plan, system  
2710 or policy. If benefits payable under this section, after being  
2711 reduced by the amount of such remuneration, are not a multiple of  
2712 One Dollar (\$1.00), they shall be adjusted to the next lower  
2713 multiple of One Dollar (\$1.00).

2714           (7) For any week with respect to which he is receiving  
2715 or has received remuneration in the form of a back pay award, or  
2716 other compensation allocable to any week, whether by settlement or  
2717 otherwise. Any benefits previously paid for weeks of unemployment  
2718 with respect to which back pay awards, or other such compensation,  
2719 are made shall constitute an overpayment and such amounts shall be  
2720 deducted from the award by the employer prior to payment to the  
2721 employee, and shall be transmitted promptly to the department by  
2722 the employer for application against the overpayment and credit to  
2723 the claimant's maximum benefit amount and prompt deposit into the  
2724 fund; however, the removal of any charges made against the  
2725 employer as a result of such previously paid benefits shall be



2726 applied to the calendar year and the calendar quarter in which the  
2727 overpayment is transmitted to the department, and no attempt shall  
2728 be made to relate such a credit to the period to which the award  
2729 applies. Any amount of overpayment so deducted by the employer  
2730 and not transmitted to the department shall be subject to the same  
2731 procedures for collection as is provided for contributions by  
2732 Sections 71-5-363 through 71-5-381. Any amount of overpayment not  
2733 deducted by the employer shall be established as an overpayment  
2734 against the claimant and collected as provided above. It is the  
2735 purpose of this paragraph to assure equity in the situations to  
2736 which it applies, and it shall be construed accordingly.

2737         B. Notwithstanding any other provision in this chapter, no  
2738 otherwise eligible individual shall be denied benefits for any  
2739 week because he is in training with the approval of the  
2740 department; nor shall such individual be denied benefits with  
2741 respect to any week in which he is in training with the approval  
2742 of the department by reason of the application of provisions in  
2743 Section 71-5-511, subsection (c), relating to availability for  
2744 work, or the provisions of subsection A(3) of this section,  
2745 relating to failure to apply for, or a refusal to accept, suitable  
2746 work.

2747         C. Notwithstanding any other provisions of this chapter, no  
2748 otherwise eligible individual shall be denied benefits for any  
2749 week because he or she is in training approved under Section  
2750 236(a) (1) of the Trade Act of 1974, nor shall such individual be  
2751 denied benefits by reason of leaving work to enter such training,

2752 provided the work left is not suitable employment, or because of  
2753 the application to any such week in training of provisions in this  
2754 law (or any applicable federal unemployment compensation law),  
2755 relating to availability for work, active search for work or  
2756 refusal to accept work.

2757 For purposes of this section, the term "suitable employment"  
2758 means with respect to an individual, work of a substantially equal  
2759 or higher skill level than the individual's past adversely  
2760 affected employment (as defined for purposes of the Trade Act of  
2761 1974), and wages for such work at not less than eighty percent  
2762 (80%) of the individual's average weekly wage as determined for  
2763 the purposes of the Trade Act of 1974.

2764 D. Notwithstanding any other provisions of this chapter, no  
2765 otherwise eligible individual shall be denied benefits for any  
2766 week in which they are engaged in the Self-Employment Assistance  
2767 Program established in Section 71-5-545 by reason of the  
2768 application of Section 71-5-511(c), relating to availability for  
2769 work, or the provisions of subsection A(3) of this section,  
2770 relating to failure to apply for, or a refusal to accept, suitable  
2771 work.

2772 E. Any individual who is receiving benefits may participate  
2773 in an approved training program under the Mississippi Employment  
2774 Security Law to gain skills that may lead to employment while  
2775 continuing to receive benefits. Authorization for participation  
2776 of a recipient of unemployment benefits in such a program must be  
2777 granted by the department and continuation of participation must

2778 be certified weekly by the participant recipient. While  
2779 participating in such program approved by the department,  
2780 availability and work search requirements will be waived. No  
2781 individual will be allowed to participate in this program for more  
2782 than twelve (12) weeks in any benefit year. Such participation  
2783 shall not be considered employment for any purposes and shall not  
2784 accrue benefits or wage credits. Participation in this training  
2785 program shall meet the definition set forth in the U.S. Fair Labor  
2786 Standards Act.

2787         **SECTION 40.** Section 71-5-517, Mississippi Code of 1972, is  
2788 reenacted as follows:

2789         71-5-517. Upon the taking of a claim by the department, an  
2790 initial determination thereon shall be made promptly and shall  
2791 include a determination with respect to whether or not benefits  
2792 are payable, the week with respect to which benefits shall  
2793 commence, the weekly benefit amount payable and the maximum  
2794 duration of benefits. In any case in which the payment or denial  
2795 of benefits will be determined by the provisions of subsection  
2796 A(4) of Section 71-5-513, the examiner shall promptly transmit all  
2797 the evidence with respect to that subsection to the department,  
2798 which, on the basis of evidence so submitted and such additional  
2799 evidence as it may require, shall make an initial determination  
2800 with respect thereto. An initial determination may for good cause  
2801 be reconsidered. The claimant, his most recent employing unit and  
2802 all employers whose experience-rating record would be charged with  
2803 benefits pursuant to such determination shall be promptly notified

2804 of such initial determination or any amended initial determination  
2805 and the reason therefor. Benefits shall be denied or, if the  
2806 claimant is otherwise eligible, promptly paid in accordance with  
2807 the initial determination or amended initial determination. The  
2808 jurisdiction of the department over benefit claims which have not  
2809 been appealed shall be continuous. The claimant or any party to  
2810 the initial determination or amended initial determination may  
2811 file an appeal from such initial determination or amended initial  
2812 determination within fourteen (14) days after notification  
2813 thereof, or after the date such notification was sent to his last  
2814 known address.

2815         Notwithstanding any other provision of this section, benefits  
2816 shall be paid promptly in accordance with a determination or  
2817 redetermination, or the decision of an appeal tribunal, the Board  
2818 of Review or a reviewing court upon the issuance of such  
2819 determination, redetermination or decision in favor of the  
2820 claimant (regardless of the pendency of the period to apply for  
2821 reconsideration, file an appeal, or petition for judicial review,  
2822 as the case may be, or the pendency of any such application,  
2823 filing or petition), unless and until such determination,  
2824 redetermination or decision has been modified or reversed by a  
2825 subsequent redetermination or decision, in which event benefits  
2826 shall be paid or denied in accordance with such modifying or  
2827 reversing redetermination or decision. Any benefits finally  
2828 determined to have been erroneously paid may be set up as an  
2829 overpayment to the claimant and must be liquidated before any

2830 future benefits can be paid to the claimant. If, subsequent to  
2831 such initial determination or amended initial determination,  
2832 benefits with respect to any week for which a claim has been filed  
2833 are denied for reasons other than matters included in the initial  
2834 determination or amended initial determination, the claimant shall  
2835 be promptly notified of the denial and the reason therefor and may  
2836 appeal therefrom in accordance with the procedure herein described  
2837 for appeals from initial determination or amended initial  
2838 determination.

2839         **SECTION 41.** Section 71-5-519, Mississippi Code of 1972, is  
2840 reenacted as follows:

2841         71-5-519. Unless such appeal is withdrawn, an appeal  
2842 tribunal appointed by the executive director, after affording the  
2843 parties reasonable opportunity for fair hearing, shall affirm,  
2844 modify or reverse the findings of fact and initial determination  
2845 or amended initial determination. The parties shall be duly  
2846 notified of such tribunal's decision, together with its reasons  
2847 therefor, which shall be deemed to be the final decision of the  
2848 executive director unless, within fourteen (14) days after the  
2849 date of notification of such decision, further appeal is initiated  
2850 pursuant to Section 71-5-523.

2851         **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is  
2852 reenacted as follows:

2853         71-5-523. The Board of Review may on its own motion affirm,  
2854 modify, or set aside any decision of an appeal tribunal on the  
2855 basis of the evidence previously submitted in such case, or direct

2856 the taking of additional evidence, or may permit any of the  
2857 parties to such decision to initiate further appeals before it.  
2858 The Board of Review shall permit such further appeal by any of the  
2859 parties to a decision of an appeal tribunal which is not  
2860 unanimous, and by the examiner whose decision has been overruled  
2861 or modified by an appeal tribunal. The Board of Review may remove  
2862 to itself or transfer to another appeal tribunal the proceedings  
2863 on any claim pending before an appeal tribunal. Any proceedings  
2864 so removed to the Board of Review shall be heard by a quorum  
2865 thereof in accordance with the requirements of Section 71-5-519  
2866 and within fifteen (15) days after notice of appeal has been  
2867 received by the executive director. No notice of appeal shall be  
2868 deemed to be received by the executive director, within the  
2869 meaning of this section, until all prior appeals pending before  
2870 the Board of Review have been heard. The Board of Review shall,  
2871 within four (4) days after its decision, so notify the parties to  
2872 any proceeding of its findings and decision.

2873       **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is  
2874 reenacted as follows:

2875       71-5-525. The manner in which appealed claims shall be  
2876 presented and the conduct of hearings and appeals shall be in  
2877 accordance with regulations prescribed by the Board of Review for  
2878 determining the rights of the parties, whether or not such  
2879 regulations conform to common law or statutory rules of evidence  
2880 and other technical rules of procedure. A full and complete  
2881 record shall be kept of all proceedings in connection with an

2882 appealed claim. The department's entire file relative to the  
2883 appealed claim shall be a part of such record and shall be  
2884 considered as evidence. All testimony at any hearing upon an  
2885 appealed claim shall be recorded, but need not be transcribed  
2886 unless the claim is further appealed.

2887 **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is  
2888 reenacted as follows:

2889 71-5-529. Any decision of the Board of Review, in the  
2890 absence of an appeal therefrom as herein provided, shall become  
2891 final ten (10) days after the date of notification; and judicial  
2892 review thereof shall be permitted only after any party claiming to  
2893 be aggrieved thereby has exhausted his administrative remedies as  
2894 provided by this chapter. The department shall be deemed to be a  
2895 party to any judicial action involving any such decision, and may  
2896 be represented in any such judicial action by any qualified  
2897 attorney employed by the department and designated by it for that  
2898 purpose or, at the department's request, by the Attorney General.

2899 **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is  
2900 reenacted as follows:

2901 71-5-531. Within ten (10) days after the decision of the  
2902 Board of Review has become final, any party aggrieved thereby may  
2903 secure judicial review thereof by commencing an action, in the  
2904 circuit court of the county in which the plaintiff resides,  
2905 against the department for the review of such decision, in which  
2906 action any other party to the proceeding before the Board of  
2907 Review shall be made a defendant. In cases wherein the plaintiff

2908 is not a resident of the State of Mississippi, such action may be  
2909 filed in the circuit court of the county in which the employer  
2910 resides, the county in which the cause of action arose, or in the  
2911 county of employment. In such action, a petition which need not  
2912 be verified, but which shall state the grounds upon which a review  
2913 is sought, shall be served upon the department or upon such person  
2914 as the department may designate, and such service shall be deemed  
2915 completed service on all parties; but there shall be left with the  
2916 party so served as many copies of the petition as there are  
2917 defendants, and the department shall forthwith mail one (1) such  
2918 copy to each such defendant. With its answer, the department  
2919 shall certify and file with said court all documents and papers  
2920 and a transcript of all testimony taken in the matter, together  
2921 with the Board of Review's findings of fact and decision therein.  
2922 The department may also, in its discretion, certify to such court  
2923 questions of law involved in any decision. In any judicial  
2924 proceedings under this section, the findings of the Board of  
2925 Review as to the facts, if supported by evidence and in the  
2926 absence of fraud, shall be conclusive, and the jurisdiction of the  
2927 court shall be confined to questions of law. Such actions, and  
2928 the questions so certified, shall be heard in a summary manner and  
2929 shall be given precedence over all other civil cases. An appeal  
2930 may be taken from the decision of the circuit court of the county  
2931 in which the plaintiff resides to the Supreme Court of  
2932 Mississippi, in the same manner, but not inconsistent with the  
2933 provisions of this chapter, as is provided in civil cases. It



2934 shall not be necessary, in any judicial proceeding under this  
2935 section, to enter exceptions to the rulings of the Board of  
2936 Review, and no bond shall be required for entering such appeal.  
2937 Upon the final determination of such judicial proceeding, the  
2938 Board of Review shall enter an order in accordance with such  
2939 determination. A petition for judicial review shall not act as a  
2940 supersedeas or stay unless the Board of Review shall so order.

2941         **SECTION 46.** Section 71-5-541, Mississippi Code of 1972, is  
2942 reenacted as follows:

2943         71-5-541. A. (1) In the administration of this chapter,  
2944 the department shall cooperate with the Department of Labor to the  
2945 fullest extent consistent with the provisions of this chapter and  
2946 shall take such action, through the adoption of appropriate rules,  
2947 regulations, administrative methods and standards, as may be  
2948 necessary to secure to this state and its citizens all advantages  
2949 available under the provisions of the Social Security Act that  
2950 relate to unemployment compensation, the Federal Unemployment Tax  
2951 Act, the Wagner-Peyser Act and the Federal-State Extended  
2952 Unemployment Compensation Act of 1970, all as amended.

2953                 (2) In the administration of the provisions of this  
2954 section, which are enacted to conform with the requirements of the  
2955 Federal-State Extended Unemployment Compensation Act of 1970, as  
2956 amended, the department shall take such actions as may be  
2957 necessary:

2958                         (a) To ensure that the provisions are so  
2959 interpreted and applied as to meet the requirements of such

2960 federal act as interpreted by the United States Department of  
2961 Labor; and

2962 (b) To secure to this state the full reimbursement  
2963 of the federal share of extended benefits paid under this chapter  
2964 that are reimbursable under the federal act; and also

2965 (c) To limit the amount of extended benefits paid  
2966 as may be necessary so that the reimbursement of the federal share  
2967 of extended benefits paid shall remain at one-half (1/2) of the  
2968 total extended benefits paid.

2969 B. As used in this section, unless the context clearly  
2970 requires otherwise:

2971 (1) "Extended benefit period" means a period which:

2972 (a) Begins with the third week after a week for  
2973 which there is a state "on" indicator; and

2974 (b) Ends with either of the following weeks,  
2975 whichever occurs later:

2976 (i) The third week after the first week for  
2977 which there is a state "off" indicator; or

2978 (ii) The thirteenth consecutive week of such  
2979 period.

2980 No extended benefit period may begin by reason of a state  
2981 "on" indicator before the fourteenth week following the end of a  
2982 prior extended benefit period which was in effect with respect to  
2983 this state.

2984 (2) For weeks beginning after September 25, 1982, there  
2985 is a "state 'on' indicator" for a week if the rate of insured

2986 unemployment under this chapter for the period consisting of such  
2987 week and the immediately preceding twelve (12) weeks:

2988                   (a) Equaled or exceeded one hundred twenty percent  
2989 (120%) of the average of such rates for the corresponding period  
2990 of thirteen (13) weeks ending in each of the preceding two (2)  
2991 calendar years; and

2992                   (b) Equaled or exceeded five percent (5%).

2993           The determination of whether there has been a state "on" or  
2994 "off" indicator beginning or ending any extended benefit period  
2995 shall be made under this subsection as if (i) paragraph (2) did  
2996 not contain subparagraph (a) thereof, and (ii) the figure "5"  
2997 contained in subparagraph (b) thereof were "6"; except that,  
2998 notwithstanding any such provision of this subsection, any week  
2999 for which there would otherwise be a "state 'on' indicator" shall  
3000 continue to be such week and shall not be determined to be a week  
3001 for which there is a "state 'off' indicator."

3002                   (3) There is a "state 'off' indicator" for a week if,  
3003 for the period consisting of such week and the immediately  
3004 preceding twelve (12) weeks, either subparagraph (a) or (b) of  
3005 paragraph (2) was not satisfied.

3006                   (4) "Rate of insured unemployment," for purposes of  
3007 paragraphs (2) and (3) of this subsection, means the percentage  
3008 derived by dividing:

3009                   (a) The average number of continued weeks claimed  
3010 for regular state compensation in this state for weeks of  
3011 unemployment with respect to the most recent period of thirteen

3012 (13) consecutive weeks, as determined by the department on the  
3013 basis of its reports to the United States Secretary of Labor; by

3014 (b) The average monthly employment covered under  
3015 this chapter for the first four (4) of the most recent six (6)  
3016 completed calendar quarters ending before the end of such period  
3017 of thirteen (13) weeks.

3018 (5) "Regular benefits" means benefits payable to an  
3019 individual under this chapter or under any other state law  
3020 (including benefits payable to federal civilian employees and to  
3021 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than  
3022 extended benefits.

3023 (6) "Extended benefits" means benefits (including  
3024 benefits payable to federal civilian employees and to  
3025 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an  
3026 individual under the provisions of this section for weeks of  
3027 unemployment in his eligibility period.

3028 (7) "Eligibility period" of an individual means the  
3029 period consisting of the weeks in his benefit year which begin in  
3030 an extended benefit period and, if his benefit year ends within  
3031 such extended benefit period, any weeks thereafter which begin in  
3032 such period.

3033 (8) "Exhaustee" means an individual who, with respect  
3034 to any week of unemployment in his eligibility period:

3035 (a) Has received, prior to such week, all of the  
3036 regular benefits that were available to him under this chapter or  
3037 any other state law (including dependents' allowances and benefits

3038 payable to federal civilian employees and ex-servicemen under 5  
3039 USCS Section 8501-8525) in his current benefit year that includes  
3040 such week.

3041 For the purposes of this subparagraph, an individual shall be  
3042 deemed to have received all of the regular benefits that were  
3043 available to him although, as a result of a pending appeal with  
3044 respect to wages that were not considered in the original monetary  
3045 determination in his benefit year, he may subsequently be  
3046 determined to be entitled to added regular benefits; or

3047 (b) Has no, or insufficient, wages on the basis of  
3048 which he could establish a new benefit year that would include  
3049 such week, his benefit year having expired prior to such week; and

3050 (c) (i) Has no right to unemployment benefits or  
3051 allowances, as the case may be, under the Railroad Unemployment  
3052 Insurance Act, the Trade Expansion Act of 1962, the Automotive  
3053 Products Trade Act of 1965, and such other federal laws as are  
3054 specified in regulations issued by the United States Secretary of  
3055 Labor; and

3056 (ii) Has not received and is not seeking  
3057 unemployment benefits under the Unemployment Compensation Law of  
3058 the Virgin Islands or of Canada; but if he is seeking such  
3059 benefits and the appropriate agency finally determines that he is  
3060 not entitled to benefits under such law, he is considered an  
3061 exhaustee; however, the reference in this subsection to the Virgin  
3062 Islands shall be inapplicable effective on the day on which the  
3063 United States Secretary of Labor approves under Section 3304(a) of

3064 the Internal Revenue Code of 1954, an unemployment compensation  
3065 law submitted to the Secretary by the Virgin Islands for approval.

3066 (9) "State law" means the unemployment insurance law of  
3067 any state, approved by the United States Secretary of Labor under  
3068 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section  
3069 3304).

3070 C. Except when the result would be inconsistent with the  
3071 other provisions of this section, as provided in the regulations  
3072 of the department, the provisions of this chapter which apply to  
3073 claims for, or the payment of, regular benefits shall apply to  
3074 claims for, and the payment of, extended benefits.

3075 D. An individual shall be eligible to receive extended  
3076 benefits with respect to any week of unemployment in his  
3077 eligibility period only if the department finds that with respect  
3078 to such week:

3079 (1) He is an "exhaustee" as defined in subsection B(8)  
3080 of this section.

3081 (2) He has satisfied the requirements of this chapter  
3082 for the receipt of regular benefits that are applicable to  
3083 individuals claiming extended benefits, including not being  
3084 subject to a disqualification for the receipt of benefits.

3085 (3) For a week beginning after September 25, 1982, he  
3086 has, during his base period, been paid wages for insured work  
3087 equal to not less than forty (40) times his weekly benefit amount;  
3088 he has been paid wages for insured work during at least two (2)  
3089 quarters of his base period, and he has, during that quarter of

3090 his base period in which his total wages were highest, been paid  
3091 wages for insured work equal to not less than twenty-six (26)  
3092 times the minimum weekly benefit amount.

3093       E. The weekly extended benefit amount payable to an  
3094 individual for a week of total unemployment in his eligibility  
3095 period shall be an amount equal to the weekly benefit amount  
3096 payable to him during his applicable benefit year; however,  
3097 benefits paid to individuals during eligibility periods beginning  
3098 before October 1, 1983, shall be computed to the next higher  
3099 multiple of One Dollar (\$1.00), if not a multiple of One Dollar  
3100 (\$1.00); and benefits paid to individuals during eligibility  
3101 periods beginning on or after October 1, 1983, shall be computed  
3102 to the next lower multiple of One Dollar (\$1.00), if not a  
3103 multiple of One Dollar (\$1.00). In no event shall the weekly  
3104 extended benefit amount payable to an individual be more than two  
3105 (2) times the amount of the reimbursement of the federal share of  
3106 extended benefits paid.

3107       F. (1) The total extended benefit amount payable to any  
3108 eligible individual with respect to his applicable benefit year  
3109 shall be the least of the following amounts:

3110               (a) Fifty percent (50%) of the total amount of  
3111 regular benefits which were payable to him under this chapter in  
3112 his applicable benefit year; however, benefits paid to individuals  
3113 during eligibility periods beginning before October 1, 1983, shall  
3114 be computed to the next higher multiple of One Dollar (\$1.00), if  
3115 not a multiple of One Dollar (\$1.00), and benefits paid to

3116 individuals during eligibility periods beginning on or after  
3117 October 1, 1983, shall be computed to the next lower multiple of  
3118 One Dollar (\$1.00), if not a multiple of One Dollar (\$1.00); or

3119 (b) Thirteen (13) times his weekly benefit amount  
3120 which was payable to him under this chapter for a week of total  
3121 unemployment in the applicable benefit year.

3122 (2) The total extended benefits otherwise payable to an  
3123 individual who is filing an interstate claim under the interstate  
3124 benefit payment plan shall not exceed two (2) weeks whenever an  
3125 extended benefit period is not in effect for such week in the  
3126 state where the claim is filed.

3127 (3) In no event shall the total extended benefit amount  
3128 payable to any eligible individual with respect to his applicable  
3129 benefit year be more than two (2) times the amount of the  
3130 reimbursement of the federal share of extended benefits paid.

3131 G. (1) Whenever an extended benefit period is to become  
3132 effective in this state as a result of a state "on" indicator, or  
3133 an extended benefit period is to be terminated in this state as a  
3134 result of state "off" indicators, the department shall make an  
3135 appropriate public announcement.

3136 (2) Computations required by the provisions of  
3137 subsection B(4) shall be made by the department, in accordance  
3138 with regulations prescribed by the United States Secretary of  
3139 Labor.



3140 H. Extended benefits paid under the provisions of this  
3141 section which are not reimbursable from federal funds shall be  
3142 charged to the experience-rating record of base period employers.

3143 I. (1) Notwithstanding the provisions of subsections C and  
3144 D of this section, an individual shall be disqualified for receipt  
3145 of extended benefits if the department finds that during any week  
3146 of his eligibility period:

3147 (a) He has failed either to apply for or to accept  
3148 an offer of suitable work (as defined under paragraph (3)) to  
3149 which he was referred by the department; or

3150 (b) He has failed to furnish tangible evidence  
3151 that he has actively engaged in a systematic and sustained effort  
3152 to find work, unless such individual is not actively engaged in  
3153 seeking work because such individual is:

3154 (i) Before any court of the United States or  
3155 any state pursuant to a lawfully issued summons to appear for jury  
3156 duty;

3157 (ii) Hospitalized for treatment of an  
3158 emergency or a life-threatening condition.

3159 The entitlement to benefits of any individual who is  
3160 determined not to be actively engaged in seeking work in any week  
3161 for the foregoing reasons shall be decided pursuant to the able  
3162 and available requirements in Section 71-5-511 without regard to  
3163 the disqualification provisions otherwise applicable under Section  
3164 71-5-541. The conditions prescribed in clauses (i) and (ii) of

3165 this subparagraph (b) must be applied in the same manner to  
3166 individuals filing claims for regular benefits.

3167           (2) Such disqualification shall begin with the week in  
3168 which such failure occurred and shall continue until he has been  
3169 employed in each of eight (8) subsequent weeks (whether or not  
3170 consecutive) and has earned remuneration for personal services  
3171 performed for an employer, as in this chapter defined, equal to  
3172 not less than eight (8) times his weekly extended benefit amount.

3173           (3) For the purpose of subparagraph (a) of paragraph  
3174 (1) the term "suitable work" means any work which is within the  
3175 individual's capabilities to perform, if:

3176                   (a) The gross average weekly remuneration payable  
3177 for the work exceeds the sum of the individual's weekly extended  
3178 benefit amount plus the amount, if any, of supplemental  
3179 unemployment benefits (as defined in Section 501(c)(17)(D) of the  
3180 Internal Revenue Code of 1954) payable to such individual for such  
3181 week;

3182                   (b) The wages payable for the work equal the  
3183 higher of the minimum wages provided by Section 6(a)(1) of the  
3184 Fair Labor Standards Act of 1938 (without regard to any  
3185 exemption), or the state or local minimum wage; and

3186                   (c) The position was offered to the individual in  
3187 writing or was listed with the state employment service; and

3188                   (d) Such work otherwise meets the definition of  
3189 "suitable work" for regular benefits contained in Section

3190 71-5-513A(4) to the extent that such criteria of suitability are  
3191 not inconsistent with the provisions of this paragraph (3); and

3192 (e) The individual cannot furnish satisfactory  
3193 evidence to the department that his prospects for obtaining work  
3194 in his customary occupation within a reasonably short period are  
3195 good. If such evidence is deemed satisfactory for this purpose,  
3196 the determination of whether any work is suitable with respect to  
3197 such individual shall be made in accordance with the definition of  
3198 suitable work contained in Section 71-5-513A(4) without regard to  
3199 the definition specified by this paragraph (3).

3200 (4) Notwithstanding any provisions of subsection I to  
3201 the contrary, no work shall be deemed to be suitable work for an  
3202 individual which does not accord with the labor standard  
3203 provisions set forth herein under Section 71-5-513A(4).

3204 (5) The employment service shall refer any claimant  
3205 entitled to extended benefits under this section to any suitable  
3206 work which meets the criteria prescribed in paragraph (3).

3207 (6) An individual shall be disqualified for extended  
3208 benefits for the week, or fraction thereof, which immediately  
3209 follows the day on which he left work voluntarily without good  
3210 cause (as defined in Section 71-5-513A(1)), was discharged for  
3211 misconduct connected with his work, or refused suitable work  
3212 (except as provided in subsection I of this section), and for each  
3213 week thereafter until he has earned remuneration for personal  
3214 services performed for an employer, as in this chapter defined,

3215 equal to not less than eight (8) times his weekly benefit amount,  
3216 as determined in each case.

3217 (7) The provisions of paragraphs I(1) through (6) of  
3218 this section shall not apply to claims for weeks of unemployment  
3219 beginning after March 6, 1993, and before January 1, 1995, and  
3220 during that period the provisions of this chapter applicable to  
3221 claims for regular compensation shall apply.

3222 J. Notwithstanding any other provisions of this chapter, if  
3223 the benefit year of any individual ends within an extended benefit  
3224 period, the remaining balance of extended benefits that such  
3225 individual would, but for this section, be entitled to receive in  
3226 that extended benefit period, with respect to weeks of  
3227 unemployment beginning after the end of the benefit year, shall be  
3228 reduced (but not below zero) by the product of the number of weeks  
3229 for which the individual received any amounts as trade  
3230 readjustment allowances within that benefit year, multiplied by  
3231 the individual's weekly benefit amount for extended benefits.

3232 **SECTION 47.** Section 73-30-25, Mississippi Code of 1972, is  
3233 reenacted as follows:

3234 73-30-25. It is not the intent of this chapter to regulate  
3235 against members of other duly regulated professions in this state  
3236 who do counseling in the normal course of the practice of their  
3237 own profession. This chapter does not apply to:

3238 (a) Any person registered, certified or licensed by the  
3239 state to practice any other occupation or profession while  
3240 rendering counseling services in the performance of the occupation

3241 or profession for which he or she is registered, certified or  
3242 licensed;

3243 (b) Certified school counselors when they are  
3244 practicing counseling within the scope of their employment;

3245 (c) Certified vocational counselors when they are  
3246 practicing vocational counseling within the scope of their  
3247 employment;

3248 (d) [Deleted]

3249 (e) Student interns or trainees in counseling pursuing  
3250 a course of study in counseling in a regionally or nationally  
3251 accredited institution of higher learning or training institution  
3252 if activities and services constitute a part of the supervised  
3253 course of study, provided that such persons be designated a  
3254 counselor intern;

3255 (f) [Deleted]

3256 (g) [Deleted]

3257 (h) Duly ordained ministers or clergy while functioning  
3258 in their ministerial capacity and duly accredited Christian  
3259 Science practitioners;

3260 (i) Professional employees of regional mental health  
3261 centers, state mental hospitals, vocational rehabilitation  
3262 institutions, youth court counselors and employees of the  
3263 Mississippi Department of Employment Security or other  
3264 governmental agency so long as they practice within the scope of  
3265 their employment;

3266 (j) Professional employees of alcohol or drug abuse  
3267 centers or treatment facilities, whether privately or publicly  
3268 funded, so long as they practice within the scope of their  
3269 employment;

3270 (k) Private employment counselors;

3271 (l) Any nonresident temporarily employed in this state  
3272 to render counseling services for not more than thirty (30) days  
3273 in any year, if in the opinion of the board the person would  
3274 qualify for a license under this chapter and if the person holds  
3275 any license required for counselors in his or her home state or  
3276 country; and

3277 (m) [Deleted]

3278 **SECTION 48.** Section 43-1-30, Mississippi Code of 1972, is  
3279 reenacted as follows:

3280 43-1-30. (1) There is created the Mississippi TANF  
3281 Implementation Council. It shall serve as the independent, single  
3282 state advisory and review council for assuring Mississippi's  
3283 compliance with the federal Personal Responsibility and Work  
3284 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as  
3285 amended. The council shall further cooperation between  
3286 government, education and the private sector in meeting the needs  
3287 of the TANF program. It shall also further cooperation between  
3288 the business and labor communities, education and training  
3289 delivery systems, and between businesses in developing highly  
3290 skilled workers for high skill, high paying jobs in Mississippi.

3291           (2) The council shall be comprised of thirteen (13) public  
3292 members and certain ex officio nonvoting members. All public  
3293 members of the council shall be appointed as follows by the  
3294 Governor:

3295           Ten (10) members shall be representatives from business and  
3296 industry, provided that no fewer than five (5) members are from  
3297 the manufacturing and industry sector who are also serving as  
3298 members of private industry councils established within the state,  
3299 and one (1) member may be a representative of a nonprofit  
3300 organization. Three (3) members shall be recipients or former  
3301 recipients of TANF assistance appointed from the state at large.

3302           The ex officio nonvoting members of the council shall consist  
3303 of the following, or their designees:

3304           (a) The Executive Director of the Mississippi  
3305 Department of Human Services;

3306           (b) The Executive Director of the Mississippi  
3307 Department of Employment Security;

3308           (c) The Executive Director of the Mississippi  
3309 Development Authority;

3310           (d) The State Superintendent of Public Education;

3311           (e) The Director of the Mississippi Community College  
3312 Board;

3313           (f) The Executive Director of the Division of Medicaid;

3314           (g) The Commissioner of the Mississippi Department of  
3315 Corrections; and

3316           (h) The Director of the Mississippi Cooperative  
3317 Extension Service.

3318           (3) The Governor shall designate one (1) public member to  
3319 serve as chairman of the council for a term of two (2) years and  
3320 until a successor as chairman is appointed and qualified.

3321           (4) The term of office for public members appointed by the  
3322 Governor shall be four (4) years and until their successors are  
3323 appointed and qualified.

3324           (5) Any vacancy shall be filled for the unexpired term by  
3325 the Governor in the manner of the original appointment, unless  
3326 otherwise specified in this section.

3327           (6) Public members shall receive a per diem as authorized in  
3328 Section 25-3-69, for each day actually engaged in meetings of the  
3329 council, and shall be reimbursed for mileage and necessary  
3330 expenses incurred in the performance of their duties, as provided  
3331 in Section 25-3-41.

3332           (7) The council shall:

3333           (a) Annually review and recommend policies and programs  
3334 to the Governor and the Legislature that will implement and meet  
3335 federal requirements under the TANF program.

3336           (b) Annually review and recommend policies and programs  
3337 to the Governor and to the Legislature that will enable citizens  
3338 of Mississippi to acquire the skills necessary to maximize their  
3339 economic self-sufficiency.

3340           (c) Review the provision of services and the use of  
3341 funds and resources under the TANF program, and under all



3342 state-financed job training and job retraining programs, and  
3343 advise the Governor and the Legislature on methods of coordinating  
3344 such provision of services and use of funds and resources  
3345 consistent with the laws and regulations governing such programs.

3346 (d) Assist in developing outcome and output measures to  
3347 measure the success of the Department of Human Services' efforts  
3348 in implementing the TANF program. These recommendations shall be  
3349 made to the Department of Human Services at such times as required  
3350 in the event that the department implements new programs to comply  
3351 with the TANF program requirements.

3352 (e) Collaborate with the Mississippi Development  
3353 Authority, local planning and development districts and local  
3354 industrial development boards, and shall develop an economic  
3355 development plan for the creation of manufacturing jobs in each of  
3356 the counties in the state that has an unemployment rate of ten  
3357 percent (10%) or more, which shall include, but not be limited to,  
3358 procedures for business development, entrepreneurship and  
3359 financial and technical assistance.

3360 (8) A majority of the members of the council shall  
3361 constitute a quorum for the conduct of meetings and all actions of  
3362 the council shall be by a majority of the members present at a  
3363 meeting.

3364 (9) The council shall adopt rules and regulations as it  
3365 deems necessary to carry out its responsibilities under this  
3366 section and under applicable federal human resources programs.

3367 (10) The council may make and enter into contracts and  
3368 interagency agreements as may be necessary and proper.

3369 (11) The council is authorized to commit and expend monies  
3370 appropriated to it by the Legislature for its authorized purposes.  
3371 The council is authorized to solicit, accept and expend public and  
3372 private gifts, grants, awards and contributions related to  
3373 furtherance of its statutory duties.

3374 (12) Funds for the operations of the council shall be  
3375 derived from federal funds for the operation of state councils  
3376 pursuant to applicable federal human resources programs and from  
3377 such other monies appropriated to it by the Legislature.

3378 **SECTION 49.** Section 43-17-5, Mississippi Code of 1972, is  
3379 reenacted and amended as follows:

3380 43-17-5. (1) The amount of Temporary Assistance for Needy  
3381 Families (TANF) benefits which may be granted for any dependent  
3382 child and a needy caretaker relative shall be determined by the  
3383 county department with due regard to the resources and necessary  
3384 expenditures of the family and the conditions existing in each  
3385 case, and in accordance with the rules and regulations made by the  
3386 Department of Human Services which shall not be less than the  
3387 Standard of Need in effect for 1988, and shall be sufficient when  
3388 added to all other income (except that any income specified in the  
3389 federal Social Security Act, as amended, may be disregarded) and  
3390 support available to the child to provide such child with a  
3391 reasonable subsistence compatible with decency and health. The  
3392 first family member in the dependent child's budget may receive an

3393 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;  
3394 the second family member in the dependent child's budget may  
3395 receive an amount not to exceed Thirty-six Dollars (\$36.00) per  
3396 month; and each additional family member in the dependent child's  
3397 budget an amount not to exceed Twenty-four Dollars (\$24.00) per  
3398 month. The maximum for any individual family member in the  
3399 dependent child's budget may be exceeded for foster or medical  
3400 care or in cases of children with an intellectual disability or a  
3401 physical disability. TANF benefits granted shall be specifically  
3402 limited only (a) to children existing or conceived at the time the  
3403 caretaker relative initially applies and qualifies for such  
3404 assistance, unless this limitation is specifically waived by the  
3405 department, or (b) to a child born following a  
3406 twelve-consecutive-month period of discontinued benefits by the  
3407 caretaker relative.

3408 (2) TANF benefits in Mississippi shall be provided to the  
3409 recipient family by an online electronic benefits transfer system.

3410 (3) The Department of Human Services shall deny TANF  
3411 benefits to the following categories of individuals, except for  
3412 individuals and families specifically exempt or excluded for good  
3413 cause as allowed by federal statute or regulation:

3414 (a) Families without a minor child residing with the  
3415 custodial parent or other adult caretaker relative of the child;

3416 (b) Families which include an adult who has received  
3417 TANF assistance for sixty (60) months after the commencement of

3418 the Mississippi TANF program, whether or not such period of time  
3419 is consecutive;

3420 (c) Families not assigning to the state any rights a  
3421 family member may have, on behalf of the family member or of any  
3422 other person for whom the family member has applied for or is  
3423 receiving such assistance, to support from any other person, as  
3424 required by law;

3425 (d) Families who fail to cooperate in establishing  
3426 paternity or obtaining child support, as required by law;

3427 (e) Any individual who has not attained eighteen (18)  
3428 years of age, is not married to the head of household, has a minor  
3429 child at least twelve (12) weeks of age in his or her care, and  
3430 has not successfully completed a high school education or its  
3431 equivalent, if such individual does not participate in educational  
3432 activities directed toward the attainment of a high school diploma  
3433 or its equivalent, or an alternative educational or training  
3434 program approved by the department;

3435 (f) Any individual who has not attained eighteen (18)  
3436 years of age, is not married, has a minor child in his or her  
3437 care, and does not reside in a place or residence maintained by a  
3438 parent, legal guardian or other adult relative or the individual  
3439 as such parent's, guardian's or adult relative's own home;

3440 (g) Any minor child who has been, or is expected by a  
3441 parent or other caretaker relative of the child to be, absent from  
3442 the home for a period of more than thirty (30) days;

3443           (h) Any individual who is a parent or other caretaker  
3444 relative of a minor child who fails to notify the department of  
3445 the absence of the minor child from the home for the thirty-day  
3446 period specified in paragraph (g), by the end of the five-day  
3447 period that begins with the date that it becomes clear to the  
3448 individual that the minor child will be absent for the thirty-day  
3449 period;

3450           (i) Any individual who fails to comply with the  
3451 provisions of the Employability Development Plan signed by the  
3452 individual which prescribe those activities designed to help the  
3453 individual become and remain employed, or to participate  
3454 satisfactorily in the assigned work activity, as authorized under  
3455 subsection (6) (c) and (d), or who does not engage in applicant job  
3456 search activities within the thirty-day period for TANF  
3457 application approval after receiving the advice and consultation  
3458 of eligibility workers and/or caseworkers of the department  
3459 providing a detailed description of available job search venues in  
3460 the individual's county of residence or the surrounding counties;

3461           (j) A parent or caretaker relative who has not engaged  
3462 in an allowable work activity once the department determines the  
3463 parent or caretaker relative is ready to engage in work, or once  
3464 the parent or caretaker relative has received TANF assistance  
3465 under the program for twenty-four (24) months, whether or not  
3466 consecutive, whichever is earlier;

3467           (k) Any individual who is fleeing to avoid prosecution,  
3468 or custody or confinement after conviction, under the laws of the

3469 jurisdiction from which the individual flees, for a crime, or an  
3470 attempt to commit a crime, which is a felony under the laws of the  
3471 place from which the individual flees, or who is violating a  
3472 condition of probation or parole imposed under federal or state  
3473 law;

3474 (l) Aliens who are not qualified under federal law;

3475 (m) For a period of ten (10) years following  
3476 conviction, individuals convicted in federal or state court of  
3477 having made a fraudulent statement or representation with respect  
3478 to the individual's place of residence in order to receive TANF,  
3479 food stamps or Supplemental Security Income (SSI) assistance under  
3480 Title XVI or Title XIX simultaneously from two (2) or more states;

3481 (n) Individuals who are recipients of federal  
3482 Supplemental Security Income (SSI) assistance; and

3483 (o) Individuals who are eighteen (18) years of age or  
3484 older who are not in compliance with the drug testing and  
3485 substance use disorder treatment requirements of Section 43-17-6.

3486 (4) (a) Any person who is otherwise eligible for TANF  
3487 benefits, including custodial and noncustodial parents, shall be  
3488 required to attend school and meet the monthly attendance  
3489 requirement as provided in this subsection if all of the following  
3490 apply:

3491 (i) The person is under age twenty (20);

3492 (ii) The person has not graduated from a public or  
3493 private high school or obtained a High School Equivalency Diploma  
3494 equivalent;

3495 (iii) The person is physically able to attend  
3496 school and is not excused from attending school; and

3497 (iv) If the person is a parent or caretaker  
3498 relative with whom a dependent child is living, child care is  
3499 available for the child.

3500 The monthly attendance requirement under this subsection  
3501 shall be attendance at the school in which the person is enrolled  
3502 for each day during a month that the school conducts classes in  
3503 which the person is enrolled, with not more than two (2) absences  
3504 during the month for reasons other than the reasons listed in  
3505 paragraph (e)(iv) of this subsection. Persons who fail to meet  
3506 participation requirements in this subsection shall be subject to  
3507 sanctions as provided in paragraph (f) of this subsection.

3508 (b) As used in this subsection, "school" means any one  
3509 (1) of the following:

3510 (i) A school as defined in Section 37-13-91(2);

3511 (ii) A vocational, technical and adult education  
3512 program; or

3513 (iii) A course of study meeting the standards  
3514 established by the State Department of Education for the granting  
3515 of a declaration of equivalency of high school graduation.

3516 (c) If any compulsory-school-age child, as defined in  
3517 Section 37-13-91(2), to which TANF eligibility requirements apply  
3518 is not in compliance with the compulsory school attendance  
3519 requirements of Section 37-13-91(6), the superintendent of schools  
3520 of the school district in which the child is enrolled or eligible

3521 to attend shall notify the county department of human services of  
3522 the child's noncompliance. The Department of Human Services shall  
3523 review school attendance information as provided under this  
3524 paragraph at all initial eligibility determinations and upon  
3525 subsequent report of unsatisfactory attendance.

3526 (d) The signature of a person on an application for  
3527 TANF benefits constitutes permission for the release of school  
3528 attendance records for that person or for any child residing with  
3529 that person. The department shall request information from the  
3530 child's school district about the child's attendance in the school  
3531 district's most recently completed semester of attendance. If  
3532 information about the child's previous school attendance is not  
3533 available or cannot be verified, the department shall require the  
3534 child to meet the monthly attendance requirement for one (1)  
3535 semester or until the information is obtained. The department  
3536 shall use the attendance information provided by a school district  
3537 to verify attendance for a child. The department shall review  
3538 with the parent or caretaker relative a child's claim that he or  
3539 she has a good cause for not attending school.

3540 A school district shall provide information to the department  
3541 about the attendance of a child who is enrolled in a public school  
3542 in the district within five (5) working days of the receipt of a  
3543 written request for that information from the department. The  
3544 school district shall define how many hours of attendance count as  
3545 a full day and shall provide that information, upon request, to  
3546 the department. In reporting attendance, the school district may



3547 add partial days' absence together to constitute a full day's  
3548 absence.

3549         If a school district fails to provide to the department the  
3550 information about the school attendance of any child within  
3551 fifteen (15) working days after a written request, the department  
3552 shall notify the Department of Audit within three (3) working days  
3553 of the school district's failure to comply with that requirement.  
3554 The Department of Audit shall begin audit proceedings within five  
3555 (5) working days of notification by the Department of Human  
3556 Services to determine the school district's compliance with the  
3557 requirements of this subsection (4). If the Department of Audit  
3558 finds that the school district is not in compliance with the  
3559 requirements of this subsection, the school district shall be  
3560 penalized as follows: The Department of Audit shall notify the  
3561 State Department of Education of the school district's  
3562 noncompliance, and the Department of Education shall reduce the  
3563 calculation of the school district's average daily attendance  
3564 (ADA) that is used to determine the allocation of Mississippi  
3565 Adequate Education Program funds by the number of children for  
3566 which the district has failed to provide to the Department of  
3567 Human Services the required information about the school  
3568 attendance of those children. The reduction in the calculation of  
3569 the school district's ADA under this paragraph shall be effective  
3570 for a period of one (1) year.

3571         (e) A child who is required to attend school to meet  
3572 the requirements under this subsection shall comply except when

3573 there is good cause, which shall be demonstrated by any of the  
3574 following circumstances:

3575 (i) The minor parent is the caretaker of a child  
3576 less than twelve (12) weeks old; or

3577 (ii) The department determines that child care  
3578 services are necessary for the minor parent to attend school and  
3579 there is no child care available; or

3580 (iii) The child is prohibited by the school  
3581 district from attending school and an expulsion is pending. This  
3582 exemption no longer applies once the teenager has been expelled;  
3583 however, a teenager who has been expelled and is making  
3584 satisfactory progress towards obtaining a High School Equivalency  
3585 Diploma equivalent shall be eligible for TANF benefits; or

3586 (iv) The child failed to attend school for one or  
3587 more of the following reasons:

3588 1. Illness, injury or incapacity of the child  
3589 or the minor parent's child;

3590 2. Court-required appearances or temporary  
3591 incarceration;

3592 3. Medical or dental appointments for the  
3593 child or minor parent's child;

3594 4. Death of a close relative;

3595 5. Observance of a religious holiday;

3596 6. Family emergency;

3597 7. Breakdown in transportation;

3598 8. Suspension; or

3599                   9. Any other circumstance beyond the control  
3600 of the child, as defined in regulations of the department.

3601                   (f) Upon determination that a child has failed without  
3602 good cause to attend school as required, the department shall  
3603 provide written notice to the parent or caretaker relative  
3604 (whoever is the primary recipient of the TANF benefits) that  
3605 specifies:

3606                   (i) That the family will be sanctioned in the next  
3607 possible payment month because the child who is required to attend  
3608 school has failed to meet the attendance requirement of this  
3609 subsection;

3610                   (ii) The beginning date of the sanction, and the  
3611 child to whom the sanction applies;

3612                   (iii) The right of the child's parents or  
3613 caretaker relative (whoever is the primary recipient of the TANF  
3614 benefits) to request a fair hearing under this subsection.

3615                   The child's parent or caretaker relative (whoever is the  
3616 primary recipient of the TANF benefits) may request a fair hearing  
3617 on the department's determination that the child has not been  
3618 attending school. If the child's parents or caretaker relative  
3619 does not request a fair hearing under this subsection, or if,  
3620 after a fair hearing has been held, the hearing officer finds that  
3621 the child without good cause has failed to meet the monthly  
3622 attendance requirement, the department shall discontinue or deny  
3623 TANF benefits to the child thirteen (13) years old, or older, in  
3624 the next possible payment month. The department shall discontinue

3625 or deny twenty-five percent (25%) of the family grant when a child  
3626 six (6) through twelve (12) years of age without good cause has  
3627 failed to meet the monthly attendance requirement. Both the child  
3628 and family sanction may apply when children in both age groups  
3629 fail to meet the attendance requirement without good cause. A  
3630 sanction applied under this subsection shall be effective for one  
3631 (1) month for each month that the child failed to meet the monthly  
3632 attendance requirement. In the case of a dropout, the sanction  
3633 shall remain in force until the parent or caretaker relative  
3634 provides written proof from the school district that the child has  
3635 reenrolled and met the monthly attendance requirement for one (1)  
3636 calendar month. Any month in which school is in session for at  
3637 least ten (10) days during the month may be used to meet the  
3638 attendance requirement under this subsection. This includes  
3639 attendance at summer school. The sanction shall be removed the  
3640 next possible payment month.

3641 (5) All parents or caretaker relatives shall have their  
3642 dependent children receive vaccinations and booster vaccinations  
3643 against those diseases specified by the State Health Officer under  
3644 Section 41-23-37 in accordance with the vaccination and booster  
3645 vaccination schedule prescribed by the State Health Officer for  
3646 children of that age, in order for the parents or caretaker  
3647 relatives to be eligible or remain eligible to receive TANF  
3648 benefits. Proof of having received such vaccinations and booster  
3649 vaccinations shall be given by presenting the certificates of  
3650 vaccination issued by any health care provider licensed to

3651 administer vaccinations, and submitted on forms specified by the  
3652 State Board of Health. If the parents without good cause do not  
3653 have their dependent children receive the vaccinations and booster  
3654 vaccinations as required by this subsection and they fail to  
3655 comply after thirty (30) days' notice, the department shall  
3656 sanction the family's TANF benefits by twenty-five percent (25%)  
3657 for the next payment month and each subsequent payment month until  
3658 the requirements of this subsection are met.

3659 (6) (a) If the parent or caretaker relative applying for  
3660 TANF assistance is work eligible, as determined by the Department  
3661 of Human Services, the person shall be required to engage in an  
3662 allowable work activity once the department determines the parent  
3663 or caretaker relative is determined work eligible, or once the  
3664 parent or caretaker relative has received TANF assistance under  
3665 the program for twenty-four (24) months, whether or not  
3666 consecutive, whichever is earlier. No TANF benefits shall be  
3667 given to any person to whom this section applies who fails without  
3668 good cause to comply with the Employability Development Plan  
3669 prepared by the department for the person, or who has refused to  
3670 accept a referral or offer of employment, training or education in  
3671 which he or she is able to engage, subject to the penalties  
3672 prescribed in paragraph (e) of this subsection. A person shall be  
3673 deemed to have refused to accept a referral or offer of  
3674 employment, training or education if he or she:

3675 (i) Willfully fails to report for an interview  
3676 with respect to employment when requested to do so by the  
3677 department; or

3678 (ii) Willfully fails to report to the department  
3679 the result of a referral to employment; or

3680 (iii) Willfully fails to report for allowable work  
3681 activities as prescribed in paragraphs (c) and (d) of this  
3682 subsection.

3683 (b) The Department of Human Services shall operate a  
3684 statewide work program for TANF recipients to provide work  
3685 activities and supportive services to enable families to become  
3686 self-sufficient and improve their competitive position in the  
3687 workforce in accordance with the requirements of the federal  
3688 Personal Responsibility and Work Opportunity Reconciliation Act of  
3689 1996 (Public Law 104-193), as amended, and the regulations  
3690 promulgated thereunder, and the Deficit Reduction Act of 2005  
3691 (Public Law 109-171), as amended. Within sixty (60) days after  
3692 the initial application for TANF benefits, the TANF recipient must  
3693 participate in a job search skills training workshop or a job  
3694 readiness program, which shall include resume writing, job search  
3695 skills, employability skills and, if available at no charge, the  
3696 General Aptitude Test Battery or its equivalent. All adults who  
3697 are not specifically exempt shall be referred by the department  
3698 for allowable work activities. An adult may be exempt from the  
3699 mandatory work activity requirement for the following reasons:

3700 (i) Incapacity;

3701                   (ii) Temporary illness or injury, verified by  
3702 physician's certificate;

3703                   (iii) Is in the third trimester of pregnancy, and  
3704 there are complications verified by the certificate of a  
3705 physician, nurse practitioner, physician assistant, or any other  
3706 licensed health care professional practicing under a protocol with  
3707 a licensed physician;

3708                   (iv) Caretaker of a child under twelve (12)  
3709 months, for not more than twelve (12) months of the sixty-month  
3710 maximum benefit period;

3711                   (v) Caretaker of an ill or incapacitated person,  
3712 as verified by physician's certificate;

3713                   (vi) Age, if over sixty (60) or under eighteen  
3714 (18) years of age;

3715                   (vii) Receiving treatment for substance abuse, if  
3716 the person is in compliance with the substance abuse treatment  
3717 plan;

3718                   (viii) In a two-parent family, the caretaker of a  
3719 severely disabled child, as verified by a physician's certificate;  
3720 or

3721                   (ix) History of having been a victim of domestic  
3722 violence, which has been reported as required by state law and is  
3723 substantiated by police reports or court records, and being at  
3724 risk of further domestic violence, shall be exempt for a period as  
3725 deemed necessary by the department but not to exceed a total of  
3726 twelve (12) months, which need not be consecutive, in the

3727 sixty-month maximum benefit period. For the purposes of this  
3728 subparagraph (ix), "domestic violence" means that an individual  
3729 has been subjected to:

3730 1. Physical acts that resulted in, or  
3731 threatened to result in, physical injury to the individual;

3732 2. Sexual abuse;

3733 3. Sexual activity involving a dependent  
3734 child;

3735 4. Being forced as the caretaker relative of  
3736 a dependent child to engage in nonconsensual sexual acts or  
3737 activities;

3738 5. Threats of, or attempts at, physical or  
3739 sexual abuse;

3740 6. Mental abuse; or

3741 7. Neglect or deprivation of medical care.

3742 (c) For all families, all adults who are not  
3743 specifically exempt shall be required to participate in work  
3744 activities for at least the minimum average number of hours per  
3745 week specified by federal law or regulation, not fewer than twenty  
3746 (20) hours per week (thirty-five (35) hours per week for  
3747 two-parent families) of which are attributable to the following  
3748 allowable work activities:

3749 (i) Unsubsidized employment;

3750 (ii) Subsidized private employment;

3751 (iii) Subsidized public employment;



3752 (iv) Work experience (including work associated  
3753 with the refurbishing of publicly assisted housing), if sufficient  
3754 private employment is not available;

3755 (v) On-the-job training;

3756 (vi) Job search and job readiness assistance  
3757 consistent with federal TANF regulations;

3758 (vii) Community service programs;

3759 (viii) Vocational educational training (not to  
3760 exceed twelve (12) months with respect to any individual);

3761 (ix) The provision of child care services to an  
3762 individual who is participating in a community service program;

3763 (x) Satisfactory attendance at high school or in a  
3764 course of study leading to a high school equivalency certificate,  
3765 for heads of household under age twenty (20) who have not  
3766 completed high school or received such certificate;

3767 (xi) Education directly related to employment, for  
3768 heads of household under age twenty (20) who have not completed  
3769 high school or received such equivalency certificate.

3770 (d) The following are allowable work activities which  
3771 may be attributable to hours in excess of the minimum specified  
3772 in \* \* \* paragraph (c) of this subsection:

3773 (i) Job skills training directly related to  
3774 employment;

3775 (ii) Education directly related to employment for  
3776 individuals who have not completed high school or received a high  
3777 school equivalency certificate;

3778 (iii) Satisfactory attendance at high school or in  
3779 a course of study leading to a high school equivalency, for  
3780 individuals who have not completed high school or received such  
3781 equivalency certificate;

3782 (iv) Job search and job readiness assistance  
3783 consistent with federal TANF regulations.

3784 (e) If any adult or caretaker relative refuses to  
3785 participate in allowable work activity as required under this  
3786 subsection (6), the following full family TANF benefit penalty  
3787 will apply, subject to due process to include notification,  
3788 conciliation and a hearing if requested by the recipient:

3789 (i) For the first violation, the department shall  
3790 terminate the TANF assistance otherwise payable to the family for  
3791 a two-month period or until the person has complied with the  
3792 required work activity, whichever is longer;

3793 (ii) For the second violation, the department  
3794 shall terminate the TANF assistance otherwise payable to the  
3795 family for a six-month period or until the person has complied  
3796 with the required work activity, whichever is longer;

3797 (iii) For the third violation, the department  
3798 shall terminate the TANF assistance otherwise payable to the  
3799 family for a twelve-month period or until the person has complied  
3800 with the required work activity, whichever is longer;

3801 (iv) For the fourth violation, the person shall be  
3802 permanently disqualified.

3803           For a two-parent family, unless prohibited by state or  
3804 federal law, Medicaid assistance shall be terminated only for the  
3805 person whose failure to participate in allowable work activity  
3806 caused the family's TANF assistance to be sanctioned under  
3807 this \* \* \* paragraph (e), unless an individual is pregnant, but  
3808 shall not be terminated for any other person in the family who is  
3809 meeting that person's applicable work requirement or who is not  
3810 required to work. Minor children shall continue to be eligible  
3811 for Medicaid benefits regardless of the disqualification of their  
3812 parent or caretaker relative for TANF assistance under this  
3813 subsection (6), unless prohibited by state or federal law.

3814           (f) Any person enrolled in a two-year or four-year  
3815 college program who meets the eligibility requirements to receive  
3816 TANF benefits, and who is meeting the applicable work requirements  
3817 and all other applicable requirements of the TANF program, shall  
3818 continue to be eligible for TANF benefits while enrolled in the  
3819 college program for as long as the person meets the requirements  
3820 of the TANF program, unless prohibited by federal law.

3821           (g) No adult in a work activity required under this  
3822 subsection (6) shall be employed or assigned (i) when any other  
3823 individual is on layoff from the same or any substantially  
3824 equivalent job within six (6) months before the date of the TANF  
3825 recipient's employment or assignment; or (ii) if the employer has  
3826 terminated the employment of any regular employee or otherwise  
3827 caused an involuntary reduction of its workforce in order to fill  
3828 the vacancy so created with an adult receiving TANF assistance.

3829 The Mississippi Department of Employment Security, established  
3830 under Section 71-5-101, shall appoint one or more impartial  
3831 hearing officers to hear and decide claims by employees of  
3832 violations of this paragraph (g). The hearing officer shall hear  
3833 all the evidence with respect to any claim made hereunder and such  
3834 additional evidence as he may require and shall make a  
3835 determination and the reason therefor. The claimant shall be  
3836 promptly notified of the decision of the hearing officer and the  
3837 reason therefor. Within ten (10) days after the decision of the  
3838 hearing officer has become final, any party aggrieved thereby may  
3839 secure judicial review thereof by commencing an action, in the  
3840 circuit court of the county in which the claimant resides, against  
3841 the department for the review of such decision, in which action  
3842 any other party to the proceeding before the hearing officer shall  
3843 be made a defendant. Any such appeal shall be on the record which  
3844 shall be certified to the court by the department in the manner  
3845 provided in Section 71-5-531, and the jurisdiction of the court  
3846 shall be confined to questions of law which shall render its  
3847 decision as provided in that section.

3848 (7) The Department of Human Services may provide child care  
3849 for eligible participants who require such care so that they may  
3850 accept employment or remain employed. The department may also  
3851 provide child care for those participating in the TANF program  
3852 when it is determined that they are satisfactorily involved in  
3853 education, training or other allowable work activities. The  
3854 department may contract with Head Start agencies to provide child

3855 care services to TANF recipients. The department may also arrange  
3856 for child care by use of contract or vouchers, provide vouchers in  
3857 advance to a caretaker relative, reimburse a child care provider,  
3858 or use any other arrangement deemed appropriate by the department,  
3859 and may establish different reimbursement rates for child care  
3860 services depending on the category of the facility or home. Any  
3861 center-based or group home child care facility under this  
3862 subsection shall be licensed by the State Department of Health  
3863 pursuant to law. When child care is being provided in the child's  
3864 own home, in the home of a relative of the child, or in any other  
3865 unlicensed setting, the provision of such child care may be  
3866 monitored on a random basis by the Department of Human Services or  
3867 the State Department of Health. Transitional child care  
3868 assistance may be continued if it is necessary for parents to  
3869 maintain employment once support has ended, unless prohibited  
3870 under state or federal law. Transitional child care assistance  
3871 may be provided for up to twenty-four (24) months after the last  
3872 month during which the family was eligible for TANF assistance, if  
3873 federal funds are available for such child care assistance.

3874 (8) The Department of Human Services may provide  
3875 transportation or provide reasonable reimbursement for  
3876 transportation expenses that are necessary for individuals to be  
3877 able to participate in allowable work activity under the TANF  
3878 program.

3879 (9) Medicaid assistance shall be provided to a family of  
3880 TANF program participants for up to twenty-four (24) consecutive

3881 calendar months following the month in which the participating  
3882 family would be ineligible for TANF benefits because of increased  
3883 income, expiration of earned income disregards, or increased hours  
3884 of employment of the caretaker relative; however, Medicaid  
3885 assistance for more than twelve (12) months may be provided only  
3886 if a federal waiver is obtained to provide such assistance for  
3887 more than twelve (12) months and federal and state funds are  
3888 available to provide such assistance.

3889 (10) The department shall require applicants for and  
3890 recipients of public assistance from the department to sign a  
3891 personal responsibility contract that will require the applicant  
3892 or recipient to acknowledge his or her responsibilities to the  
3893 state.

3894 (11) The department shall enter into an agreement with the  
3895 State Personnel Board and other state agencies that will allow  
3896 those TANF participants who qualify for vacant jobs within state  
3897 agencies to be placed in state jobs. State agencies participating  
3898 in the TANF work program shall receive any and all benefits  
3899 received by employers in the private sector for hiring TANF  
3900 recipients. This subsection (11) shall be effective only if the  
3901 state obtains any necessary federal waiver or approval and if  
3902 federal funds are available therefor.

3903 (12) Any unspent TANF funds remaining from the prior fiscal  
3904 year may be expended for any TANF allowable activities.

3905 (13) The Mississippi Department of Human Services shall  
3906 provide TANF applicants information and referral to programs that

3907 provide information about birth control, prenatal health care,  
3908 abstinence education, marriage education, family preservation and  
3909 fatherhood.

3910 (14) No new TANF program requirement or restriction  
3911 affecting a person's eligibility for TANF assistance, or allowable  
3912 work activity, which is not mandated by federal law or regulation  
3913 may be implemented by the Department of Human Services after July  
3914 1, 2004, unless such is specifically authorized by an amendment to  
3915 this section by the Legislature.

3916 **SECTION 50.** Section 43-19-45, Mississippi Code of 1972, is  
3917 reenacted as follows:

3918 43-19-45. (1) The Child Support Unit shall establish a  
3919 state parent locator service for the purpose of locating absent  
3920 and nonsupporting parents and alleged parents, which will utilize  
3921 all appropriate public and private locator sources. In order to  
3922 carry out the responsibilities imposed under Sections 43-19-31  
3923 through 43-19-53, the Child Support Unit may secure, by  
3924 administrative subpoena from the customer records of public  
3925 utilities and cable television companies, the names and addresses  
3926 of individuals and the names and addresses of employers of such  
3927 individuals that would enable the location of parents or alleged  
3928 parents who have a duty to provide support and maintenance for  
3929 their children. The Child Support Unit may also administratively  
3930 subpoena any and all financial information, including account  
3931 numbers, names and social security numbers of record for assets,  
3932 accounts, and account balances from any individual, financial

3933 institution, business or other entity, public or private, needed  
3934 to establish, modify or enforce a support order. No entity  
3935 complying with an administrative subpoena to supply the requested  
3936 information of whatever nature shall be liable in any civil action  
3937 or proceeding on account of such compliance. Full faith and  
3938 credit shall be given to all uniform administrative subpoenas  
3939 issued by other state child support units. The recipient of an  
3940 administrative subpoena shall supply the Child Support Unit, other  
3941 state and federal IV-D agencies, its attorneys, investigators,  
3942 probation officers, county or district attorneys in this state,  
3943 all information relative to the location, employment,  
3944 employment-related benefits including, but not limited to,  
3945 availability of medical insurance, income and property of such  
3946 parents and alleged parents and with all information on hand  
3947 relative to the location and prosecution of any person who has, by  
3948 means of a false statement or misrepresentation or by  
3949 impersonation or other fraudulent device, obtained Temporary  
3950 Assistance for Needy Families (TANF) to which he or she was not  
3951 entitled, notwithstanding any provision of law making such  
3952 information confidential. The Mississippi Department of  
3953 Information Technology Services and any other agency in this state  
3954 using the facilities of the Mississippi Department of Information  
3955 Technology Services are directed to permit the Child Support Unit  
3956 access to their files, inclusive of those maintained for other  
3957 state agencies, for the purpose of locating absent and  
3958 nonsupporting parents and alleged parents, except to the extent



3959 that any such access would violate any valid federal statute or  
3960 regulation issued pursuant thereto. The Child Support Unit, other  
3961 state and federal IV-D agencies, its attorneys, investigators,  
3962 probation officers, or county or district attorneys, shall use  
3963 such information only for the purpose of investigating or  
3964 enforcing the support liability of such absent parents or alleged  
3965 parents or for the prosecution of other persons mentioned herein.  
3966 Neither the Child Support Unit nor those authorities shall use the  
3967 information, or disclose it, for any other purpose. All records  
3968 maintained pursuant to the provisions of Sections 43-19-31 through  
3969 43-19-53 shall be confidential and shall be available only to the  
3970 Child Support Unit, other state and federal IV-D agencies, the  
3971 attorneys, investigators and other staff employed or under  
3972 contract under Sections 43-19-31 through 43-19-53, district or  
3973 county attorneys, probation departments, child support units in  
3974 other states, and courts having jurisdiction in paternity, support  
3975 or abandonment proceedings. The Child Support Unit may release to  
3976 the public the name, photo, last-known address, arrearage amount  
3977 and other necessary information of a parent who has a judgment  
3978 against him for child support and is currently in arrears in the  
3979 payment of this support. Such release may be included in a "Most  
3980 Wanted List" or other media in order to solicit assistance.

3981 (2) The Child Support Unit shall have the authority to  
3982 secure information from the records of the Mississippi Department  
3983 of Employment Security that may be necessary to locate absent and  
3984 nonsupporting parents and alleged parents under the provisions of

3985 Sections 43-19-31 through 43-19-53. Upon request of the Child  
3986 Support Unit, all departments, boards, bureaus and agencies of the  
3987 state shall provide to the Child Support Unit verification of  
3988 employment or payment and the address and social security number  
3989 of any person designated as an absent or nonsupporting parent or  
3990 alleged parent. In addition, upon request of the Child Support  
3991 Unit, the Mississippi Department of Employment Security, or any  
3992 private employer or payor of any income to a person designated as  
3993 an absent or nonsupporting parent or alleged parent, shall provide  
3994 to the Child Support Unit verification of employment or payment  
3995 and the address and social security number of the person so  
3996 designated. Full faith and credit shall be given to such notices  
3997 issued by child support units in other states. All such records  
3998 and information shall be confidential and shall not be used for  
3999 any purposes other than those specified by Sections 43-19-31  
4000 through 43-19-53. The violation of the provisions of this  
4001 subsection shall be unlawful and any person convicted of violating  
4002 the provisions of this subsection shall be guilty of a misdemeanor  
4003 and shall pay a fine of not more than Two Hundred Dollars  
4004 (\$200.00).

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

4010 action or proceeding brought by the obligor or obligee on account  
4011 of such compliance.

4012           **SECTION 51.** Section 43-19-46, Mississippi Code of 1972, is  
4013 reenacted as follows:

4014           43-19-46. (1) Each employer paying wages, salary or  
4015 commission and doing business in Mississippi shall report to the  
4016 Directory of New Hires within the Mississippi Department of Human  
4017 Services:

4018                   (a) The hiring of any person who resides or works in  
4019 this state to whom the employer anticipates paying wages, salary  
4020 or commission; and

4021                   (b) The hiring or return to work of any employee who  
4022 was laid off, furloughed, separated, granted leave without pay or  
4023 was terminated from employment.

4024           (2) Employers shall report, by mailing or by other means  
4025 authorized by the Department of Human Services, a copy of the  
4026 employee's W-4 form or its equivalent that will result in timely  
4027 reporting. Each employer shall submit reports within fifteen (15)  
4028 days of the hiring, rehiring or return to work of the employee.  
4029 The report shall contain:

4030                   (a) The employee's name, address, social security  
4031 number and the date of birth;

4032                   (b) The employer's name, address, and federal and state  
4033 withholding tax identification numbers; and

4034 (c) The date upon which the employee began or resumed  
4035 employment, or is scheduled to begin or otherwise resume  
4036 employment.

4037 (3) The department shall retain the information, which shall  
4038 be forwarded to the federal registry of new hires.

4039 (4) The Department of Human Services may operate the  
4040 program, may enter into a mutual agreement with the Mississippi  
4041 Department of Employment Security or the Department of Revenue, or  
4042 both, for the operation of the Directory of New Hires Program, or  
4043 the Department of Human Services may contract for that service, in  
4044 which case the department shall maintain administrative control of  
4045 the program.

4046 (5) In cases in which an employer fails to report  
4047 information, as required by this section, an administratively  
4048 levied civil penalty in an amount not to exceed Five Hundred  
4049 Dollars (\$500.00) shall apply if the failure is the result of a  
4050 conspiracy between the employer and employee to not supply the  
4051 required report or to supply a false or incomplete report. The  
4052 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).  
4053 Appeal shall be as provided in Section 43-19-58.

4054 **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is  
4055 reenacted as follows:

4056 **[For businesses or industries that received or applied for**  
4057 **incentive payments prior to July 1, 2005, this section shall read**  
4058 **as follows:]**

4059           57-62-5. As used in this chapter, the following words and  
4060 phrases shall have the meanings ascribed in this section unless  
4061 the context clearly indicates otherwise:

4062           (a) "Qualified business or industry" means any  
4063 corporation, limited liability company, partnership, sole  
4064 proprietorship, business trust or other legal entity and subunits  
4065 or affiliates thereof, pursuant to rules and regulations of the  
4066 MDA, which provides an average annual salary, excluding benefits  
4067 which are not subject to Mississippi income taxes, of at least one  
4068 hundred twenty-five percent (125%) of the most recently published  
4069 state average annual wage or the most recently published average  
4070 annual wage of the county in which the qualified business or  
4071 industry is located as determined by the Mississippi Department of  
4072 Employment Security, whichever is the lesser. An establishment  
4073 shall not be considered to be a qualified business or industry  
4074 unless it offers, or will offer within one hundred eighty (180)  
4075 days of the date it receives the first incentive payment pursuant  
4076 to the provisions of this chapter, a basic health benefits plan to  
4077 the individuals it employs in new direct jobs in this state which  
4078 is approved by the MDA. Qualified business or industry does not  
4079 include retail business or gaming business;

4080           (b) "New direct job" means full-time employment in this  
4081 state in a qualified business or industry that has qualified to  
4082 receive an incentive payment pursuant to this chapter, which  
4083 employment did not exist in this state before the date of approval  
4084 by the MDA of the application of the qualified business or

4085 industry pursuant to the provisions of this chapter. "New direct  
4086 job" shall include full-time employment in this state of employees  
4087 who are employed by an entity other than the establishment that  
4088 has qualified to receive an incentive payment and who are leased  
4089 to the qualified business or industry, if such employment did not  
4090 exist in this state before the date of approval by the MDA of the  
4091 application of the establishment;

4092 (c) "Full-time job" means a job of at least thirty-five  
4093 (35) hours per week;

4094 (d) "Estimated direct state benefits" means the tax  
4095 revenues projected by the MDA to accrue to the state as a result  
4096 of the qualified business or industry;

4097 (e) "Estimated direct state costs" means the costs  
4098 projected by the MDA to accrue to the state as a result of the  
4099 qualified business or industry;

4100 (f) "Estimated net direct state benefits" means the  
4101 estimated direct state benefits less the estimated direct state  
4102 costs;

4103 (g) "Net benefit rate" means the estimated net direct  
4104 state benefits computed as a percentage of gross payroll, provided  
4105 that:

4106 (i) Except as otherwise provided in this paragraph  
4107 (g), the net benefit rate may be variable and shall not exceed  
4108 four percent (4%) of the gross payroll; and shall be set in the  
4109 sole discretion of the MDA;

4110 (ii) In no event shall incentive payments,  
4111 cumulatively, exceed the estimated net direct state benefits;

4112 (h) "Gross payroll" means wages for new direct jobs of  
4113 the qualified business or industry; and

4114 (i) "MDA" means the Mississippi Development Authority.

4115 **[For businesses or industries that received or applied for**  
4116 **incentive payments from and after July 1, 2005, but prior to July**  
4117 **1, 2010, this section shall read as follows:]**

4118 57-62-5. As used in this chapter, the following words and  
4119 phrases shall have the meanings ascribed in this section unless  
4120 the context clearly indicates otherwise:

4121 (a) "Qualified business or industry" means any  
4122 corporation, limited liability company, partnership, sole  
4123 proprietorship, business trust or other legal entity and subunits  
4124 or affiliates thereof, pursuant to rules and regulations of the  
4125 MDA, which:

4126 (i) Is a data/information processing enterprise  
4127 meeting minimum criteria established by the MDA that provides an  
4128 average annual salary, excluding benefits which are not subject to  
4129 Mississippi income taxes, of at least one hundred percent (100%)  
4130 of the most recently published state average annual wage or the  
4131 most recently published average annual wage of the county in which  
4132 the qualified business or industry is located as determined by the  
4133 Mississippi Department of Employment Security, whichever is the  
4134 lesser, and creates not less than two hundred (200) new direct  
4135 jobs if the enterprise is located in a Tier One or Tier Two area

4136 (as such areas are designated in accordance with Section  
4137 57-73-21), or which creates not less than one hundred (100) new  
4138 jobs if the enterprise is located in a Tier Three area (as such  
4139 areas are designated in accordance with Section 57-73-21);

4140 (ii) Is a manufacturing or distribution enterprise  
4141 meeting minimum criteria established by the MDA that provides an  
4142 average annual salary, excluding benefits which are not subject to  
4143 Mississippi income taxes, of at least one hundred ten percent  
4144 (110%) of the most recently published state average annual wage or  
4145 the most recently published average annual wage of the county in  
4146 which the qualified business or industry is located as determined  
4147 by the Mississippi Department of Employment Security, whichever is  
4148 the lesser, invests not less than Twenty Million Dollars  
4149 (\$20,000,000.00) in land, buildings and equipment, and creates not  
4150 less than fifty (50) new direct jobs if the enterprise is located  
4151 in a Tier One or Tier Two area (as such areas are designated in  
4152 accordance with Section 57-73-21), or which creates not less than  
4153 twenty (20) new jobs if the enterprise is located in a Tier Three  
4154 area (as such areas are designated in accordance with Section  
4155 57-73-21);

4156 (iii) Is a corporation, limited liability company,  
4157 partnership, sole proprietorship, business trust or other legal  
4158 entity and subunits or affiliates thereof, pursuant to rules and  
4159 regulations of the MDA, which provides an average annual salary,  
4160 excluding benefits which are not subject to Mississippi income  
4161 taxes, of at least one hundred twenty-five percent (125%) of the



4162 most recently published state average annual wage or the most  
4163 recently published average annual wage of the county in which the  
4164 qualified business or industry is located as determined by the  
4165 Mississippi Department of Employment Security, whichever is the  
4166 lesser, and creates not less than twenty-five (25) new direct jobs  
4167 if the enterprise is located in a Tier One or Tier Two area (as  
4168 such areas are designated in accordance with Section 57-73-21), or  
4169 which creates not less than ten (10) new jobs if the enterprise is  
4170 located in a Tier Three area (as such areas are designated in  
4171 accordance with Section 57-73-21). An establishment shall not be  
4172 considered to be a qualified business or industry unless it  
4173 offers, or will offer within one hundred eighty (180) days of the  
4174 date it receives the first incentive payment pursuant to the  
4175 provisions of this chapter, a basic health benefits plan to the  
4176 individuals it employs in new direct jobs in this state which is  
4177 approved by the MDA. Qualified business or industry does not  
4178 include retail business or gaming business; or

4179                   (iv) Is a research and development or a technology  
4180 intensive enterprise meeting minimum criteria established by the  
4181 MDA that provides an average annual salary, excluding benefits  
4182 which are not subject to Mississippi income taxes, of at least one  
4183 hundred fifty percent (150%) of the most recently published state  
4184 average annual wage or the most recently published average annual  
4185 wage of the county in which the qualified business or industry is  
4186 located as determined by the Mississippi Department of Employment

4187 Security, whichever is the lesser, and creates not less than ten  
4188 (10) new direct jobs.

4189 An establishment shall not be considered to be a qualified  
4190 business or industry unless it offers, or will offer within one  
4191 hundred eighty (180) days of the date it receives the first  
4192 incentive payment pursuant to the provisions of this chapter, a  
4193 basic health benefits plan to the individuals it employs in new  
4194 direct jobs in this state which is approved by the MDA. Qualified  
4195 business or industry does not include retail business or gaming  
4196 business.

4197 (b) "New direct job" means full-time employment in this  
4198 state in a qualified business or industry that has qualified to  
4199 receive an incentive payment pursuant to this chapter, which  
4200 employment did not exist in this state before the date of approval  
4201 by the MDA of the application of the qualified business or  
4202 industry pursuant to the provisions of this chapter. "New direct  
4203 job" shall include full-time employment in this state of employees  
4204 who are employed by an entity other than the establishment that  
4205 has qualified to receive an incentive payment and who are leased  
4206 to the qualified business or industry, if such employment did not  
4207 exist in this state before the date of approval by the MDA of the  
4208 application of the establishment.

4209 (c) "Full-time job" or "full-time employment" means a  
4210 job of at least thirty-five (35) hours per week.

4211 (d) "Estimated direct state benefits" means the tax  
4212 revenues projected by the MDA to accrue to the state as a result  
4213 of the qualified business or industry.

4214 (e) "Estimated direct state costs" means the costs  
4215 projected by the MDA to accrue to the state as a result of the  
4216 qualified business or industry.

4217 (f) "Estimated net direct state benefits" means the  
4218 estimated direct state benefits less the estimated direct state  
4219 costs.

4220 (g) "Net benefit rate" means the estimated net direct  
4221 state benefits computed as a percentage of gross payroll, provided  
4222 that:

4223 (i) Except as otherwise provided in this paragraph  
4224 (g), the net benefit rate may be variable and shall not exceed  
4225 four percent (4%) of the gross payroll; and shall be set in the  
4226 sole discretion of the MDA;

4227 (ii) In no event shall incentive payments,  
4228 cumulatively, exceed the estimated net direct state benefits.

4229 (h) "Gross payroll" means wages for new direct jobs of  
4230 the qualified business or industry.

4231 (i) "MDA" means the Mississippi Development Authority.

4232 **[For businesses or industries that apply for incentive**  
4233 **payments from and after July 1, 2010, this section shall read as**  
4234 **follows:]**

4235           57-62-5. As used in this chapter, the following words and  
4236 phrases shall have the meanings ascribed in this section unless  
4237 the context clearly indicates otherwise:

4238           (a) "Qualified business or industry" means any  
4239 corporation, limited liability company, partnership, sole  
4240 proprietorship, business trust or other legal entity and subunits  
4241 or affiliates thereof, pursuant to rules and regulations of the  
4242 MDA, which:

4243                   (i) Is a data/information processing enterprise  
4244 meeting minimum criteria established by the MDA that provides an  
4245 average annual salary, excluding benefits which are not subject to  
4246 Mississippi income taxes, of at least one hundred percent (100%)  
4247 of the most recently published state average annual wage or the  
4248 most recently published average annual wage of the county in which  
4249 the qualified business or industry is located as determined by the  
4250 Mississippi Department of Employment Security, whichever is the  
4251 lesser, and creates not less than two hundred (200) new direct  
4252 jobs;

4253                   (ii) Is a corporation, limited liability company,  
4254 partnership, sole proprietorship, business trust or other legal  
4255 entity and subunits or affiliates thereof, pursuant to rules and  
4256 regulations of the MDA, which provides an average annual salary,  
4257 excluding benefits which are not subject to Mississippi income  
4258 taxes, of at least one hundred ten percent (110%) of the most  
4259 recently published state average annual wage or the most recently  
4260 published average annual wage of the county in which the qualified

4261 business or industry is located as determined by the Mississippi  
4262 Department of Employment Security, whichever is the lesser, and  
4263 creates not less than twenty-five (25) new direct jobs; or

4264 (iii) Is a corporation, limited liability company,  
4265 partnership, sole proprietorship, business trust or other legal  
4266 entity and subunits or affiliates thereof, pursuant to rules and  
4267 regulations of the MDA, which is a manufacturer that:

4268 1. Provides an average annual salary,  
4269 excluding benefits which are not subject to Mississippi income  
4270 taxes, of at least one hundred ten percent (110%) of the most  
4271 recently published state average annual wage or the most recently  
4272 published average annual wage of the county in which the qualified  
4273 business or industry is located as determined by the Mississippi  
4274 Department of Employment Security, whichever is the lesser;

4275 2. Has a minimum of five thousand (5,000)  
4276 existing employees as of the last day of the previous calendar  
4277 year; and

4278 3. MDA determines will create not less than  
4279 three thousand (3,000) new direct jobs within forty-eight (48)  
4280 months of the date the MDA determines that the applicant is  
4281 qualified to receive incentive payments.

4282 An establishment shall not be considered to be a qualified  
4283 business or industry unless it offers, or will offer within one  
4284 hundred eighty (180) days of the date it receives the first  
4285 incentive payment pursuant to the provisions of this chapter, a  
4286 basic health benefits plan to the individuals it employs in new

4287 direct jobs in this state which is approved by the MDA. Qualified  
4288 business or industry does not include retail business or gaming  
4289 business.

4290 (b) "New direct job" means full-time employment in this  
4291 state in a qualified business or industry that has qualified to  
4292 receive an incentive payment pursuant to this chapter, which  
4293 employment did not exist in this state before the date of approval  
4294 by the MDA of the application of the qualified business or  
4295 industry pursuant to the provisions of this chapter. "New direct  
4296 job" shall include full-time employment in this state of employees  
4297 who are employed by an entity other than the establishment that  
4298 has qualified to receive an incentive payment and who are leased  
4299 to the qualified business or industry, if such employment did not  
4300 exist in this state before the date of approval by the MDA of the  
4301 application of the establishment.

4302 (c) "Full-time job" or "full-time employment" means a  
4303 job of at least thirty-five (35) hours per week.

4304 (d) "Gross payroll" means wages for new direct jobs of  
4305 the qualified business or industry.

4306 (e) "MDA" means the Mississippi Development Authority.

4307 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is  
4308 reenacted as follows:

4309 **[For businesses or industries that received or applied for**  
4310 **incentive payments prior to July 1, 2005, this section shall read**  
4311 **as follows:]**

4312           57-62-9. (1) Except as otherwise provided in this section,  
4313 a qualified business or industry that meets the qualifications  
4314 specified in this chapter may receive quarterly incentive payments  
4315 for a period not to exceed ten (10) years from the Department of  
4316 Revenue pursuant to the provisions of this chapter in an amount  
4317 which shall be equal to the net benefit rate multiplied by the  
4318 actual gross payroll of new direct jobs for a calendar quarter as  
4319 verified by the Mississippi Department of Employment Security, but  
4320 not to exceed the amount of money previously paid into the fund by  
4321 the employer. A qualified business or industry that is a project  
4322 as defined in Section 57-75-5(f)(iv)1 may elect the date upon  
4323 which the ten-year period will begin. Such date may not be later  
4324 than sixty (60) months after the date the business or industry  
4325 applied for incentive payments.

4326           (2) (a) A qualified business or industry that is a project  
4327 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
4328 receive incentive payments for an additional period not to exceed  
4329 five (5) years beyond the expiration date of the initial ten-year  
4330 period if:

4331                           (i) The qualified business or industry creates at  
4332 least three thousand (3,000) new direct jobs within five (5) years  
4333 after the date the business or industry commences commercial  
4334 production;

4335                           (ii) Within five (5) years after the date the  
4336 business or industry commences commercial production, the average  
4337 annual wage of the jobs is at least one hundred fifty percent

4338 (150%) of the most recently published state average annual wage or  
4339 the most recently published average annual wage of the county in  
4340 which the qualified business or industry is located as determined  
4341 by the Mississippi Department of Employment Security, whichever is  
4342 the lesser. The criteria for the average annual wage requirement  
4343 shall be based upon the state average annual wage or the average  
4344 annual wage of the county whichever is appropriate, at the time of  
4345 creation of the minimum number of jobs, and the threshold  
4346 established at that time will remain constant for the duration of  
4347 the additional period; and

4348 (iii) The qualified business or industry meets and  
4349 maintains the job and wage requirements of subparagraphs (i) and  
4350 (ii) of this paragraph (a) for four (4) consecutive calendar  
4351 quarters.

4352 (b) A qualified business or industry that is a project  
4353 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
4354 incentive payments for the additional period provided in paragraph  
4355 (a) of this subsection (2) may apply to the MDA to receive  
4356 incentive payments for an additional period not to exceed ten (10)  
4357 years beyond the expiration date of the additional period provided  
4358 in paragraph (a) of this subsection (2) if:

4359 (i) The qualified business or industry creates at  
4360 least four thousand (4,000) new direct jobs after qualifying for  
4361 the additional incentive period provided in paragraph (a) of this  
4362 subsection (2) but before the expiration of the additional period.  
4363 For purposes of determining whether the business or industry meets



4364 the minimum jobs requirement of this subparagraph (i), the number  
4365 of jobs the business or industry created in order to meet the  
4366 minimum jobs requirement of paragraph (a) of this subsection (2)  
4367 shall be subtracted from the minimum jobs requirement of this  
4368 subparagraph (i);

4369           (ii) The average annual wage of the jobs is at  
4370 least one hundred fifty percent (150%) of the most recently  
4371 published state average annual wage or the most recently published  
4372 average annual wage of the county in which the qualified business  
4373 or industry is located as determined by the Mississippi Department  
4374 of Employment Security, whichever is the lesser. The criteria for  
4375 the average annual wage requirement shall be based upon the state  
4376 average annual wage or the average annual wage of the county  
4377 whichever is appropriate, at the time of creation of the minimum  
4378 number of jobs, and the threshold established at that time will  
4379 remain constant for the duration of the additional period; and

4380           (iii) The qualified business or industry meets and  
4381 maintains the job and wage requirements of subparagraphs (i) and  
4382 (ii) of this paragraph (b) for four (4) consecutive calendar  
4383 quarters.

4384           (3) In order to receive incentive payments, an establishment  
4385 shall apply to the MDA. The application shall be on a form  
4386 prescribed by the MDA and shall contain such information as may be  
4387 required by the MDA to determine if the applicant is qualified.

4388           (4) In order to qualify to receive such payments, the  
4389 establishment applying shall be required to:

4390 (a) Be engaged in a qualified business or industry;

4391 (b) Provide an average salary, excluding benefits which  
4392 are not subject to Mississippi income taxes, of at least one  
4393 hundred twenty-five percent (125%) of the most recently published  
4394 state average annual wage or the most recently published average  
4395 annual wage of the county in which the qualified business or  
4396 industry is located as determined by the Mississippi Department of  
4397 Employment Security, whichever is the lesser. The criteria for  
4398 this requirement shall be based upon the state average annual wage  
4399 or the average annual wage of the county whichever is appropriate,  
4400 at the time of application, and the threshold established upon  
4401 application will remain constant for the duration of the project;

4402 (c) The business or industry must create and maintain a  
4403 minimum of ten (10) full-time jobs in counties that have an  
4404 average unemployment rate over the previous twelve-month period  
4405 which is at least one hundred fifty percent (150%) of the most  
4406 recently published state unemployment rate, as determined by the  
4407 Mississippi Department of Employment Security or in Tier Three  
4408 counties as determined under Section 57-73-21. In all other  
4409 counties, the business or industry must create and maintain a  
4410 minimum of twenty-five (25) full-time jobs. The criteria for this  
4411 requirement shall be based on the designation of the county at the  
4412 time of the application. The threshold established upon the  
4413 application will remain constant for the duration of the project.  
4414 The business or industry must meet its job creation commitment  
4415 within twenty-four (24) months of the application approval.

4416 However, if the qualified business or industry is applying for  
4417 incentive payments for an additional period under subsection (2)  
4418 of this section, the business or industry must comply with the  
4419 applicable job and wage requirements of subsection (2) of this  
4420 section.

4421 (5) The MDA shall determine if the applicant is qualified to  
4422 receive incentive payments. If the applicant is determined to be  
4423 qualified by the MDA, the MDA shall conduct a cost/benefit  
4424 analysis to determine the estimated net direct state benefits and  
4425 the net benefit rate applicable for a period not to exceed ten  
4426 (10) years and to estimate the amount of gross payroll for the  
4427 period. If the applicant is determined to be qualified to receive  
4428 incentive payments for an additional period under subsection (2)  
4429 of this section, the MDA shall conduct a cost/benefit analysis to  
4430 determine the estimated net direct state benefits and the net  
4431 benefit rate applicable for the appropriate additional period and  
4432 to estimate the amount of gross payroll for the additional period.  
4433 In conducting such cost/benefit analysis, the MDA shall consider  
4434 quantitative factors, such as the anticipated level of new tax  
4435 revenues to the state along with the cost to the state of the  
4436 qualified business or industry, and such other criteria as deemed  
4437 appropriate by the MDA, including the adequacy of retirement  
4438 benefits that the business or industry provides to individuals it  
4439 employs in new direct jobs in this state. In no event shall  
4440 incentive payments, cumulatively, exceed the estimated net direct  
4441 state benefits. Once the qualified business or industry is

4442 approved by the MDA, an agreement shall be deemed to exist between  
4443 the qualified business or industry and the State of Mississippi,  
4444 requiring the continued incentive payment to be made as long as  
4445 the qualified business or industry retains its eligibility.

4446 (6) Upon approval of such an application, the MDA shall  
4447 notify the Department of Revenue and shall provide it with a copy  
4448 of the approved application and the estimated net direct state  
4449 benefits. The Department of Revenue may require the qualified  
4450 business or industry to submit such additional information as may  
4451 be necessary to administer the provisions of this chapter. The  
4452 qualified business or industry shall report to the Department of  
4453 Revenue periodically to show its continued eligibility for  
4454 incentive payments. The qualified business or industry may be  
4455 audited by the Department of Revenue to verify such eligibility.  
4456 In addition, the State Auditor may conduct performance and  
4457 compliance audits under this chapter according to Section  
4458 7-7-211(o) and may bill the oversight agency.

4459 (7) If the qualified business or industry is located in an  
4460 area that has been declared by the Governor to be a disaster area  
4461 and as a result of the disaster the business or industry is unable  
4462 to create or maintain the full-time jobs required by this section:

4463 (a) The Commissioner of Revenue may extend the period  
4464 of time that the business or industry may receive incentive  
4465 payments for a period of time not to exceed two (2) years;

4466 (b) The Commissioner of Revenue may waive the  
4467 requirement that a certain number of jobs be maintained for a  
4468 period of time not to exceed twenty-four (24) months; and

4469 (c) The MDA may extend the period of time within which  
4470 the jobs must be created for a period of time not to exceed  
4471 twenty-four (24) months.

4472 **[For businesses or industries that received or applied for**  
4473 **incentive payments from and after July 1, 2005, but prior to July**  
4474 **1, 2010, this section shall read as follows:]**

4475 57-62-9. (1) (a) Except as otherwise provided in this  
4476 section, a qualified business or industry that meets the  
4477 qualifications specified in this chapter may receive quarterly  
4478 incentive payments for a period not to exceed ten (10) years from  
4479 the Department of Revenue pursuant to the provisions of this  
4480 chapter in an amount which shall be equal to the net benefit rate  
4481 multiplied by the actual gross payroll of new direct jobs for a  
4482 calendar quarter as verified by the Mississippi Department of  
4483 Employment Security, but not to exceed:

4484 (i) Ninety percent (90%) of the amount of money  
4485 previously paid into the fund by the employer if the employer  
4486 provides an average annual salary, excluding benefits which are  
4487 not subject to Mississippi income taxes, of at least one hundred  
4488 seventy-five percent (175%) of the most recently published state  
4489 average annual wage or the most recently published average annual  
4490 wage of the county in which the qualified business or industry is

4491 located as determined by the Mississippi Department of Employment  
4492 Security, whichever is the lesser;

4493           (ii) Eighty percent (80%) of the amount of money  
4494 previously paid into the fund by the employer if the employer  
4495 provides an average annual salary, excluding benefits which are  
4496 not subject to Mississippi income taxes, of at least one hundred  
4497 twenty-five percent (125%) but less than one hundred seventy-five  
4498 percent (175%) of the most recently published state average annual  
4499 wage or the most recently published average annual wage of the  
4500 county in which the qualified business or industry is located as  
4501 determined by the Mississippi Department of Employment Security,  
4502 whichever is the lesser; or

4503           (iii) Seventy percent (70%) of the amount of money  
4504 previously paid into the fund by the employer if the employer  
4505 provides an average annual salary, excluding benefits which are  
4506 not subject to Mississippi income taxes, of less than one hundred  
4507 twenty-five percent (125%) of the most recently published state  
4508 average annual wage or the most recently published average annual  
4509 wage of the county in which the qualified business or industry is  
4510 located as determined by the Mississippi Department of Employment  
4511 Security, whichever is the lesser.

4512           (b) A qualified business or industry that is a project  
4513 as defined in Section 57-75-5(f)(iv)1 may elect the date upon  
4514 which the ten-year period will begin. Such date may not be later  
4515 than sixty (60) months after the date the business or industry  
4516 applied for incentive payments.

4517           (2)   (a)   A qualified business or industry that is a project  
4518 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
4519 receive incentive payments for an additional period not to exceed  
4520 five (5) years beyond the expiration date of the initial ten-year  
4521 period if:

4522                       (i)   The qualified business or industry creates at  
4523 least three thousand (3,000) new direct jobs within five (5) years  
4524 after the date the business or industry commences commercial  
4525 production;

4526                       (ii)   Within five (5) years after the date the  
4527 business or industry commences commercial production, the average  
4528 annual wage of the jobs is at least one hundred fifty percent  
4529 (150%) of the most recently published state average annual wage or  
4530 the most recently published average annual wage of the county in  
4531 which the qualified business or industry is located as determined  
4532 by the Mississippi Department of Employment Security, whichever is  
4533 the lesser. The criteria for the average annual wage requirement  
4534 shall be based upon the state average annual wage or the average  
4535 annual wage of the county whichever is appropriate, at the time of  
4536 creation of the minimum number of jobs, and the threshold  
4537 established at that time will remain constant for the duration of  
4538 the additional period; and

4539                       (iii)   The qualified business or industry meets and  
4540 maintains the job and wage requirements of subparagraphs (i) and  
4541 (ii) of this paragraph (a) for four (4) consecutive calendar  
4542 quarters.

4543 (b) A qualified business or industry that is a project  
4544 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
4545 incentive payments for the additional period provided in paragraph  
4546 (a) of this subsection (2) may apply to the MDA to receive  
4547 incentive payments for an additional period not to exceed ten (10)  
4548 years beyond the expiration date of the additional period provided  
4549 in paragraph (a) of this subsection (2) if:

4550 (i) The qualified business or industry creates at  
4551 least four thousand (4,000) new direct jobs after qualifying for  
4552 the additional incentive period provided in paragraph (a) of this  
4553 subsection (2) but before the expiration of the additional period.  
4554 For purposes of determining whether the business or industry meets  
4555 the minimum jobs requirement of this subparagraph (i), the number  
4556 of jobs the business or industry created in order to meet the  
4557 minimum jobs requirement of paragraph (a) of this subsection (2)  
4558 shall be subtracted from the minimum jobs requirement of this  
4559 subparagraph (i);

4560 (ii) The average annual wage of the jobs is at  
4561 least one hundred fifty percent (150%) of the most recently  
4562 published state average annual wage or the most recently published  
4563 average annual wage of the county in which the qualified business  
4564 or industry is located as determined by the Mississippi Department  
4565 of Employment Security, whichever is the lesser. The criteria for  
4566 the average annual wage requirement shall be based upon the state  
4567 average annual wage or the average annual wage of the county  
4568 whichever is appropriate, at the time of creation of the minimum



4569 number of jobs, and the threshold established at that time will  
4570 remain constant for the duration of the additional period; and

4571 (iii) The qualified business or industry meets and  
4572 maintains the job and wage requirements of subparagraphs (i) and  
4573 (ii) of this paragraph (b) for four (4) consecutive calendar  
4574 quarters.

4575 (3) In order to receive incentive payments, an establishment  
4576 shall apply to the MDA. The application shall be on a form  
4577 prescribed by the MDA and shall contain such information as may be  
4578 required by the MDA to determine if the applicant is qualified.

4579 (4) (a) In order to qualify to receive such payments, the  
4580 establishment applying shall be required to meet the definition of  
4581 the term "qualified business or industry";

4582 (b) The criteria for the average annual salary  
4583 requirement shall be based upon the state average annual wage or  
4584 the average annual wage of the county whichever is appropriate, at  
4585 the time of application, and the threshold established upon  
4586 application will remain constant for the duration of the project;

4587 (c) The business or industry must meet its job creation  
4588 commitment within twenty-four (24) months of the application  
4589 approval. However, if the qualified business or industry is  
4590 applying for incentive payments for an additional period under  
4591 subsection (2) of this section, the business or industry must  
4592 comply with the applicable job and wage requirements of subsection  
4593 (2) of this section.

4594           (5) (a) The MDA shall determine if the applicant is  
4595 qualified to receive incentive payments.

4596           (b) If the applicant is determined to be qualified to  
4597 receive incentive payments for an additional period under  
4598 subsection (2) of this section, the MDA shall conduct a  
4599 cost/benefit analysis to determine the estimated net direct state  
4600 benefits and the net benefit rate applicable for the appropriate  
4601 additional period and to estimate the amount of gross payroll for  
4602 the additional period. In conducting such cost/benefit analysis,  
4603 the MDA shall consider quantitative factors, such as the  
4604 anticipated level of new tax revenues to the state along with the  
4605 cost to the state of the qualified business or industry, and such  
4606 other criteria as deemed appropriate by the MDA, including the  
4607 adequacy of retirement benefits that the business or industry  
4608 provides to individuals it employs in new direct jobs in this  
4609 state. In no event shall incentive payments, cumulatively, exceed  
4610 the estimated net direct state benefits. Once the qualified  
4611 business or industry is approved by the MDA, an agreement shall be  
4612 deemed to exist between the qualified business or industry and the  
4613 State of Mississippi, requiring the continued incentive payment to  
4614 be made as long as the qualified business or industry retains its  
4615 eligibility.

4616           (6) Upon approval of such an application, the MDA shall  
4617 notify the Department of Revenue and shall provide it with a copy  
4618 of the approved application and the estimated net direct state  
4619 benefits. The Department of Revenue may require the qualified

4620 business or industry to submit such additional information as may  
4621 be necessary to administer the provisions of this chapter. The  
4622 qualified business or industry shall report to the Department of  
4623 Revenue periodically to show its continued eligibility for  
4624 incentive payments. The qualified business or industry may be  
4625 audited by the Department of Revenue to verify such eligibility.  
4626 In addition, the State Auditor may conduct performance and  
4627 compliance audits under this chapter according to Section  
4628 7-7-211(o) and may bill the oversight agency.

4629 (7) If the qualified business or industry is located in an  
4630 area that has been declared by the Governor to be a disaster area  
4631 and as a result of the disaster the business or industry is unable  
4632 to create or maintain the full-time jobs required by this section:

4633 (a) The Commissioner of Revenue may extend the period  
4634 of time that the business or industry may receive incentive  
4635 payments for a period of time not to exceed two (2) years;

4636 (b) The Commissioner of Revenue may waive the  
4637 requirement that a certain number of jobs be maintained for a  
4638 period of time not to exceed twenty-four (24) months; and

4639 (c) The MDA may extend the period of time within which  
4640 the jobs must be created for a period of time not to exceed  
4641 twenty-four (24) months.

4642 **[For businesses or industries that apply for incentive**  
4643 **payments from and after July 1, 2010, this section shall read as**  
4644 **follows:]**

4645           57-62-9. (1) (a) Except as otherwise provided in this  
4646 section, a qualified business or industry that meets the  
4647 qualifications specified in this chapter may receive quarterly  
4648 incentive payments for a period not to exceed ten (10) years from  
4649 the Department of Revenue pursuant to the provisions of this  
4650 chapter in an amount which shall be equal to ninety percent (90%)  
4651 of the amount of actual income tax withheld for employees with new  
4652 direct jobs, but in no event more than four percent (4%) of the  
4653 total annual salary paid for new direct jobs during such period,  
4654 excluding benefits which are not subject to Mississippi income  
4655 taxes.

4656           (b) A qualified business or industry that is a project  
4657 as defined in Section 57-75-5(f)(iv)1 may elect the date upon  
4658 which the ten-year period will begin. Such date may not be later  
4659 than sixty (60) months after the date the business or industry  
4660 applied for incentive payments.

4661           (c) A qualified business or industry as defined in  
4662 Section 57-62-5(a)(iii) may elect the date upon which the ten-year  
4663 period will begin and may elect to begin receiving incentive  
4664 payments as early as the second quarter after that date.  
4665 Incentive payments will be calculated on all jobs above the  
4666 existing number of jobs as of the date the MDA determines that the  
4667 applicant is qualified to receive incentive payments. In the  
4668 event that the qualified business or industry falls below the  
4669 number of existing jobs at the time of determination that the  
4670 applicant is qualified to receive the incentive payment, the

4671 incentive payment shall cease until the qualified business or  
4672 industry once again exceeds that number. If after forty-eight  
4673 (48) months, the qualified business or industry has failed to  
4674 create at least three thousand (3,000) new direct jobs, incentive  
4675 payments shall cease and the qualified business or industry shall  
4676 not be qualified to receive further incentive payments.

4677 (2) (a) A qualified business or industry that is a project  
4678 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
4679 receive incentive payments for an additional period not to exceed  
4680 five (5) years beyond the expiration date of the initial ten-year  
4681 period if:

4682 (i) The qualified business or industry creates at  
4683 least three thousand (3,000) new direct jobs within five (5) years  
4684 after the date the business or industry commences commercial  
4685 production;

4686 (ii) Within five (5) years after the date the  
4687 business or industry commences commercial production, the average  
4688 annual wage of the jobs is at least one hundred fifty percent  
4689 (150%) of the most recently published state average annual wage or  
4690 the most recently published average annual wage of the county in  
4691 which the qualified business or industry is located as determined  
4692 by the Mississippi Department of Employment Security, whichever is  
4693 the lesser. The criteria for the average annual wage requirement  
4694 shall be based upon the state average annual wage or the average  
4695 annual wage of the county whichever is appropriate, at the time of  
4696 creation of the minimum number of jobs, and the threshold

4697 established at that time will remain constant for the duration of  
4698 the additional period; and

4699 (iii) The qualified business or industry meets and  
4700 maintains the job and wage requirements of subparagraphs (i) and  
4701 (ii) of this paragraph (a) for four (4) consecutive calendar  
4702 quarters.

4703 (b) A qualified business or industry that is a project  
4704 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
4705 incentive payments for the additional period provided in paragraph  
4706 (a) of this subsection (2) may apply to the MDA to receive  
4707 incentive payments for an additional period not to exceed ten (10)  
4708 years beyond the expiration date of the additional period provided  
4709 in paragraph (a) of this subsection (2) if:

4710 (i) The qualified business or industry creates at  
4711 least four thousand (4,000) new direct jobs after qualifying for  
4712 the additional incentive period provided in paragraph (a) of this  
4713 subsection (2) but before the expiration of the additional period.  
4714 For purposes of determining whether the business or industry meets  
4715 the minimum jobs requirement of this subparagraph (i), the number  
4716 of jobs the business or industry created in order to meet the  
4717 minimum jobs requirement of paragraph (a) of this subsection (2)  
4718 shall be subtracted from the minimum jobs requirement of this  
4719 subparagraph (i);

4720 (ii) The average annual wage of the jobs is at  
4721 least one hundred fifty percent (150%) of the most recently  
4722 published state average annual wage or the most recently published

4723 average annual wage of the county in which the qualified business  
4724 or industry is located as determined by the Mississippi Department  
4725 of Employment Security, whichever is the lesser. The criteria for  
4726 the average annual wage requirement shall be based upon the state  
4727 average annual wage or the average annual wage of the county  
4728 whichever is appropriate, at the time of creation of the minimum  
4729 number of jobs, and the threshold established at that time will  
4730 remain constant for the duration of the additional period; and

4731 (iii) The qualified business or industry meets and  
4732 maintains the job and wage requirements of subparagraphs (i) and  
4733 (ii) of this paragraph (b) for four (4) consecutive calendar  
4734 quarters.

4735 (3) In order to receive incentive payments, an establishment  
4736 shall apply to the MDA. The application shall be on a form  
4737 prescribed by the MDA and shall contain such information as may be  
4738 required by the MDA to determine if the applicant is qualified.

4739 (4) (a) In order to qualify to receive such payments, the  
4740 establishment applying shall be required to meet the definition of  
4741 the term "qualified business or industry";

4742 (b) The criteria for the average annual salary  
4743 requirement shall be based upon the state average annual wage or  
4744 the average annual wage of the county whichever is appropriate, at  
4745 the time of application, and the threshold established upon  
4746 application will remain constant for the duration of the project;

4747 (c) Except as otherwise provided for a qualified  
4748 business or industry as defined in Section 57-62-5(a)(iii), the

4749 business or industry must meet its job creation commitment within  
4750 twenty-four (24) months of the application approval. However, if  
4751 the qualified business or industry is applying for incentive  
4752 payments for an additional period under subsection (2) of this  
4753 section, the business or industry must comply with the applicable  
4754 job and wage requirements of subsection (2) of this section.

4755 (5) (a) The MDA shall determine if the applicant is  
4756 qualified to receive incentive payments.

4757 (b) If the applicant is determined to be qualified to  
4758 receive incentive payments for an additional period under  
4759 subsection (2) of this section, the MDA shall conduct an analysis  
4760 to estimate the amount of gross payroll for the appropriate  
4761 additional period. Incentive payments, cumulatively, shall not  
4762 exceed ninety percent (90%) of the amount of actual income tax  
4763 withheld for employees with new direct jobs, but in no event more  
4764 than four percent (4%) of the total annual salary paid for new  
4765 direct jobs during the additional period, excluding benefits which  
4766 are not subject to Mississippi income taxes. Once the qualified  
4767 business or industry is approved by the MDA, an agreement shall be  
4768 deemed to exist between the qualified business or industry and the  
4769 State of Mississippi, requiring the continued incentive payment to  
4770 be made as long as the qualified business or industry retains its  
4771 eligibility.

4772 (6) Upon approval of such an application, the MDA shall  
4773 notify the Department of Revenue and shall provide it with a copy  
4774 of the approved application and the minimum job and salary



4775 requirements. The Department of Revenue may require the qualified  
4776 business or industry to submit such additional information as may  
4777 be necessary to administer the provisions of this chapter. The  
4778 qualified business or industry shall report to the Department of  
4779 Revenue periodically to show its continued eligibility for  
4780 incentive payments. The qualified business or industry may be  
4781 audited by the Department of Revenue to verify such eligibility.  
4782 In addition, the State Auditor may conduct performance and  
4783 compliance audits under this chapter according to Section  
4784 7-7-211(o) and may bill the oversight agency.

4785 (7) If the qualified business or industry is located in an  
4786 area that has been declared by the Governor to be a disaster area  
4787 and as a result of the disaster the business or industry is unable  
4788 to create or maintain the full-time jobs required by this section:

4789 (a) The Commissioner of Revenue may extend the period  
4790 of time that the business or industry may receive incentive  
4791 payments for a period of time not to exceed two (2) years;

4792 (b) The Commissioner of Revenue may waive the  
4793 requirement that a certain number of jobs be maintained for a  
4794 period of time not to exceed twenty-four (24) months; and

4795 (c) The MDA may extend the period of time within which  
4796 the jobs must be created for a period of time not to exceed  
4797 twenty-four (24) months.

4798 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is  
4799 reenacted as follows:

4800           57-75-5. Words and phrases used in this chapter shall have  
4801 meanings as follows, unless the context clearly indicates a  
4802 different meaning:

4803           (a) "Act" means the Mississippi Major Economic Impact  
4804 Act as originally enacted or as hereafter amended.

4805           (b) "Authority" means the Mississippi Major Economic  
4806 Impact Authority created pursuant to the act.

4807           (c) "Bonds" means general obligation bonds, interim  
4808 notes and other evidences of debt of the State of Mississippi  
4809 issued pursuant to this chapter.

4810           (d) "Facility related to the project" means and  
4811 includes any of the following, as the same may pertain to the  
4812 project within the project area: (i) facilities to provide  
4813 potable and industrial water supply systems, sewage and waste  
4814 disposal systems and water, natural gas and electric transmission  
4815 systems to the site of the project; (ii) airports, airfields and  
4816 air terminals; (iii) rail lines; (iv) port facilities; (v)  
4817 highways, streets and other roadways; (vi) public school  
4818 buildings, classrooms and instructional facilities, training  
4819 facilities and equipment, including any functionally related  
4820 facilities; (vii) parks, outdoor recreation facilities and  
4821 athletic facilities; (viii) auditoriums, pavilions, campgrounds,  
4822 art centers, cultural centers, folklore centers and other public  
4823 facilities; (ix) health care facilities, public or private; and  
4824 (x) fire protection facilities, equipment and elevated water  
4825 tanks.

4826           (e) "Person" means any natural person, corporation,  
4827 association, partnership, receiver, trustee, guardian, executor,  
4828 administrator, fiduciary, governmental unit, public agency,  
4829 political subdivision, or any other group acting as a unit, and  
4830 the plural as well as the singular.

4831           (f) "Project" means:

4832           (i) Any industrial, commercial, research and  
4833 development, warehousing, distribution, transportation,  
4834 processing, mining, United States government or tourism enterprise  
4835 together with all real property required for construction,  
4836 maintenance and operation of the enterprise with an initial  
4837 capital investment of not less than Three Hundred Million Dollars  
4838 (\$300,000,000.00) from private or United States government sources  
4839 together with all buildings, and other supporting land and  
4840 facilities, structures or improvements of whatever kind required  
4841 or useful for construction, maintenance and operation of the  
4842 enterprise; or with an initial capital investment of not less than  
4843 One Hundred Fifty Million Dollars (\$150,000,000.00) from private  
4844 or United States government sources together with all buildings  
4845 and other supporting land and facilities, structures or  
4846 improvements of whatever kind required or useful for construction,  
4847 maintenance and operation of the enterprise and which creates at  
4848 least one thousand (1,000) net new full-time jobs; or which  
4849 creates at least one thousand (1,000) net new full-time jobs which  
4850 provides an average salary, excluding benefits which are not  
4851 subject to Mississippi income taxation, of at least one hundred

4852 twenty-five percent (125%) of the most recently published average  
4853 annual wage of the state as determined by the Mississippi  
4854 Department of Employment Security. "Project" shall include any  
4855 addition to or expansion of an existing enterprise if such  
4856 addition or expansion has an initial capital investment of not  
4857 less than Three Hundred Million Dollars (\$300,000,000.00) from  
4858 private or United States government sources, or has an initial  
4859 capital investment of not less than One Hundred Fifty Million  
4860 Dollars (\$150,000,000.00) from private or United States government  
4861 sources together with all buildings and other supporting land and  
4862 facilities, structures or improvements of whatever kind required  
4863 or useful for construction, maintenance and operation of the  
4864 enterprise and which creates at least one thousand (1,000) net new  
4865 full-time jobs; or which creates at least one thousand (1,000) net  
4866 new full-time jobs which provides an average salary, excluding  
4867 benefits which are not subject to Mississippi income taxation, of  
4868 at least one hundred twenty-five percent (125%) of the most  
4869 recently published average annual wage of the state as determined  
4870 by the Mississippi Department of Employment Security. "Project"  
4871 shall also include any ancillary development or business resulting  
4872 from the enterprise, of which the authority is notified, within  
4873 three (3) years from the date that the enterprise entered into  
4874 commercial production, that the project area has been selected as  
4875 the site for the ancillary development or business.

4876 (ii) 1. Any major capital project designed to  
4877 improve, expand or otherwise enhance any active duty or reserve

4878 United States armed services bases and facilities or any major  
4879 Mississippi National Guard training installations, their support  
4880 areas or their military operations, upon designation by the  
4881 authority that any such base was or is at risk to be recommended  
4882 for closure or realignment pursuant to the Defense Base Closure  
4883 and Realignment Act of 1990, as amended, or other applicable  
4884 federal law; or any major development project determined by the  
4885 authority to be necessary to acquire or improve base properties  
4886 and to provide employment opportunities through construction of  
4887 projects as defined in Section 57-3-5, which shall be located on  
4888 or provide direct support service or access to such military  
4889 installation property in the event of closure or reduction of  
4890 military operations at the installation.

4891                   2. Any major study or investigation related  
4892 to such a facility, installation or base, upon a determination by  
4893 the authority that the study or investigation is critical to the  
4894 expansion, retention or reuse of the facility, installation or  
4895 base.

4896                   3. Any project as defined in Section 57-3-5,  
4897 any business or enterprise determined to be in the furtherance of  
4898 the public purposes of this act as determined by the authority or  
4899 any facility related to such project each of which shall be,  
4900 directly or indirectly, related to any military base or other  
4901 military-related facility no longer operated by the United States  
4902 armed services or the Mississippi National Guard.

4903 (iii) Any enterprise to be maintained, improved or  
4904 constructed in Tishomingo County by or for a National Aeronautics  
4905 and Space Administration facility in such county.

4906 (iv) 1. Any major capital project with an initial  
4907 capital investment from private sources of not less than Seven  
4908 Hundred Fifty Million Dollars (\$750,000,000.00) which will create  
4909 at least three thousand (3,000) jobs meeting criteria established  
4910 by the Mississippi Development Authority.

4911 2. "Project" shall also include any ancillary  
4912 development or business resulting from an enterprise operating a  
4913 project as defined in item 1 of this paragraph (f)(iv), of which  
4914 the authority is notified, within three (3) years from the date  
4915 that the enterprise entered into commercial production, that the  
4916 state has been selected as the site for the ancillary development  
4917 or business.

4918 (v) Any manufacturing, processing or industrial  
4919 project determined by the authority, in its sole discretion, to  
4920 contribute uniquely and significantly to the economic growth and  
4921 development of the state, and which meets the following criteria:

4922 1. The project shall create at least two  
4923 thousand (2,000) net new full-time jobs meeting criteria  
4924 established by the authority, which criteria shall include, but  
4925 not be limited to, the requirement that such jobs must be held by  
4926 persons eligible for employment in the United States under  
4927 applicable state and federal law.

4928                   2. The project and any facility related to  
4929 the project shall include a total investment from private sources  
4930 of not less than Sixty Million Dollars (\$60,000,000.00), or from  
4931 any combination of sources of not less than Eighty Million Dollars  
4932 (\$80,000,000.00).

4933                   (vi) Any real property owned or controlled by the  
4934 National Aeronautics and Space Administration, the United States  
4935 government, or any agency thereof, which is legally conveyed to  
4936 the State of Mississippi or to the State of Mississippi for the  
4937 benefit of the Mississippi Major Economic Impact Authority, its  
4938 successors and assigns pursuant to Section 212 of Public Law  
4939 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4940                   (vii) Any major capital project related to the  
4941 establishment, improvement, expansion and/or other enhancement of  
4942 any active duty military installation and having a minimum capital  
4943 investment from any source or combination of sources other than  
4944 the State of Mississippi of at least Forty Million Dollars  
4945 (\$40,000,000.00), and which will create at least four hundred  
4946 (400) military installation related full-time jobs, which jobs may  
4947 be military jobs, civilian jobs or a combination of military and  
4948 civilian jobs. The authority shall require that binding  
4949 commitments be entered into requiring that the minimum  
4950 requirements for the project provided for in this subparagraph  
4951 shall be met not later than July 1, 2008.

4952                   (viii) Any major capital project with an initial  
4953 capital investment from any source or combination of sources of

4954 not less than Ten Million Dollars (\$10,000,000.00) which will  
4955 create at least eighty (80) full-time jobs which provide an  
4956 average annual salary, excluding benefits which are not subject to  
4957 Mississippi income taxes, of at least one hundred thirty-five  
4958 percent (135%) of the most recently published average annual wage  
4959 of the state or the most recently published average annual wage of  
4960 the county in which the project is located as determined by the  
4961 Mississippi Department of Employment Security, whichever is the  
4962 lesser. The authority shall require that binding commitments be  
4963 entered into requiring that:

4964                   1. The minimum requirements for the project  
4965 provided for in this subparagraph shall be met; and

4966                   2. That if such commitments are not met, all  
4967 or a portion of the funds provided by the state for the project as  
4968 determined by the authority shall be repaid.

4969                   (ix) Any regional retail shopping mall with an  
4970 initial capital investment from private sources in excess of One  
4971 Hundred Fifty Million Dollars (\$150,000,000.00), with a square  
4972 footage in excess of eight hundred thousand (800,000) square feet,  
4973 which will create at least seven hundred (700) full-time jobs with  
4974 an average hourly wage of Eleven Dollars (\$11.00) per hour. The  
4975 authority shall require that binding commitments be entered into  
4976 requiring that:

4977                   1. The minimum requirements for the project  
4978 provided for in this subparagraph shall be met; and



4979                   2. That if such commitments are not met, all  
4980 or a portion of the funds provided by the state for the project as  
4981 determined by the authority shall be repaid.

4982                   (x) Any major capital project with an initial  
4983 capital investment from any source or combination of sources of  
4984 not less than Seventy-five Million Dollars (\$75,000,000.00) which  
4985 will create at least one hundred twenty-five (125) full-time jobs  
4986 which provide an average annual salary, excluding benefits which  
4987 are not subject to Mississippi income taxes, of at least one  
4988 hundred thirty-five percent (135%) of the most recently published  
4989 average annual wage of the state or the most recently published  
4990 average annual wage of the county in which the project is located  
4991 as determined by the Mississippi Department of Employment  
4992 Security, whichever is the greater. The authority shall require  
4993 that binding commitments be entered into requiring that:

4994                   1. The minimum requirements for the project  
4995 provided for in this subparagraph shall be met; and

4996                   2. That if such commitments are not met, all  
4997 or a portion of the funds provided by the state for the project as  
4998 determined by the authority shall be repaid.

4999                   (xi) Any potential major capital project that the  
5000 authority has determined is feasible to recruit.

5001                   (xii) Any project built according to the  
5002 specifications and federal provisions set forth by the National  
5003 Aeronautics and Space Administration Center Operations Directorate  
5004 at Stennis Space Center for the purpose of consolidating common

5005 services from National Aeronautics and Space Administration  
5006 centers in human resources, procurement, financial management and  
5007 information technology located on land owned or controlled by the  
5008 National Aeronautics and Space Administration, which will create  
5009 at least four hundred seventy (470) full-time jobs.

5010 (xiii) Any major capital project with an initial  
5011 capital investment from any source or combination of sources of  
5012 not less than Ten Million Dollars (\$10,000,000.00) which will  
5013 create at least two hundred fifty (250) full-time jobs. The  
5014 authority shall require that binding commitments be entered into  
5015 requiring that:

5016 1. The minimum requirements for the project  
5017 provided for in this subparagraph shall be met; and

5018 2. That if such commitments are not met, all  
5019 or a portion of the funds provided by the state for the project as  
5020 determined by the authority shall be repaid.

5021 (xiv) Any major pharmaceutical facility with a  
5022 capital investment of not less than Fifty Million Dollars  
5023 (\$50,000,000.00) made after July 1, 2002, through four (4) years  
5024 after the initial date of any loan or grant made by the authority  
5025 for such project, which will maintain at least seven hundred fifty  
5026 (750) full-time employees. The authority shall require that  
5027 binding commitments be entered into requiring that:

5028 1. The minimum requirements for the project  
5029 provided for in this subparagraph shall be met; and

5030                   2. That if such commitments are not met, all  
5031 or a portion of the funds provided by the state for the project as  
5032 determined by the authority shall be repaid.

5033                   (xv) Any pharmaceutical manufacturing, packaging  
5034 and distribution facility with an initial capital investment from  
5035 any local or federal sources of not less than Five Hundred  
5036 Thousand Dollars (\$500,000.00) which will create at least ninety  
5037 (90) full-time jobs. The authority shall require that binding  
5038 commitments be entered into requiring that:

5039                   1. The minimum requirements for the project  
5040 provided for in this subparagraph shall be met; and

5041                   2. That if such commitments are not met, all  
5042 or a portion of the funds provided by the state for the project as  
5043 determined by the authority shall be repaid.

5044                   (xvi) Any major industrial wood processing  
5045 facility with an initial capital investment of not less than One  
5046 Hundred Million Dollars (\$100,000,000.00) which will create at  
5047 least one hundred twenty-five (125) full-time jobs which provide  
5048 an average annual salary, excluding benefits which are not subject  
5049 to Mississippi income taxes, of at least Thirty Thousand Dollars  
5050 (\$30,000.00). The authority shall require that binding  
5051 commitments be entered into requiring that:

5052                   1. The minimum requirements for the project  
5053 provided for in this subparagraph shall be met; and

5054                   2. That if such commitments are not met, all  
5055 or a portion of the funds provided by the state for the project as  
5056 determined by the authority shall be repaid.

5057                   (xvii) Any technical, engineering,  
5058 manufacturing-logistic service provider with an initial capital  
5059 investment of not less than One Million Dollars (\$1,000,000.00)  
5060 which will create at least ninety (90) full-time jobs. The  
5061 authority shall require that binding commitments be entered into  
5062 requiring that:

5063                   1. The minimum requirements for the project  
5064 provided for in this subparagraph shall be met; and

5065                   2. That if such commitments are not met, all  
5066 or a portion of the funds provided by the state for the project as  
5067 determined by the authority shall be repaid.

5068                   (xviii) Any major capital project with an initial  
5069 capital investment from any source or combination of sources other  
5070 than the State of Mississippi of not less than Six Hundred Million  
5071 Dollars (\$600,000,000.00) which will create at least four hundred  
5072 fifty (450) full-time jobs with an average annual salary,  
5073 excluding benefits which are not subject to Mississippi income  
5074 taxes, of at least Seventy Thousand Dollars (\$70,000.00). The  
5075 authority shall require that binding commitments be entered into  
5076 requiring that:

5077                   1. The minimum requirements for the project  
5078 provided for in this subparagraph shall be met; and

5079                   2. That if such commitments are not met, all  
5080 or a portion of the funds provided by the state for the project as  
5081 determined by the authority shall be repaid.

5082                   (xix) Any major coal and/or petroleum coke  
5083 gasification project with an initial capital investment from any  
5084 source or combination of sources other than the State of  
5085 Mississippi of not less than Eight Hundred Million Dollars  
5086 (\$800,000,000.00), which will create at least two hundred (200)  
5087 full-time jobs with an average annual salary, excluding benefits  
5088 which are not subject to Mississippi income taxes, of at least  
5089 Forty-five Thousand Dollars (\$45,000.00). The authority shall  
5090 require that binding commitments be entered into requiring that:

5091                   1. The minimum requirements for the project  
5092 provided for in this subparagraph shall be met; and

5093                   2. That if such commitments are not met, all  
5094 or a portion of the funds provided by the state for the project as  
5095 determined by the authority shall be repaid.

5096                   (xx) Any planned mixed use development located on  
5097 not less than four thousand (4,000) acres of land that will  
5098 consist of commercial, recreational, resort, tourism and  
5099 residential development with a capital investment from private  
5100 sources of not less than Four Hundred Seventy-five Million Dollars  
5101 (\$475,000,000.00) in the aggregate in any one (1) or any  
5102 combination of tourism projects that will create at least three  
5103 thousand five hundred (3,500) jobs in the aggregate. For the  
5104 purposes of this paragraph (f) (xx), the term "tourism project"

5105 means and has the same definition as that term has in Section  
5106 57-28-1. In order to meet the minimum capital investment required  
5107 under this paragraph (f) (xx), at least Two Hundred Thirty-seven  
5108 Million Five Hundred Thousand Dollars (\$237,500,000.00) of such  
5109 investment must be made not later than June 1, 2015, and the  
5110 remainder of the minimum capital investment must be made not later  
5111 than June 1, 2017. In order to meet the minimum number of jobs  
5112 required to be created under this paragraph (f) (xx), at least one  
5113 thousand seven hundred fifty (1,750) of such jobs must be created  
5114 not later than June 1, 2015, and the remainder of the jobs must be  
5115 created not later than June 1, 2017. The authority shall require  
5116 that binding commitments be entered into requiring that:

5117                   1. The minimum requirements for the project  
5118 provided for in this subparagraph shall be met; and

5119                   2. That if such commitments are not met, all  
5120 or a portion of the funds provided by the state for the project as  
5121 determined by the authority shall be repaid.

5122                   (xxi) Any enterprise owning or operating an  
5123 automotive manufacturing and assembly plant and its affiliates for  
5124 which construction begins after March 2, 2007, and not later than  
5125 December 1, 2007, with an initial capital investment from private  
5126 sources of not less than Five Hundred Million Dollars  
5127 (\$500,000,000.00) which will create at least one thousand five  
5128 hundred (1,500) jobs meeting criteria established by the  
5129 authority, which criteria shall include, but not be limited to,  
5130 the requirement that such jobs must be held by persons eligible

5131 for employment in the United States under applicable state and  
5132 federal law. The authority shall require that binding commitments  
5133 be entered into requiring that:

5134 1. The minimum requirements for the project  
5135 provided for in this subparagraph shall be met; and

5136 2. That if such commitments are not met, all  
5137 or a portion of the funds provided by the state for the project as  
5138 determined by the authority shall be repaid.

5139 (xxii) Any enterprise owning or operating a major  
5140 powertrain component manufacturing and assembly plant for which  
5141 construction begins after May 11, 2007, and not later than  
5142 December 1, 2007, with an initial capital investment from private  
5143 sources of not less than Three Hundred Million Dollars  
5144 (\$300,000,000.00) which will create at least five hundred (500)  
5145 new full-time jobs meeting criteria established by the authority,  
5146 which criteria shall include, but not be limited to, the  
5147 requirement that such jobs must be held by persons eligible for  
5148 employment in the United States under applicable state and federal  
5149 law, and the requirement that the average annual wages and taxable  
5150 benefits of such jobs shall be at least one hundred twenty-five  
5151 percent (125%) of the most recently published average annual wage  
5152 of the state or the most recently published average annual wage of  
5153 the county in which the project is located as determined by the  
5154 Mississippi Department of Employment Security, whichever is the  
5155 lesser. The authority shall require that binding commitments be  
5156 entered into requiring that:

5157                   1. The minimum requirements for the project  
5158 provided for in this subparagraph shall be met; and

5159                   2. That if such commitments are not met, all  
5160 or a portion of the funds provided by the state for the project as  
5161 determined by the authority shall be repaid.

5162                   (xxiii) Any biological and agricultural defense  
5163 project operated by an agency of the government of the United  
5164 States with an initial capital investment of not less than Four  
5165 Hundred Fifty Million Dollars (\$450,000,000.00) from any source  
5166 other than the State of Mississippi and its subdivisions, which  
5167 will create at least two hundred fifty (250) new full-time jobs.  
5168 All jobs created by the project must be held by persons eligible  
5169 for employment in the United States under applicable state and  
5170 federal law.

5171                   (xxiv) Any enterprise owning or operating an  
5172 existing tire manufacturing plant which adds to such plant capital  
5173 assets of not less than Twenty-five Million Dollars  
5174 (\$25,000,000.00) after January 1, 2009, and that maintains at  
5175 least one thousand two hundred (1,200) full-time jobs in this  
5176 state at one (1) location with an average annual salary, excluding  
5177 benefits which are not subject to Mississippi income taxes, of at  
5178 least Forty-five Thousand Dollars (\$45,000.00). The authority  
5179 shall require that binding commitments be entered into requiring  
5180 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                   (xxv) Any enterprise owning or operating a  
5187 facility for the manufacture of composite components for the  
5188 aerospace industry which will have an investment from private  
5189 sources of not less than One Hundred Seventy-five Million Dollars  
5190 (\$175,000,000.00) by not later than December 31, 2015, and which  
5191 will result in the full-time employment at the project site of not  
5192 less than two hundred seventy-five (275) persons by December 31,  
5193 2011, and not less than four hundred twenty-five (425) persons by  
5194 December 31, 2013, and not less than eight hundred (800) persons  
5195 by December 31, 2017, all with an average annual compensation,  
5196 excluding benefits which are not subject to Mississippi income  
5197 taxes, of at least Fifty-three Thousand Dollars (\$53,000.00). The  
5198 authority shall require that binding commitments be entered into  
5199 requiring that:

5200                   1. The minimum requirements for the project  
5201 provided for in this subparagraph shall be met; and

5202                   2. That if such commitments are not met, all  
5203 or a portion of the funds provided by the state for the project as  
5204 determined by the authority shall be repaid.

5205                   (xxvi) Any enterprise owning or operating a  
5206 facility for the manufacture of pipe which will have an investment  
5207 from any source other than the State of Mississippi and its  
5208 subdivisions of not less than Three Hundred Million Dollars

5209 (\$300,000,000.00) by not later than December 31, 2015, and which  
5210 will create at least five hundred (500) new full-time jobs within  
5211 five (5) years after the start of commercial production and  
5212 maintain such jobs for at least ten (10) years, all with an  
5213 average annual compensation, excluding benefits which are not  
5214 subject to Mississippi income taxes, of at least Thirty-two  
5215 Thousand Dollars (\$32,000.00). The authority shall require that  
5216 binding commitments be entered into requiring that:

5217 1. The minimum requirements for the project  
5218 provided for in this subparagraph shall be met; and

5219 2. That if such commitments are not met, all  
5220 or a portion of the funds provided by the state for the project as  
5221 determined by the authority shall be repaid.

5222 (xxvii) Any enterprise owning or operating a  
5223 facility for the manufacture of solar panels which will have an  
5224 investment from any source other than the State of Mississippi and  
5225 its subdivisions of not less than One Hundred Thirty-two Million  
5226 Dollars (\$132,000,000.00) by not later than December 31, 2015, and  
5227 which will create at least five hundred (500) new full-time jobs  
5228 within five (5) years after the start of commercial production and  
5229 maintain such jobs for at least ten (10) years, all with an  
5230 average annual compensation, excluding benefits which are not  
5231 subject to Mississippi income taxes, of at least Thirty-four  
5232 Thousand Dollars (\$34,000.00). The authority shall require that  
5233 binding commitments be entered into requiring that:

5234                   1. The minimum requirements for the project  
5235 provided for in this subparagraph shall be met; and

5236                   2. That if such commitments are not met, all  
5237 or a portion of the funds provided by the state for the project as  
5238 determined by the authority shall be repaid.

5239                   (xxviii) 1. Any enterprise owning or operating an  
5240 automotive parts manufacturing plant and its affiliates for which  
5241 construction begins after June 1, 2013, and not later than June  
5242 30, 2014, with an initial capital investment of not less than  
5243 Three Hundred Million Dollars (\$300,000,000.00) which will create  
5244 at least five hundred (500) new full-time jobs meeting criteria  
5245 established by the authority, which criteria shall include, but  
5246 not be limited to, the requirement that such jobs must be held by  
5247 persons eligible for employment in the United States under  
5248 applicable state and federal law, and the requirement that the  
5249 average annual wages and taxable benefits of such jobs shall be at  
5250 least one hundred ten percent (110%) of the most recently  
5251 published average annual wage of the state or the most recently  
5252 published average annual wage of the county in which the project  
5253 is located as determined by the Mississippi Department of  
5254 Employment Security, whichever is the lesser. The authority shall  
5255 require that binding commitments be entered into requiring that:  
5256                   a. The minimum requirements for the  
5257 project provided for in this subparagraph shall be met; and

5258                                   b. That if such commitments are not met,  
5259 all or a portion of the funds provided by the state for the  
5260 project as determined by the authority shall be repaid.

5261                                   2. It is anticipated that the project defined  
5262 in this subparagraph (xxviii) will expand in three (3) additional  
5263 phases, will create an additional five hundred (500) full-time  
5264 jobs meeting the above criteria in each phase, and will invest an  
5265 additional Three Hundred Million Dollars (\$300,000,000.00) per  
5266 phase.

5267                                   (xxix) Any enterprise engaged in the manufacture  
5268 of tires or other related rubber or automotive products for which  
5269 construction of a plant begins after January 1, 2016, and is  
5270 substantially completed no later than December 31, 2022, and for  
5271 which such enterprise commits to an aggregate capital investment  
5272 by such enterprise and its affiliates of not less than One Billion  
5273 Four Hundred Fifty Million Dollars (\$1,450,000,000.00) and the  
5274 creation thereby of at least two thousand five hundred (2,500) new  
5275 full-time jobs meeting criteria established by the authority,  
5276 which criteria shall include, but not be limited to, the  
5277 requirement that such jobs must be held by persons eligible for  
5278 employment in the United States under applicable state and federal  
5279 law, and the requirement that the average annual salary or wage,  
5280 excluding the value of any benefits which are not subject to  
5281 Mississippi income tax, of such jobs shall be at least Forty  
5282 Thousand Dollars (\$40,000.00). The authority shall require that  
5283 binding commitments be entered into requiring that:

5284                   1. Minimum requirements for investment and  
5285 jobs for the project shall be met; and

5286                   2. If such requirements are not met, all or a  
5287 portion of the funds provided by the state for the project may, as  
5288 determined by the authority, be subject to repayment by such  
5289 enterprise and/or its affiliates, together with any penalties or  
5290 damages required by the authority in connection therewith.

5291                   (xxx) Any enterprise owning or operating a  
5292 maritime fabrication and assembly facility for which construction  
5293 begins after February 1, 2016, and concludes not later than  
5294 December 31, 2018, with an initial capital investment in land,  
5295 buildings and equipment not less than Sixty-eight Million Dollars  
5296 (\$68,000,000.00) and will create not less than one thousand  
5297 (1,000) new full-time jobs meeting criteria established by the  
5298 authority, which criteria shall include, but not be limited to,  
5299 the requirement that such jobs must be held by persons eligible  
5300 for employment in the United States under applicable state and  
5301 federal law, and the requirement that the average annual  
5302 compensation, excluding benefits which are not subject to  
5303 Mississippi income taxes, of at least Forty Thousand Dollars  
5304 (\$40,000.00). The authority shall require that binding  
5305 commitments be entered into requiring that:

5306                   1. The minimum requirements for the project  
5307 provided for in this subparagraph shall be met; and

5308                   2. If such commitments are not met, all or a  
5309 portion of the funds provided by the state for the project may, as

5310 determined by the authority, be subject to repayment by such  
5311 enterprise, together with any penalties or damages required by the  
5312 authority in connection therewith.

5313           (g) (i) "Project area" means the project site,  
5314 together with any area or territory within the state lying within  
5315 sixty-five (65) miles of any portion of the project site whether  
5316 or not such area or territory be contiguous; however, for the  
5317 project defined in paragraph (f) (iv) of this section the term  
5318 "project area" means any area or territory within the state. The  
5319 project area shall also include all territory within a county if  
5320 any portion of such county lies within sixty-five (65) miles of  
5321 any portion of the project site. "Project site" means the real  
5322 property on which the principal facilities of the enterprise will  
5323 operate. The provisions of this subparagraph (i) shall not apply  
5324 to a project as defined in paragraph (f) (xxi) of this section.

5325           (ii) For the purposes of a project as defined in  
5326 paragraph (f) (xxi) of this section, the term "project area" means  
5327 the acreage authorized in the certificate of convenience and  
5328 necessity issued by the Mississippi Development Authority to a  
5329 regional economic development alliance under Section 57-64-1 et  
5330 seq.

5331           (h) "Public agency" means:

5332           (i) Any department, board, commission, institution  
5333 or other agency or instrumentality of the state;

5334           (ii) Any city, town, county, political  
5335 subdivision, school district or other district created or existing

5336 under the laws of the state or any public agency of any such city,  
5337 town, county, political subdivision or district or any other  
5338 public entity created or existing under local and private  
5339 legislation;

5340 (iii) Any department, commission, agency or  
5341 instrumentality of the United States of America; and

5342 (iv) Any other state of the United States of  
5343 America which may be cooperating with respect to location of the  
5344 project within the state, or any agency thereof.

5345 (i) "State" means State of Mississippi.

5346 (j) "Fee-in-lieu" means a negotiated fee to be paid by  
5347 the project in lieu of any franchise taxes imposed on the project  
5348 by Chapter 13, Title 27, Mississippi Code of 1972. The  
5349 fee-in-lieu shall not be less than Twenty-five Thousand Dollars  
5350 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an  
5351 enterprise operating an existing project defined in paragraph  
5352 (f)(iv)<sup>1</sup> of this section; however, a fee-in-lieu shall not be  
5353 negotiated for other existing enterprises that fall within the  
5354 definition of the term "project."

5355 (k) "Affiliate" means a subsidiary or related business  
5356 entity which shares a common direct or indirect ownership with the  
5357 enterprise owning or operating a project as defined in paragraph  
5358 (f)(xxi), paragraph (f)(xxviii) or paragraph (f)(xxix) of this  
5359 section. The subsidiary or related business must provide services  
5360 directly related to the core activities of the project.

5361 (1) "Tier One supplier" means a supplier of a project  
5362 as defined in paragraph (f) (xxi) of this section that is certified  
5363 by the enterprise owning the project and creates a minimum of  
5364 fifty (50) new full-time jobs.

5365 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is  
5366 reenacted as follows:

5367 57-80-7. (1) From and after December 31, 2000, the  
5368 following counties may apply to the MDA for the issuance of a  
5369 certificate of public convenience and necessity:

5370 (a) Any county of this state which has an annualized  
5371 unemployment rate that is at least two hundred percent (200%) of  
5372 the state's unemployment rate as of December 31 of any year after  
5373 December 31, 2000, as determined by the Mississippi Department of  
5374 Employment Security's most recently published data;

5375 (b) Any county of this state in which thirty percent  
5376 (30%) or more of the population of the county is at or below the  
5377 federal poverty level according to the official data compiled by  
5378 the United States Census Bureau as of August 30, 2000, for  
5379 counties that apply before December 31, 2002, or the most recent  
5380 official data compiled by the United States Census Bureau for  
5381 counties that apply from and after December 31, 2002; or

5382 (c) Any county of this state having an eligible  
5383 supervisors district.

5384 (2) The application, at a minimum, must contain (a) the  
5385 Mississippi Department of Employment Security's most recently  
5386 published figures that reflect the annualized unemployment rate of



5387 the applying county as of December 31 or the most recent official  
5388 data by the United States Census Bureau required by subsection (1)  
5389 of this section, as the case may be, and (b) an order or  
5390 resolution of the county consenting to the designation of the  
5391 county as a growth and prosperity county.

5392 (3) Any municipality of a designated growth and prosperity  
5393 county or within an eligible supervisors district and not more  
5394 than eight (8) miles from the boundary of the county that meets  
5395 the criteria of subsection (1)(b) of this section may by order or  
5396 resolution of the municipality consent to participation in the  
5397 Growth and Prosperity Program.

5398 (4) No incentive or tax exemption shall be given under this  
5399 chapter without the consent of the affected county or  
5400 municipality.

5401 **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is  
5402 reenacted as follows:

5403 69-2-5. (1) The Mississippi Cooperative Extension Service  
5404 shall act as a clearinghouse for the dissemination of information  
5405 regarding programs and services which may be available to help  
5406 those persons and businesses which have been adversely affected by  
5407 the present emergency in the agricultural community. The  
5408 Cooperative Extension Service shall develop a plan of assistance  
5409 which shall identify all programs and services available within  
5410 the state which can be of assistance to those affected by the  
5411 present emergency. The Department of Agriculture and Commerce,  
5412 Department of Finance and Administration, Department of Human

5413 Services, Department of Mental Health, State Department of Health,  
5414 Board of Trustees of State Institutions of Higher Learning,  
5415 Mississippi Community College Board, Research and Development  
5416 Center, Mississippi Development Authority, Department of  
5417 Employment Security, Office of the Governor, Board of Vocational  
5418 and Technical Education, Mississippi Authority for Educational  
5419 Television, and other agencies of the state which have programs  
5420 and services that can be of assistance to those affected by the  
5421 present emergency, shall provide information regarding their  
5422 programs and services to the Cooperative Extension Service for use  
5423 in the clearinghouse. The types of programs and services shall  
5424 include, but not be limited to, financial counseling, farm and  
5425 small business management, employment services, labor market  
5426 information, job retraining, vocational and technical training,  
5427 food stamp programs, personal counseling, health services, and  
5428 free or low cost legal services. The clearinghouse shall provide  
5429 a single contact point to provide program information and referral  
5430 services to individuals interested or needing services from  
5431 state-funded assistance programs affecting agriculture,  
5432 horticulture, aquaculture and other agribusinesses or related  
5433 industries. Such assistance information shall identify all monies  
5434 available under the Small Business Financing Act, the Business  
5435 Investment Act, the Emerging Crops Fund legislation and any other  
5436 sources which may be used singularly or combined, to provide a  
5437 comprehensive financing package. The provisions of this section  
5438 in establishing a single contact point for information and

5439 referral services shall not be construed to authorize the hiring  
5440 of additional personnel.

5441 (2) The Cooperative Extension Service may accept monetary or  
5442 in-kind contributions, gifts and grants for the establishment or  
5443 operation of the clearinghouse.

5444 (3) The Cooperative Extension Service shall establish a  
5445 method for the dissemination of information to those who can be  
5446 benefited by the existing programs and services of the state.

5447 (4) The Cooperative Extension Service shall file an annual  
5448 report with the Governor, Lieutenant Governor and Speaker of the  
5449 House of Representatives regarding the efforts which have been  
5450 made in the clearinghouse operation. The report shall also  
5451 recommend any additional measures, including legislation, which  
5452 may be needed or desired in providing programs and benefits to  
5453 those affected by the agricultural emergency.

5454 **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is  
5455 reenacted as follows:

5456 7-1-355. (1) The Mississippi Department of Employment  
5457 Security, Office of the Governor, is designated as the sole  
5458 administrator of all programs for which the state is the prime  
5459 sponsor under Title 1(B) of Public Law 105-220, Workforce  
5460 Investment Act of 1998, and the regulations promulgated  
5461 thereunder, and may take all necessary action to secure to this  
5462 state the benefits of that legislation. The Mississippi  
5463 Department of Employment Security, Office of the Governor, may

5464 receive and disburse funds for those programs that become  
5465 available to it from any source.

5466 (2) The Mississippi Department of Employment Security,  
5467 Office of the Governor, shall establish guidelines on the amount  
5468 and/or percentage of indirect and/or administrative expenses by  
5469 the local fiscal agent or the Workforce Development Center  
5470 operator. The Mississippi Department of Employment Security,  
5471 Office of the Governor, shall develop an accountability system and  
5472 make an annual report to the Legislature before December 31 of  
5473 each year on Workforce Investment Act activities. The report  
5474 shall include, but is not limited to, the following:

5475 (a) The total number of individuals served through the  
5476 Workforce Development Centers and the percentage and number of  
5477 individuals for which a quarterly follow-up is provided;

5478 (b) The number of individuals who receive core services  
5479 by each center;

5480 (c) The number of individuals who receive intensive  
5481 services by each center;

5482 (d) The number of Workforce Investment Act vouchers  
5483 issued by the Workforce Development Centers including:

5484 (i) A list of schools and colleges to which these  
5485 vouchers were issued and the average cost per school of the  
5486 vouchers; and

5487 (ii) A list of the types of programs for which  
5488 these vouchers were issued;

5489 (e) The number of individuals placed in a job through  
5490 Workforce Development Centers;

5491 (f) The monies and the amount retained for  
5492 administrative and other costs received from Workforce Investment  
5493 Act funds for each agency or organization that Workforce  
5494 Investment Act funds flow through as a percentage and actual  
5495 dollar amount of all Workforce Investment Act funds received.

5496 **SECTION 58.** Section 60, Chapter 572, Laws of 2004, as  
5497 amended by Section 58, Chapter 30, Laws of the First Extraordinary  
5498 Session of 2008, as amended by Section 58, Chapter 559, Laws of  
5499 2010 Regular Session, as amended by Section 59, Chapter 471, Laws  
5500 of 2011, as amended by Section 58, Chapter 515, Laws of 2012, is  
5501 amended as follows:

5502 Section 60. This act shall stand repealed on July 1, \* \* \*  
5503 2022.

5504 **SECTION 59.** This act shall take effect and be in force from  
5505 and after its passage.

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

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 REENACT SECTIONS 71-5-101 AND 71-5-107  
7 THROUGH 71-5-143, MISSISSIPPI CODE OF 1972, WHICH TRANSFER THE  
8 POWERS AND RESPONSIBILITIES OF THE MISSISSIPPI EMPLOYMENT SECURITY  
9 COMMISSION TO THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY IN  
10 THE OFFICE OF THE GOVERNOR AND PRESCRIBE THE DEPARTMENT'S POWERS  
11 AND DUTIES; TO REENACT SECTION 71-5-201, MISSISSIPPI CODE OF 1972,  
12 WHICH ESTABLISHES THE MISSISSIPPI STATE EMPLOYMENT SERVICE WITHIN

13 THE DEPARTMENT OF EMPLOYMENT SECURITY; TO REENACT SECTIONS  
14 71-5-357 AND 71-5-359, MISSISSIPPI CODE OF 1972, WHICH PRESCRIBE  
15 REGULATIONS GOVERNING NONPROFIT ORGANIZATIONS, STATE AGENCIES AND  
16 POLITICAL SUBDIVISIONS UNDER THE EMPLOYMENT SECURITY LAW; TO  
17 REENACT SECTIONS 71-5-451 AND 71-5-457, MISSISSIPPI CODE OF 1972,  
18 WHICH RELATE TO THE UNEMPLOYMENT COMPENSATION FUND AND THE  
19 UNEMPLOYMENT TRUST FUND; TO REENACT SECTIONS 71-5-511, 71-5-513,  
20 71-5-517, 71-5-519, 71-5-523, 71-5-525, 71-5-529, 71-5-531 AND  
21 71-5-541, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE PAYMENT  
22 OF UNEMPLOYMENT COMPENSATION BENEFITS; TO REENACT SECTION  
23 73-30-25, MISSISSIPPI CODE OF 1972, WHICH EXCLUDES CERTAIN  
24 PROFESSIONALS FROM REGULATION UNDER THE LAWS GOVERNING LICENSED  
25 PROFESSIONAL COUNSELORS; TO REENACT SECTION 43-1-30, MISSISSIPPI  
26 CODE OF 1972, WHICH CREATES THE MISSISSIPPI TANF IMPLEMENTATION  
27 COUNCIL AND PRESCRIBES ITS POWERS AND DUTIES; TO REENACT SECTION  
28 43-17-5, MISSISSIPPI CODE OF 1972, WHICH GOVERNS THE DETERMINATION  
29 OF THE AMOUNT OF TANF BENEFITS THAT MAY BE GRANTED TO ELIGIBLE  
30 PERSONS; TO REENACT SECTION 43-19-45, MISSISSIPPI CODE OF 1972,  
31 WHICH REQUIRES THE CHILD SUPPORT UNIT ESTABLISHED BY THE  
32 DEPARTMENT OF HUMAN SERVICES TO ESTABLISH A STATE PARENT LOCATOR  
33 SERVICE; TO REENACT SECTION 43-19-46, MISSISSIPPI CODE OF 1972,  
34 WHICH REQUIRES EMPLOYERS TO SUBMIT CERTAIN INFORMATION RELATING TO  
35 NEWLY HIRED EMPLOYEES TO THE DIRECTORY OF NEW HIRES WITHIN THE  
36 DEPARTMENT OF HUMAN SERVICES; TO REENACT SECTIONS 57-62-5,  
37 57-62-9, 57-75-5 AND 57-80-7, MISSISSIPPI CODE OF 1972, WHICH  
38 RELATE TO THE MISSISSIPPI ADVANTAGE JOBS ACT, THE MISSISSIPPI  
39 MAJOR ECONOMIC IMPACT ACT, AND THE GROWTH AND PROSPERITY ACT,  
40 RESPECTIVELY; TO REENACT SECTION 69-2-5, MISSISSIPPI CODE OF 1972,  
41 WHICH PRESCRIBES CERTAIN DUTIES OF THE MISSISSIPPI COOPERATIVE  
42 EXTENSION SERVICE RELATING TO THE DISSEMINATION OF INFORMATION TO  
43 THE AGRICULTURAL COMMUNITY; TO REENACT SECTION 7-1-355,  
44 MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE DEPARTMENT OF  
45 EMPLOYMENT SECURITY, OFFICE OF THE GOVERNOR, TO MAKE AN ANNUAL  
46 REPORT TO THE LEGISLATURE ON WORKFORCE INVESTMENT ACTIVITIES; TO  
47 AMEND REENACTED SECTION 43-17-5, MISSISSIPPI CODE OF 1972, TO  
48 INFORM THE CODE PUBLISHER OF CERTAIN NONSUBSTANTIVE LANGUAGE THAT  
49 SHOULD BE REVISED; TO AMEND SECTION 60, CHAPTER 572, LAWS OF 2004,  
50 AS AMENDED BY SECTION 58, CHAPTER 30, LAWS OF THE FIRST  
51 EXTRAORDINARY SESSION OF 2008, AS AMENDED BY SECTION 58, CHAPTER  
52 559, LAWS OF 2010 REGULAR SESSION, AS AMENDED BY CHAPTER 471 LAWS  
53 OF 2011, AS AMENDED BY SECTION 58, CHAPTER 515, LAWS OF 2012,  
54 EXTEND UNTIL JULY 1, 2022, THE REPEAL DATE ON STATUTES THAT  
55 ESTABLISH AND PRESCRIBE THE MEMBERSHIP OF THE MISSISSIPPI  
56 WORKFORCE INVESTMENT BOARD AND TRANSFER THE POWERS AND  
57 RESPONSIBILITIES OF THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION  
58 TO THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY; AND FOR  
59 RELATED PURPOSES.

SS26\HB757A.J

Liz Welch  
Secretary of the Senate