

By: Representative Roberson

To: Workforce Development

HOUSE BILL NO. 588

1 AN ACT TO REENACT SECTIONS 37-153-1 THROUGH 37-153-15,
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI COMPREHENSIVE
3 WORKFORCE TRAINING AND EDUCATION CONSOLIDATION ACT OF 2004; TO
4 AMEND SECTION 37-153-17, MISSISSIPPI CODE OF 1972, TO EXTEND THE
5 DATE OF THE REPEALER ON THOSE STATUTES COMPOSING THE MISSISSIPPI
6 COMPREHENSIVE WORKFORCE TRAINING AND EDUCATION CONSOLIDATION ACT
7 OF 2004; TO REENACT SECTIONS 71-5-5, 71-5-11 AND 71-5-19,
8 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE MISSISSIPPI
9 EMPLOYMENT SECURITY LAW; TO REENACT SECTIONS 71-5-101 AND 71-5-107
10 THROUGH 71-5-143, MISSISSIPPI CODE OF 1972, WHICH TRANSFER THE
11 POWERS AND RESPONSIBILITIES OF THE MISSISSIPPI EMPLOYMENT SECURITY
12 COMMISSION TO THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY IN
13 THE OFFICE OF THE GOVERNOR AND PRESCRIBE THE DEPARTMENT'S POWERS
14 AND DUTIES; TO REENACT SECTION 71-5-201, MISSISSIPPI CODE OF 1972,
15 WHICH ESTABLISHES THE MISSISSIPPI STATE EMPLOYMENT SERVICE WITHIN
16 THE DEPARTMENT OF EMPLOYMENT SECURITY; TO REENACT SECTIONS
17 71-5-357 AND 71-5-359, MISSISSIPPI CODE OF 1972, WHICH PRESCRIBE
18 REGULATIONS GOVERNING NONPROFIT ORGANIZATIONS, STATE AGENCIES AND
19 POLITICAL SUBDIVISIONS UNDER THE EMPLOYMENT SECURITY LAW; TO
20 REENACT SECTIONS 71-5-451 AND 71-5-457, MISSISSIPPI CODE OF 1972,
21 WHICH RELATE TO THE UNEMPLOYMENT COMPENSATION FUND AND THE
22 UNEMPLOYMENT TRUST FUND; TO REENACT SECTIONS 71-5-511, 71-5-513,
23 71-5-517, 71-5-519, 71-5-523, 71-5-525, 71-5-529, 71-5-531 AND
24 71-5-541, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE PAYMENT
25 OF UNEMPLOYMENT COMPENSATION BENEFITS; TO REENACT SECTION
26 73-30-25, MISSISSIPPI CODE OF 1972, WHICH EXCLUDES CERTAIN
27 PROFESSIONALS FROM REGULATION UNDER THE LAWS GOVERNING LICENSED
28 PROFESSIONAL COUNSELORS; TO REENACT SECTION 7-1-355, MISSISSIPPI
29 CODE OF 1972, WHICH REQUIRES THE DEPARTMENT OF EMPLOYMENT
30 SECURITY, OFFICE OF THE GOVERNOR, TO MAKE AN ANNUAL REPORT TO THE
31 LEGISLATURE ON WORKFORCE INVESTMENT ACTIVITIES; TO REENACT SECTION
32 43-1-30, MISSISSIPPI CODE OF 1972, WHICH CREATES THE MISSISSIPPI
33 TANF IMPLEMENTATION COUNCIL AND PRESCRIBES ITS POWERS AND DUTIES;
34 TO REENACT SECTION 43-17-5, MISSISSIPPI CODE OF 1972, WHICH



35 PRESCRIBES THE AMOUNT OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES
36 (TANF) BENEFITS WHICH MAY BE GRANTED TO RECIPIENTS; TO REENACT
37 SECTION 43-19-45, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE
38 CHILD SUPPORT UNIT ESTABLISHED BY THE DEPARTMENT OF HUMAN SERVICES
39 TO ESTABLISH A STATE PARENT LOCATOR SERVICE; TO REENACT SECTION
40 43-19-46, MISSISSIPPI CODE OF 1972, WHICH REQUIRES EMPLOYERS TO
41 SUBMIT CERTAIN INFORMATION RELATING TO NEWLY HIRED EMPLOYEES TO
42 THE DIRECTORY OF NEW HIRES WITHIN THE DEPARTMENT OF HUMAN
43 SERVICES; TO REENACT SECTIONS 57-62-5 AND 57-62-9, MISSISSIPPI
44 CODE OF 1972, WHICH RELATE TO THE MISSISSIPPI ADVANTAGE JOBS ACT;
45 TO REENACT SECTION 57-75-5, MISSISSIPPI CODE OF 1972, WHICH
46 DEFINES CERTAIN TERMS USED UNDER THE MISSISSIPPI MAJOR ECONOMIC
47 IMPACT ACT; TO REENACT SECTION 57-80-7, MISSISSIPPI CODE OF 1972,
48 WHICH RELATES TO THE GROWTH AND PROSPERITY ACT; TO REENACT SECTION
49 69-2-5, MISSISSIPPI CODE OF 1972, WHICH PRESCRIBES CERTAIN DUTIES
50 OF THE MISSISSIPPI COOPERATIVE EXTENSION SERVICE RELATING TO THE
51 DISSEMINATION OF INFORMATION TO THE AGRICULTURAL COMMUNITY; TO
52 AMEND SECTION 60, CHAPTER 572, LAWS OF 2004, AS LAST AMENDED BY
53 SECTION 7, CHAPTER 476, LAWS OF 2020, TO EXTEND THE DATE OF THE
54 REPEALER ON THE PRECEDING STATUTES, EXCLUDING SECTIONS 37-153-1
55 THROUGH 37-153-15, MISSISSIPPI CODE OF 1972, WHICH ARE REENACTED
56 BY THIS ACT; AND FOR RELATED PURPOSES.

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

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

60 37-153-1. This article shall be known and may be cited as
61 the "Mississippi Comprehensive Workforce Training and Education
62 Consolidation Act of 2004."

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

65 37-153-3. It is the intent of the Legislature by the passage
66 of Chapter 572, Laws of 2004, to establish one (1) comprehensive
67 workforce development system in the State of Mississippi that is
68 focused on achieving results, using resources efficiently and
69 ensuring that workers and employers can easily access needed
70 services. This system shall reflect a consolidation of the



71 Mississippi Workforce Development Advisory Council and the
72 Mississippi State Workforce Investment Act Board. The purpose of
73 Chapter 572, Laws of 2004, is to provide workforce activities,
74 through a statewide system that maximizes cooperation among state
75 agencies, that increase the employment, retention and earnings of
76 participants, and increase occupational skill attainment by
77 participants and as a result, improve the quality of the
78 workforce, reduce welfare dependency and enhance the productivity
79 and competitiveness of the State of Mississippi.

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

82 37-153-5. For purposes of this article, the following words
83 and phrases shall have the meanings respectively ascribed in this
84 section unless the context clearly indicates otherwise:

85 (a) "State board" or "board" means the Mississippi
86 State Workforce Investment Board.

87 (b) "District councils" means the Local Workforce
88 Development Councils.

89 (c) "Local workforce investment board" means the board
90 that oversees the workforce development activities of local
91 workforce areas under the federal Workforce Investment Act.

92 (d) "Office" means the Mississippi Office of Workforce
93 Development, housed at the Department of Finance and
94 Administration.



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 Office of
98 Workforce Development and the Mississippi State Workforce
99 Investment Board, which shall serve as the advisory board for the
100 office. The Mississippi State Workforce Investment Board shall be
101 composed of thirty-one (31) voting members, of which a majority
102 shall be representatives of business and industry in accordance
103 with the federal Workforce Innovation and Opportunity Act, or any
104 successive acts.

105 (2) The members of the State Workforce Investment Board
106 shall include:

107 (a) The Governor, or his designee;

108 (b) Nineteen (19) members, appointed by the Governor,
109 of whom:

110 (i) A majority shall be representatives of
111 businesses in the state, who:

112 1. Are owners of businesses, chief executives
113 or operating officers of businesses, or other business executives
114 or employers with optimum policymaking or hiring authority, and
115 who, in addition, may be members of a local board described in
116 Section 3122(b)(2)(A)(i) of the federal Workforce Innovation and
117 Opportunity Act. At least two (2) of the members appointed under
118 this item 1. shall be small business owners, chief executives or



119 operating officers of businesses with less than fifty (50)
120 employees;

121 2. Represent businesses, including small
122 businesses, or organizations representing businesses, which
123 provide employment opportunities that, at a minimum, include
124 high-quality, work-relevant training and development in
125 high-demand industry sectors or occupations in the state; and

126 3. Are appointed from among individuals
127 nominated by state business organizations and business trade
128 associations;

129 (ii) Not less than twenty percent (20%) shall
130 consist of representatives of the workforce within the state,
131 which:

132 1. Includes labor organization
133 representatives who have been nominated by state labor
134 federations;

135 2. Includes a labor organization member or
136 training director from an apprenticeship program in the state,
137 which shall be a joint labor-management apprenticeship program if
138 such a program exists in the state;

139 3. May include representatives of
140 community-based organizations, including organizations serving
141 veterans or providing or supporting competitive, integrated
142 employment for individuals with disabilities, who have
143 demonstrated experience and expertise in addressing employment,



144 training or education needs of individuals with barriers to
145 employment; and

146 4. May include representatives of
147 organizations, including organizations serving out-of-school
148 youth, who have demonstrated experience or expertise in addressing
149 the employment, training or education needs of eligible youth;

150 (iii) The balance shall include government
151 representatives, including the lead state officials with primary
152 responsibility for core programs, and chief elected officials
153 (collectively representing both cities and counties, where
154 appropriate);

155 (c) Two (2) representatives of businesses in the state
156 appointed by the Lieutenant Governor;

157 (d) Two (2) representatives of businesses in the state
158 appointed by the Governor from a list of three (3) recommendations
159 from the Speaker of the House; and

160 (e) The following state officials:

161 (i) The Executive Director of the Mississippi
162 Department of Employment Security;

163 (ii) The Executive Director of the Department of
164 Rehabilitation Services;

165 (iii) The State Superintendent of Public
166 Education;

167 (iv) The Executive Director of the Mississippi
168 Development Authority;



169 (v) The Executive Director of the Mississippi
170 Community College Board;

171 (vi) The President of the Community College
172 Association; and

173 (vii) The Commissioner of the Institutions of
174 Higher Learning.

175 (f) One (1) senator, appointed by the Lieutenant
176 Governor, and one (1) representative, appointed by the Speaker of
177 the House, shall serve on the state board in a nonvoting capacity.

178 (g) The Governor may appoint additional members if
179 required by the federal Workforce Innovation and Opportunity Act,
180 or any successive acts.

181 (h) Members of the board shall serve a term of four (4)
182 years, and shall not serve more than three (3) consecutive terms.

183 (i) The membership of the board shall reflect the
184 diversity of the State of Mississippi.

185 (j) The Governor shall designate the Chairman of the
186 Mississippi State Workforce Investment Board from among the
187 business and industry voting members of the board, and a quorum of
188 the board shall consist of a majority of the voting members of the
189 board.

190 (k) The voting members of the board who are not state
191 employees shall be entitled to reimbursement of their reasonable
192 expenses in the manner and amount specified in Section 25-3-41 and



193 shall be entitled to receive per diem compensation as authorized
194 in Section 25-3-69.

195 (3) Members of the state board may be recalled by their
196 appointing authority for cause, including a felony conviction,
197 fraudulent or dishonest acts or gross abuse of discretion, failure
198 to meet board member qualifications, or chronic failure to attend
199 board meetings.

200 (4) The Mississippi Department of Employment Security shall
201 establish limits on administrative costs for each portion of
202 Mississippi's workforce development system consistent with the
203 federal Workforce Investment Act or any future federal workforce
204 legislation.

205 (5) The Mississippi State Workforce Investment Board shall
206 have the following duties. These duties are intended to be
207 consistent with the scope of duties provided in the federal
208 Workforce Innovation and Opportunity Act, amendments and successor
209 legislation to this act, and other relevant federal law:

210 (a) Through the office, develop and submit to the
211 Governor, Lieutenant Governor and Speaker of the House a strategic
212 plan for an integrated state workforce development system that
213 aligns resources and structures the system to more effectively and
214 efficiently meet the demands of Mississippi's employers and job
215 seekers. This plan will comply with the federal Workforce
216 Investment Act of 1998, as amended, the federal Workforce



217 Innovation and Opportunity Act of 2014 and amendments and
218 successor legislation to these acts;

219 (b) Assist the Governor, Lieutenant Governor and
220 Speaker of the House in the development and continuous improvement
221 of the statewide workforce investment system that shall include:

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

224 (ii) Review local workforce development plans that
225 reflect the use of funds from the federal Workforce Investment
226 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
227 Act and the amendment or successor legislation to the acts, and
228 the Mississippi Comprehensive Workforce Training and Education
229 Consolidation Act;

230 (c) Recommend to the office the designation of local
231 workforce investment areas as required in Section 116 of the
232 federal Workforce Investment Act of 1998 and the Workforce
233 Innovation and Opportunity Act of 2014. There shall be four (4)
234 workforce investment areas that are generally aligned with the
235 planning and development district structure in Mississippi.
236 Planning and development districts will serve as the fiscal agents
237 to manage Workforce Investment Act funds, oversee and support the
238 local workforce investment boards aligned with the area and the
239 local programs and activities as delivered by the one-stop
240 employment and training system. The planning and development
241 districts will perform this function through the provisions of the



242 county cooperative service districts created under Sections
243 19-3-101 through 19-3-115; however, planning and development
244 districts currently performing this function under the Interlocal
245 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
246 continue to do so;

247 (d) Assist the Governor in the development of an
248 allocation formula for the distribution of funds for adult
249 employment and training activities and youth activities to local
250 workforce investment areas;

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

254 (f) Assist the Governor in the establishment and
255 management of a one-stop employment and training system conforming
256 to the requirements of the federal Workforce Investment Act of
257 1998 and the Workforce Innovation and Opportunity Act of 2014, as
258 amended, recommending policy for implementing the Governor's
259 approved plan for employment and training activities and services
260 within the state. In developing this one-stop career operating
261 system, the Mississippi State Workforce Investment Board, in
262 conjunction with local workforce investment boards, shall:

263 (i) Design broad guidelines for the delivery of
264 workforce development programs;

265 (ii) Identify all existing delivery agencies and
266 other resources;



267 (iii) Define appropriate roles of the various
268 agencies to include an analysis of service providers' strengths
269 and weaknesses;

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

272 (v) Develop a financial plan to support the
273 delivery system that shall, at a minimum, include an
274 accountability system;

275 (g) To provide authority, in accordance with any
276 executive order of the Governor, for developing the necessary
277 collaboration among state agencies at the highest level for
278 accomplishing the purposes of this article;

279 (h) To monitor the effectiveness of the workforce
280 development centers and WIN job centers;

281 (i) To advise the Governor, public schools,
282 community/junior colleges and institutions of higher learning on
283 effective school-to-work transition policies and programs that
284 link students moving from high school to higher education and
285 students moving between community colleges and four-year
286 institutions in pursuit of academic and technical skills training;

287 (j) To work with industry to identify barriers that
288 inhibit the delivery of quality workforce education and the
289 responsiveness of educational institutions to the needs of
290 industry;



291 (k) To provide periodic assessments on effectiveness
292 and results of the overall Mississippi comprehensive workforce
293 development system and district councils;

294 (l) Develop broad statewide development goals,
295 including a goal to raise the state's labor force participation
296 rate;

297 (m) Perform a comprehensive review of Mississippi's
298 workforce development efforts, including the amount spent and
299 effectiveness of programs supported by state or federal money; and

300 (n) To assist the Governor in carrying out any other
301 responsibility required by the federal Workforce Investment Act of
302 1998, as amended and the Workforce Innovation and Opportunity Act,
303 successor legislation and amendments.

304 (6) The Mississippi State Workforce Investment Board shall
305 coordinate all training programs and funds within its purview,
306 consistent with the federal Workforce Investment Act, Workforce
307 Innovation and Opportunity Act, amendments and successor
308 legislation to these acts, and other relevant federal law.

309 Each state agency director responsible for workforce training
310 activities shall advise the Mississippi Office of Workforce
311 Development and the State Workforce Investment Board of
312 appropriate federal and state requirements. Each state agency,
313 department and institution shall report any monies received for
314 workforce training activities or career and technical education
315 and a detailed itemization of how those monies were spent to the



316 state board. The board shall compile the data and provide a
317 report of the monies and expenditures to the Chairs of the House
318 and Senate Appropriations Committee, the Chair of the House
319 Workforce Development Committee and the Chair of the Senate
320 Economic and Workforce Development Committee by October 1 of each
321 year. Each such state agency director shall remain responsible
322 for the actions of his agency; however, each state agency and
323 director shall work cooperatively to fulfill the state's goals.

324 (7) The State Workforce Investment Board shall establish an
325 executive committee, which shall consist of the following State
326 Workforce Investment Board members:

327 (a) The Chair of the State Workforce Investment Board;
328 (b) Two (2) business representatives currently serving
329 on the state board selected by the Governor;

330 (c) The two (2) business representatives currently
331 serving on the state board appointed by the Lieutenant Governor;

332 (d) The two (2) business representatives currently
333 serving on the state board appointed by the Governor from a list
334 of three (3) recommendations from the Speaker of the House;

335 (e) The two (2) legislators, who shall serve in a
336 nonvoting capacity, one (1) of whom shall be appointed by the
337 Lieutenant Governor from the membership of the Mississippi Senate
338 and one (1) of whom shall be appointed by the Speaker of the House
339 of Representatives from the membership of the Mississippi House of
340 Representatives.



341 (8) The executive committee shall select an executive
342 director of the Office of Workforce Development, with the advice
343 and consent of a majority of the State Workforce Investment Board.
344 The executive committee shall seek input from economic development
345 organizations across the state when selecting the executive
346 director. The executive director shall:

347 (a) Be a person with extensive experience in
348 development of economic, human and physical resources, and
349 promotion of industrial and commercial development. The executive
350 director shall have a bachelor's degree from a state-accredited
351 institution and no less than eight (8) years of professional
352 experience related to workforce or economic development;

353 (b) Perform the functions necessary for the daily
354 operation and administration of the office, with oversight from
355 the executive committee and the State Workforce Investment Board,
356 to fulfill the duties of the state board as described in Chapter
357 476, Laws of 2020;

358 (c) Hire staff needed for the performance of his or her
359 duties under Chapter 476, Laws of 2020. The executive director,
360 with approval from the executive committee, shall set the
361 compensation of any hired employees from any funds made available
362 for that purpose;

363 (d) Enter any part of the Mississippi Community College
364 Board, individual community and junior colleges, or other



365 workforce training facilities operated by the state or its
366 subdivisions;

367 (e) Serve at the will and pleasure of the executive
368 committee;

369 (f) Promulgate rules and regulations, subject to
370 oversight by the executive committee, not inconsistent with this
371 article, as may be necessary to enforce the provisions in Chapter
372 476, Laws of 2020; and

373 (g) Perform any other actions he or she, in
374 consultation with the executive committee, deems necessary to
375 fulfill the duties under Chapter 476, Laws of 2020.

376 (9) The Office of Workforce Development and Mississippi
377 Community College Board shall collaborate in the administration
378 and oversight of the Mississippi Workforce Enhancement Training
379 Fund and Mississippi Works Fund, as described in Section 71-5-353.
380 The executive director shall maintain complete and exclusive
381 operational control of the office's functions.

382 (10) The office shall file an annual report with the
383 Governor, Secretary of State, President of the Senate, Secretary
384 of the Senate, Speaker of the House, and Clerk of the House not
385 later than October 1 of each year regarding all funds approved by
386 the office to be expended on workforce training during the prior
387 calendar year. The report shall include:

388 (a) Information on the performance of the Mississippi
389 Workforce Enhancement Training Fund and the Mississippi Works



390 Fund, in terms of adding value to the local and state economy, the
391 contribution to future growth of the state economy, and movement
392 toward state goals, including increasing the labor force
393 participation rate; and

394 (b) With respect to specific workforce training
395 projects:

396 (i) The location of the training;

397 (ii) The amount allocated to the project;

398 (iii) The purpose of the project;

399 (iv) The specific business entity that is the
400 beneficiary of the project; and

401 (v) The number of employees intended to be trained
402 and actually trained, if applicable, in the course of the project.

403 (c) All information concerning a proposed project which
404 is provided to the executive director shall be kept confidential.

405 Such confidentiality shall not limit disclosure under the

406 Mississippi Public Records Act of 1983 of records describing the

407 nature, quantity, cost or other pertinent information related to

408 the activities of, or services performed using, the Mississippi

409 Workforce Enhancement Training Fund or the Mississippi Works Fund.

410 (11) Nothing in Chapter 476, Laws of 2020 [Senate Bill No.

411 2564] shall void or otherwise interrupt any contract, lease, grant

412 or other agreement previously entered into by the State Workforce

413 Investment Board, Mississippi Community College Board, individual

414 community or junior colleges, or other entities.



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

417 37-153-9. (1) In accordance with the federal Workforce
418 Investment Act of 1998, there shall be established, for each of
419 the four (4) state workforce areas prescribed in Section 37-153-3
420 (2)(c), a local workforce investment board to set policy for the
421 portion of the state workforce investment system within the local
422 area and carry out the provisions of the Workforce Investment Act.

423 (2) Each community college district shall have an affiliated
424 District Workforce Development Council. The district council
425 shall be composed of a diverse group of fifteen (15) persons
426 appointed by the board of trustees of the affiliated public
427 community or junior college. The members of each district council
428 shall be selected from persons recommended by the chambers of
429 commerce, employee groups, industrial foundations, community
430 organizations and local governments located in the community
431 college district of the affiliated community college with one (1)
432 appointee being involved in basic literacy training. However, at
433 least eight (8) members of each district council shall be chief
434 executive officers, plant managers that are representatives of
435 employers in that district or service sector executives. The
436 District Workforce Development Council affiliated with each
437 respective community or junior college shall advise the president
438 of the community or junior college on the operation of its
439 workforce development center/one-stop center.



440 The Workforce Development Council shall have the following
441 advisory duties:

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

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

446 (ii) Sets short-term and long-term goals for
447 industry-specific training and upgrading and for general
448 development of the workforce; and

449 (iii) Provides for coordination of all training
450 programs, including ABE/High School Equivalency Diploma, Skills
451 Enhancement and Industrial Services, and shall work
452 collaboratively with the State Literacy Resource Center;

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

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

457 (d) To encourage continuous improvement through
458 evaluation and assessment; and

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

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

463 37-153-11. (1) There are created workforce development
464 centers to provide assessment, training and placement services to



465 individuals needing retraining, training and upgrading for small
466 business and local industry. Each workforce development center
467 shall be affiliated with a separate public community or junior
468 college district and shall coordinate with the Office of Workforce
469 Development.

470 (2) Each workforce development center shall be staffed and
471 organized locally by the affiliated community college. The
472 workforce development center shall serve as staff to the
473 affiliated district council.

474 (3) Each workforce development center, working in concert
475 with its affiliated district council, shall offer and arrange
476 services to accomplish the purposes of this article, including,
477 but not limited to, the following:

478 (a) For individuals needing training and retraining:

479 (i) Recruiting, assessing, counseling and
480 referring to training or jobs;

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

483 (iii) Basic literacy skills training and high
484 school equivalency education;

485 (iv) Vocational and technical training, full-time
486 or part-time; and

487 (v) Short-term skills training for educationally
488 and economically disadvantaged adults in cooperation with
489 federally established employment and training programs;



490 (b) For specific small businesses, industries or firms
491 within the district:
492 (i) Job analysis, testing and curriculum
493 development;
494 (ii) Development of specific long-range training
495 plans;
496 (iii) Industry or firm-related preemployment
497 training;
498 (iv) Workplace basic skills and literacy training;
499 (v) Customized skills training;
500 (vi) Assistance in developing the capacity for
501 total quality management training;
502 (vii) Technology transfer information and referral
503 services to business of local applications of new research in
504 cooperation with the University Research Center, the state's
505 universities and other laboratories; and
506 (viii) Development of business plans;
507 (c) For public schools within the district technical
508 assistance to secondary schools in curriculum coordination,
509 development of tech prep programs, instructional development and
510 resource coordination; and
511 (d) For economic development, a local forum and
512 resource center for all local industrial development groups to
513 meet and promote regional economic development.



514 (4) Each workforce development center shall compile and make
515 accessible to the Office of Workforce Development and Mississippi
516 State Workforce Investment Board necessary information for use in
517 evaluating outcomes of its efforts and in improving the quality of
518 programs at each community college, and shall include information
519 on literacy initiatives. Each workforce development center shall,
520 through an interagency management information system, maintain
521 records on new small businesses, placement, length of time on the
522 job after placement and wage rates of those placed in a form
523 containing such information as established by the state council.

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

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

531 37-153-13. The Mississippi Community College Board, in
532 collaboration with the Office of Workforce Development, is
533 designated as the primary support agency to the workforce
534 development centers. The Mississippi Community College Board, in
535 collaboration with the Office of Workforce Development, may
536 exercise the following powers:

537 (a) To provide the workforce development centers the
538 assistance necessary to accomplish the purposes of this article;



539 (b) To provide the workforce development centers
540 consistent standards and benchmarks to guide development of the
541 local workforce development system and to provide a means by which
542 the outcomes of local services can be measured;

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

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

548 (ii) Establishing rigorous and comprehensive local
549 preemployment training programs;

550 (iii) Developing local institutional capacity to
551 deliver total quality management training;

552 (iv) Developing local institutional capacity to
553 transfer new technologists into the marketplace;

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

556 (vi) Developing data for strategic planning;

557 (d) To collaborate with the Mississippi Development
558 Authority, Office of Workforce Development, individual community
559 and junior colleges, and other economic development and
560 educational organizations and political subdivisions to increase
561 the economic development potential and the state's labor force
562 participation rate;



563 (e) To administer presented and approved certification
564 programs by the community colleges for tax credits and partnership
565 funding for corporate training;

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

571 (g) To develop internal capacity to provide services
572 and to contract for services from universities and other providers
573 directly to local institutions;

574 (h) To develop and administer an incentive
575 certification program;

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

578 (j) To collaborate, partner and contract for services
579 with community-based organizations and disadvantaged businesses in
580 the delivery of workforce training and career information
581 especially to youth, as defined by the federal Workforce
582 Investment Act, and to those adults who are in low income jobs or
583 whose individual skill levels are so low as to be unable initially
584 to be aided by a workforce development center. Community-based
585 organizations and disadvantaged businesses must meet
586 performance-based certification requirements set by the



587 Mississippi Community College Board, in collaboration with the
588 Office of Workforce Development.

589 **SECTION 8.** Section 37-153-15, Mississippi Code of 1972, is
590 reenacted as follows:

591 37-153-15. (1) As used in this article:

592 (a) The words "industry certification" mean a process
593 through which students are assessed by an independent, third-party
594 certifying entity using predetermined standards for knowledge,
595 skills and competencies, resulting in the award of a credential
596 that is nationally recognized and must be at least one (1) of the
597 following:

598 (i) Within an industry that addresses a critical
599 local, regional or statewide economic need;

600 (ii) Linked to an occupation that is included in
601 the State Department of Employment Security's occupations in
602 high-demand list; or

603 (iii) Linked to an occupation that is identified
604 as emerging.

605 (b) The words "qualifying industry certification" mean
606 an industry certification that is linked to an occupation with
607 wages of at least seventy percent (70%) of the median state income
608 unless the industry certification is stackable to another
609 postsecondary or professional credential which is linked to an
610 occupation which meets the wage criterion.



611 (2) The State Workforce Investment Board shall provide the
612 State Board of Education annually with a list of qualifying
613 industry certifications. If the occupations identified in the
614 list are not substantially the same as those occupations
615 identified in the prior year, the State Board of Education shall
616 provide reasonable notice of the changes to school districts.

617 (3) Beginning in fiscal year 2019-2020 and subject to
618 available funding, the Department of Education shall pay a career
619 and technical education incentive grant to the public school for
620 each student enrolled in the public school who earns a qualifying
621 industry certification. The amount per student for the career and
622 technical education incentive grant shall be Six Hundred Dollars
623 (\$600.00). If the statewide sum of the career and technical
624 education incentive grants awarded pursuant to this section
625 exceeds the amount of available funds appropriated for the grants,
626 the grants per student shall be reduced proportionately to cover
627 all eligible grants under this section. Any costs accrued during
628 one (1) fiscal year may be claimed and reimbursed in the following
629 fiscal year.

630 (4) The grants may be used for qualifying industry
631 certification examination fees, professional development for
632 teachers in career and technical education programs under this
633 section, student instructional support for programs that lead to
634 qualifying industry certifications, or to increase access to
635 qualifying industry certifications. Any grants awarded under this



636 section may not be used to supplant funds provided for the basic
637 operation of the career and technical education programs.

638 (5) On or before October 1 of each year, the Department of
639 Education, working in collaboration with the Office of Workforce
640 Development and any other entities as necessary, shall submit a
641 report to the Governor, the Lieutenant Governor, the Speaker of
642 the House of Representatives, the Chairmen of the House and Senate
643 Education Committees, the Chairman of the House Workforce
644 Development Committee and the Chairman of the Senate Economic and
645 Workforce Development Committee on the following:

646 (a) The number of students who enrolled in a career and
647 technical education course or program that leads to a qualifying
648 industry certification.

649 (b) The number of students who earned a qualifying
650 industry certification by certification.

651 (c) The amount of career and technical education
652 incentive grants awarded by the school.

653 (d) The amount of career and technical education
654 incentive grants awarded per student.

655 (e) Aggregated demographic data on the students who
656 earned a qualifying industry certification, including the
657 qualifying industry certifications earned by rural and urban
658 students.

659 **SECTION 9.** Section 37-153-17, Mississippi Code of 1972, is
660 amended as follows:



661 37-153-17. Sections 37-153-1, 37-153-3, 37-153-5, 37-153-7,
662 37-153-9, 37-153-11, 37-153-13 and 37-153-15 shall stand repealed
663 on July 1, * * * 2026.

664 **SECTION 10.** Section 71-5-5, Mississippi Code of 1972, is
665 reenacted as follows:

666 71-5-5. The Legislature finds and declares that the
667 existence and continued operation of a federal tax upon employers,
668 against which some portion of the contributions required under
669 this chapter may be credited, will protect Mississippi employers
670 from undue disadvantages in their competition with employers in
671 other states. If at any time, upon a formal complaint to the
672 Governor, he shall find that Title IX of the Social Security Act
673 has been amended or repealed by Congress or has been held
674 unconstitutional by the Supreme Court of the United States, and
675 that, as a result thereof, the provisions of this chapter
676 requiring Mississippi employers to pay contributions will subject
677 them to a serious competitive disadvantage in relation to
678 employers in other states, he shall publish such findings and
679 proclaim that the operation of the provisions of this chapter
680 requiring the payment of contributions and benefits shall be
681 suspended for a period of not more than six (6) months. The
682 Department of Employment Security shall thereupon requisition from
683 the Unemployment Trust Fund all monies therein standing to its
684 credit, and shall deposit such monies, together with any other
685 monies in the Unemployment Compensation Fund, as a special fund in



686 any banks or public depositories in this state in which general
687 funds of the state may be deposited.

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

690 If within the aforesaid six-month period the Governor shall
691 find that other federal legislation has been enacted which avoids
692 the competitive disadvantage herein described, he shall forthwith
693 publicly so proclaim, and upon the date of such proclamation, the
694 provisions of this chapter requiring the payment of contributions
695 and benefits shall again become fully operative as of the date of
696 such suspension with the same effect as if such suspension had not
697 occurred. If within such six-month period no such other federal
698 legislation is enacted or the Legislature of this state has not
699 otherwise prescribed, the Department of Employment Security shall,
700 under regulations prescribed by it, refund, without interest, to
701 each employer by whom contributions have been paid his pro rata
702 share of the total contributions paid under this chapter. Any
703 interest or earnings of the fund shall be available to the
704 Department of Employment Security to pay for the costs of making
705 such refunds. When the Department of Employment Security shall
706 have executed the duties herein prescribed and performed such
707 other acts as are incidental to the termination of its duties
708 under this chapter, the Governor shall, by public proclamation,
709 declare that the provisions of this chapter, in their entirety,
710 shall cease to be operative.



711 **SECTION 11.** Section 71-5-11, Mississippi Code of 1972, is
712 reenacted as follows:

713 71-5-11. As used in this chapter, unless the context clearly
714 requires otherwise:

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

718 B. "Benefit year" with respect to any individual means the
719 period beginning with the first day of the first week with respect
720 to which he or she first files a valid claim for benefits, and
721 ending with the day preceding the same day of the same month in
722 the next calendar year; and, thereafter, the period beginning with
723 the first day of the first week with respect to which he or she
724 next files his or her valid claim for benefits, and ending with
725 the day preceding the same day of the same month in the next
726 calendar year. Any claim for benefits made in accordance with
727 Section 71-5-515 shall be deemed to be a "valid claim" for
728 purposes of this subsection if the individual has been paid the
729 wages for insured work required under Section 71-5-511(e).

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

732 D. "Calendar quarter" means the period of three (3)
733 consecutive calendar months ending on March 31, June 30, September
734 30, or December 31.



735 E. "Department" or "commission" means the Mississippi
736 Department of Employment Security, Office of the Governor.

737 F. "Executive director" means the Executive Director of the
738 Mississippi Department of Employment Security, Office of the
739 Governor, appointed under Section 71-5-107.

740 G. "Employing unit" means this state or another state or any
741 instrumentalities or any political subdivisions thereof or any of
742 their instrumentalities or any instrumentality of more than one
743 (1) of the foregoing or any instrumentality of any of the
744 foregoing and one or more other states or political subdivisions,
745 any Indian tribe as defined in Section 3306(u) of the Federal
746 Unemployment Tax Act (FUTA), which includes any subdivision,
747 subsidiary or business enterprise wholly owned by such Indian
748 tribe, any individual or type of organization, including any
749 partnership, association, trust, estate, joint-stock company,
750 insurance company, or corporation, whether domestic or foreign, or
751 the receiver, trustee in bankruptcy, trustee or successor thereof,
752 or the legal representative of a deceased person, which has or had
753 in its employ one or more individuals performing services for it
754 within this state. All individuals performing services within
755 this state for any employing unit which maintains two (2) or more
756 separate establishments within this state shall be deemed to be
757 employed by a single employing unit for all the purposes of this
758 chapter. Each individual employed to perform or to assist in
759 performing the work of any agent or employee of an employing unit



760 shall be deemed to be employed by such employing unit for all
761 purposes of this chapter, whether such individual was hired or
762 paid directly by such employing unit or by such agent or employee,
763 provided the employing unit had actual or constructive knowledge
764 of the work. All individuals performing services in the employ of
765 an elected fee-paid county official, other than those related by
766 blood or marriage within the third degree computed by the rule of
767 the civil law to such fee-paid county official, shall be deemed to
768 be employed by such county as the employing unit for all the
769 purposes of this chapter. For purposes of defining an "employing
770 unit" which shall pay contributions on remuneration paid to
771 individuals, if two (2) or more related corporations concurrently
772 employ the same individual and compensate such individual through
773 a common paymaster which is one (1) of such corporations, then
774 each such corporation shall be considered to have paid as
775 remuneration to such individual only the amounts actually
776 disbursed by it to such individual and shall not be considered to
777 have paid as remuneration to such individual such amounts actually
778 disbursed to such individual by another of such corporations.

779 H. "Employer" means:

780 (1) Any employing unit which,

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



785 (b) For some portion of a day in each of twenty
786 (20) different calendar weeks, whether or not such weeks were
787 consecutive, in either the current or the preceding calendar year
788 had in employment at least one (1) individual (irrespective of
789 whether the same individual was in employment in each such day),
790 except as provided in paragraph (9) of this subsection;

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

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

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

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

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

805 (6) Any individual or employing unit which acquired its
806 organization, trade, business, or substantially all the assets
807 thereof, from another employing unit, if the employment record of
808 the acquiring individual or employing unit subsequent to such
809 acquisition, together with the employment record of the acquired



810 organization, trade, or business prior to such acquisition, both
811 within the same calendar year, would be sufficient to constitute
812 an employing unit as an employer subject to this chapter under
813 paragraph (1) or (3) of this subsection;

814 (7) Any employing unit which, having become an employer
815 under paragraph (1), (3), (5) or (6) of this subsection or under
816 any other provisions of this chapter, has not, under Section
817 71-5-361, ceased to be an employer subject to this chapter;

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

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

826 (b) In determining whether or not an employing
827 unit for which service other than agricultural labor is also
828 performed is an employer under paragraph (1) or (4)(b) of this
829 subsection, the wages earned or the employment of an employee
830 performing services in agricultural labor, shall not be taken into
831 account. If an employing unit is determined an employer of
832 agricultural labor, such employing unit shall be determined an
833 employer for purposes of paragraph (1) of this subsection;



834 (10) All entities utilizing the services of any
835 employee leasing firm shall be considered the employer of the
836 individuals leased from the employee leasing firm. Temporary help
837 firms shall be considered the employer of the individuals they
838 provide to perform services for other individuals or
839 organizations.

840 I. "Employment" means and includes:

841 (1) Any service performed, which was employment as
842 defined in this section and, subject to the other provisions of
843 this subsection, including service in interstate commerce,
844 performed for wages or under any contract of hire, written or
845 oral, express or implied.

846 (2) Services performed for remuneration for a
847 principal:

848 (a) As an agent-driver or commission-driver
849 engaged in distributing meat products, vegetable products, fruit
850 products, bakery products, beverages (other than milk), or laundry
851 or dry-cleaning services;

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



858 establishments for merchandise for resale or supplies for use in
859 their business operations.

860 However, for purposes of this subsection, the term
861 "employment" shall include services described in paragraphs (2)(a)
862 and (b) of this subsection, only if:

863 (i) The contract of service contemplates that
864 substantially all of the services are to be performed personally
865 by such individual;

866 (ii) The individual does not have a
867 substantial investment in facilities used in connection with the
868 performance of the services (other than in facilities for
869 transportation); and

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

873 (3) Service performed in the employ of this state or
874 any of its instrumentalities or any political subdivision thereof
875 or any of its instrumentalities or any instrumentality of more
876 than one (1) of the foregoing or any instrumentality of any of the
877 foregoing and one or more other states or political subdivisions
878 or any Indian tribe as defined in Section 3306(u) of the Federal
879 Unemployment Tax Act (FUTA), which includes any subdivision,
880 subsidiary or business enterprise wholly owned by such Indian
881 tribe; however, such service is excluded from "employment" as
882 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)



883 of that act and is not excluded from "employment" under paragraph
884 (5) of this subsection.

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

889 (b) The organization had four (4) or more
890 individuals in employment for some portion of a day in each of
891 twenty (20) different weeks, whether or not such weeks were
892 consecutive, within the current or preceding calendar year,
893 regardless of whether they were employed at the same moment of
894 time.

895 (5) For the purposes of paragraphs (3) and (4) of this
896 subsection, the term "employment" does not apply to service
897 performed:

898 (a) In the employ of:

899 (i) A church or convention or association of
900 churches; or

901 (ii) An organization which is operated
902 primarily for religious purposes and which is operated,
903 supervised, controlled, or principally supported by a church or
904 convention or association of churches; or

905 (b) By a duly ordained, commissioned, or licensed
906 minister of a church in the exercise of his or her ministry, or by



907 a member of a religious order in the exercise of duties required
908 by such order; or

909 (c) In the employ of a governmental entity
910 referred to in paragraph (3) of this subsection, if such service
911 is performed by an individual in the exercise of duties:

912 (i) As an elected official;

913 (ii) As a member of a legislative body, or a
914 member of the judiciary, of a state or political subdivision or a
915 member of an Indian tribal council;

916 (iii) As a member of the State National Guard
917 or Air National Guard;

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

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

924 1. A major nontenured policy-making or
925 advisory position, or

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

929 (d) In a facility conducted for the purpose of
930 carrying out a program of rehabilitation for individuals whose
931 earning capacity is impaired by age or physical or mental



932 deficiency or injury, or providing remunerative work for
933 individuals who because of their impaired physical or mental
934 capacity cannot be readily absorbed in the competitive labor
935 market, by an individual receiving such rehabilitation or
936 remunerative work; or

937 (e) By an inmate of a custodial or penal
938 institution; or

939 (f) As part of an unemployment work-relief or
940 work-training program assisted or financed, in whole or in part,
941 by any federal agency or agency of a state or political
942 subdivision thereof or of an Indian tribe, by an individual
943 receiving such work relief or work training, unless coverage of
944 such service is required by federal law or regulation.

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

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

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

952 (ii) For some portion of a day in each of
953 twenty (20) different calendar weeks, whether or not such weeks
954 were consecutive, in either the current or the preceding calendar
955 year, employed in agricultural labor ten (10) or more individuals,



956 regardless of whether they were employed at the same moment of
957 time.

958 (b) For the purposes of this paragraph (6) any
959 individual who is a member of a crew furnished by a crew leader to
960 perform service in agricultural labor for any other person shall
961 be treated as an employee of such crew leader:

962 (i) If such crew leader holds a valid
963 certificate of registration under the Farm Labor Contractor
964 Registration Act of 1963; or substantially all the members of such
965 crew operate or maintain tractors, mechanized harvesting or crop
966 dusting equipment, or any other mechanized equipment, which is
967 provided by such crew leader; and

968 (ii) If such individual is not an employee of
969 such other person within the meaning of paragraph (1) of this
970 subsection.

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

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

978 (ii) Such other person shall be treated as
979 having paid cash remuneration to such individual in an amount
980 equal to the amount of cash remuneration paid to such individual



981 by the crew leader (either on his or her own behalf or on behalf
982 of such other person) for the service in agricultural labor
983 performed for such other person.

984 (d) For the purposes of this paragraph (6) the
985 term "crew leader" means an individual who:

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

988 (ii) Pays (either on his or her own behalf or
989 on behalf of such other person) the individuals so furnished by
990 him or her for the service in agricultural labor performed by
991 them; and

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

995 (7) The term "employment" shall include domestic
996 service in a private home, local college club or local chapter of
997 a college fraternity or sorority performed for an employing unit
998 which paid cash remuneration of One Thousand Dollars (\$1,000.00)
999 or more in any calendar quarter in the current or the preceding
1000 calendar year to individuals employed in such domestic service.
1001 For the purpose of this subsection, the term "employment" does not
1002 apply to service performed as a "sitter" at a hospital in the
1003 employ of an individual.

1004 (8) An individual's entire service, performed within or
1005 both within and without this state, if:



1006 (a) The service is localized in this state; or
1007 (b) The service is not localized in any state but
1008 some of the service is performed in this state; and

1009 (i) The base of operations or, if there is no
1010 base of operations, the place from which such service is directed
1011 or controlled is in this state; or

1012 (ii) The base of operations or place from
1013 which such service is directed or controlled is not in any state
1014 in which some part of the service is performed, but the
1015 individual's residence is in this state.

1016 (9) Services not covered under paragraph (8) of this
1017 subsection and performed entirely without this state, with respect
1018 to no part of which contributions are required and paid under an
1019 unemployment compensation law of any other state or of the federal
1020 government, shall be deemed to be employment subject to this
1021 chapter if the individual performing such services is a resident
1022 of this state and the department approves the election of the
1023 employing unit for whom such services are performed that the
1024 entire service of such individual shall be deemed to be employment
1025 subject to this chapter.

1026 (10) Service shall be deemed to be localized within a
1027 state if:

1028 (a) The service is performed entirely within such
1029 state; or



1030 (b) The service is performed both within and
1031 without such state, but the service performed without such state
1032 is incidental to the individual's service within the state; for
1033 example, is temporary or transitory in nature or consists of
1034 isolated transactions.

1035 (11) The services of an individual who is a citizen of
1036 the United States, performed outside the United States (except in
1037 Canada), in the employ of an American employer (other than service
1038 which is deemed "employment" under the provisions of paragraph
1039 (8), (9) or (10) of this subsection or the parallel provisions of
1040 another state's law), if:

1041 (a) The employer's principal place of business in
1042 the United States is located in this state; or

1043 (b) The employer has no place of business in the
1044 United States; but

1045 (i) The employer is an individual who is a
1046 resident of this state; or

1047 (ii) The employer is a corporation which is
1048 organized under the laws of this state; or

1049 (iii) The employer is a partnership or a
1050 trust and the number of the partners or trustees who are residents
1051 of this state is greater than the number who are residents of any
1052 one (1) other state; or

1053 (c) None of the criteria of subparagraphs (a) and
1054 (b) of this paragraph are met but the employer has elected



1055 coverage in this state or, the employer having failed to elect
1056 coverage in any state, the individual has filed a claim for
1057 benefits, based on such service, under the law of this state; or

1058 (d) An "American employer," for purposes of this
1059 paragraph, means a person who is:

1060 (i) An individual who is a resident of the
1061 United States; or

1062 (ii) A partnership if two-thirds (2/3) or
1063 more of the partners are residents of the United States; or

1064 (iii) A trust if all of the trustees are
1065 residents of the United States; or

1066 (iv) A corporation organized under the laws
1067 of the United States or of any state.

1068 (12) All services performed by an officer or member of
1069 the crew of an American vessel on or in connection with such
1070 vessel, if the operating office from which the operations of such
1071 vessel operating on navigable waters within, or within and
1072 without, the United States are ordinarily and regularly
1073 supervised, managed, directed and controlled, is within this
1074 state, notwithstanding the provisions of paragraph (8) of this
1075 subsection.

1076 (13) Service with respect to which a tax is required to
1077 be paid under any federal law imposing a tax against which credit
1078 may be taken for contributions required to be paid into a state
1079 unemployment fund, or which as a condition for full tax credit



1080 against the tax imposed by the Federal Unemployment Tax Act, 26
1081 USCS Section 3301 et seq., is required to be covered under this
1082 chapter, notwithstanding any other provisions of this subsection.

1083 (14) Services performed by an individual for wages
1084 shall be deemed to be employment subject to this chapter unless
1085 and until it is shown to the satisfaction of the department that
1086 such individual has been and will continue to be free from control
1087 and direction over the performance of such services both under his
1088 or her contract of service and in fact; and the relationship of
1089 employer and employee shall be determined in accordance with the
1090 principles of the common law governing the relation of master and
1091 servant.

1092 (15) The term "employment" shall not include:

1093 (a) Agricultural labor, except as provided in
1094 paragraph (6) of this subsection. The term "agricultural labor"
1095 includes all services performed:

1096 (i) On a farm or in a forest in the employ of
1097 any employing unit in connection with cultivating the soil, in
1098 connection with cutting, planting, deadening, marking or otherwise
1099 improving timber, or in connection with raising or harvesting any
1100 agricultural or horticultural commodity, including the raising,
1101 shearing, feeding, caring for, training, and management of
1102 livestock, bees, poultry, fur-bearing animals and wildlife;

1103 (ii) In the employ of the owner or tenant or
1104 other operator of a farm, in connection with the operation,



1105 management, conservation, improvement or maintenance of such farm
1106 and its tools and equipment, or in salvaging timber or clearing
1107 land of brush and other debris left by a hurricane, if the major
1108 part of such service is performed on a farm;

1109 (iii) In connection with the production or
1110 harvesting of naval stores products or any commodity defined in
1111 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(f),
1112 or in connection with the raising or harvesting of mushrooms, or
1113 in connection with the ginning of cotton, or in connection with
1114 the operation or maintenance of ditches, canals, reservoirs, or
1115 waterways not owned or operated for profit, used exclusively for
1116 supplying and storing water for farming purposes;

1117 (iv) (A) In the employ of the operator of a
1118 farm in handling, planting, drying, packing, packaging,
1119 processing, freezing, grading, storing or delivering to storage or
1120 to market or to a carrier for transportation to market, in its
1121 unmanufactured state, any agricultural or horticultural commodity;
1122 but only if such operator produced more than one-half (1/2) of the
1123 commodity with respect to which such service is performed;

1124 (B) In the employ of a group of
1125 operators of farms (or a cooperative organization of which such
1126 operators are members) in the performance of service described in
1127 subitem (A), but only if such operators produced more than
1128 one-half (1/2) of the commodity with respect to which such service
1129 is performed;



1130 (C) The provisions of subitems (A) and
1131 (B) shall not be deemed to be applicable with respect to service
1132 performed in connection with commercial canning or commercial
1133 freezing or in connection with any agricultural or horticultural
1134 commodity after its delivery to a terminal market for distribution
1135 for consumption;

1136 (v) On a farm operated for profit if such
1137 service is not in the course of the employer's trade or business;

1138 (vi) As used in paragraph (15) (a) of this
1139 subsection, the term "farm" includes stock, dairy, poultry, fruit,
1140 fur-bearing animals, and truck farms, plantations, ranches,
1141 nurseries, ranges, greenhouses, or other similar structures used
1142 primarily for the raising of agricultural or horticultural
1143 commodities, and orchards.

1144 (b) Domestic service in a private home, local
1145 college club, or local chapter of a college fraternity or
1146 sorority, except as provided in paragraph (7) of this subsection,
1147 or service performed as a "sitter" at a hospital in the employ of
1148 an individual.

1149 (c) Casual labor not in the usual course of the
1150 employing unit's trade or business.

1151 (d) Service performed by an individual in the
1152 employ of his or her son, daughter, or spouse, and service
1153 performed by a child under the age of twenty-one (21) in the
1154 employ of his or her father or mother.



1155 (e) Service performed in the employ of the United
1156 States government or of an instrumentality wholly owned by the
1157 United States; except that if the Congress of the United States
1158 shall permit states to require any instrumentalities of the United
1159 States to make payments into an unemployment fund under a state
1160 unemployment compensation act, then to the extent permitted by
1161 Congress and from and after the date as of which such permission
1162 becomes effective, all of the provisions of this chapter shall be
1163 applicable to such instrumentalities and to services performed by
1164 employees for such instrumentalities in the same manner, to the
1165 same extent, and on the same terms as to all other employers and
1166 employing units. If this state should not be certified under the
1167 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any
1168 year, then the payment required by such instrumentality with
1169 respect to such year shall be deemed to have been erroneously
1170 collected and shall be refunded by the department from the fund in
1171 accordance with the provisions of Section 71-5-383.

1172 (f) Service performed in the employ of an
1173 "employer" as defined by the Railroad Unemployment Insurance Act,
1174 45 USCS Section 351(a), or as an "employee representative" as
1175 defined by the Railroad Unemployment Insurance Act, 45 USCS
1176 Section 351(f), and service with respect to which unemployment
1177 compensation is payable under an unemployment compensation system
1178 for maritime employees, or under any other unemployment
1179 compensation system established by an act of Congress; however,



1180 the department is authorized and directed to enter into agreements
1181 with the proper agencies under such act or acts of Congress, which
1182 agreements shall become effective ten (10) days after publication
1183 thereof in the manner provided in Section 71-5-117 for general
1184 rules, to provide reciprocal treatment to individuals who have,
1185 after acquiring potential rights to benefits under this chapter,
1186 acquired rights to unemployment compensation under such act or
1187 acts of Congress or who have, after acquiring potential rights to
1188 unemployment compensation under such act or acts of Congress,
1189 acquired rights to benefits under this chapter.

1190 (g) Service performed in any calendar quarter in
1191 the employ of any organization exempt from income tax under the
1192 Internal Revenue Code, 26 USCS Section 501(a) (other than an
1193 organization described in 26 USCS Section 401(a)), or exempt from
1194 income tax under 26 USCS Section 521 if the remuneration for such
1195 service is less than Fifty Dollars (\$50.00).

1196 (h) Service performed in the employ of a school,
1197 college, or university if such service is performed:

1198 (i) By a student who is enrolled and is
1199 regularly attending classes at such school, college or university,
1200 or

1201 (ii) By the spouse of such a student if such
1202 spouse is advised, at the time such spouse commences to perform
1203 such service, that



1204 (A) The employment of such spouse to
1205 perform such service is provided under a program to provide
1206 financial assistance to such student by such school, college, or
1207 university, and

1208 (B) Such employment will not be covered
1209 by any program of unemployment insurance.

1210 (i) Service performed by an individual under the
1211 age of twenty-two (22) who is enrolled at a nonprofit or public
1212 educational institution which normally maintains a regular faculty
1213 and curriculum and normally has a regularly organized body of
1214 students in attendance at the place where its educational
1215 activities are carried on, as a student in a full-time program
1216 taken for credit at such institution, which combines academic
1217 instruction with work experience, if such service is an integral
1218 part of such program and such institution has so certified to the
1219 employer, except that this subparagraph shall not apply to service
1220 performed in a program established for or on behalf of an employer
1221 or group of employers.

1222 (j) Service performed in the employ of a hospital,
1223 if such service is performed by a patient of the hospital, as
1224 defined in subsection M of this section.

1225 (k) Service performed as a student nurse in the
1226 employ of a hospital or a nurses' training school by an individual
1227 who is enrolled and is regularly attending classes in a nurses'
1228 training school chartered or approved pursuant to state law; and



1229 services performed as an intern in the employ of a hospital by an
1230 individual who has completed a four-year course in a medical
1231 school chartered or approved pursuant to state law.

1232 (l) Service performed by an individual as an
1233 insurance agent or as an insurance solicitor, if all such service
1234 performed by such individual is performed for remuneration solely
1235 by way of commission.

1236 (m) Service performed by an individual in the
1237 delivery or distribution of newspapers or shopping news, not
1238 including delivery or distribution to any point for subsequent
1239 delivery or distribution, except those employed by political
1240 subdivisions, state and local governments, nonprofit organizations
1241 and Indian tribes, as defined by this chapter, or any other
1242 entities for which coverage is required by federal statute and
1243 regulation.

1244 (n) If the services performed during one-half
1245 (1/2) or more of any pay period by an employee for the employing
1246 unit employing him or her constitute employment, all the services
1247 of such employee for such period shall be deemed to be employment;
1248 but if the services performed during more than one-half (1/2) of
1249 any such pay period by an employee for the employing unit
1250 employing him or her do not constitute employment, then none of
1251 the services of such employee for such period shall be deemed to
1252 be employment. As used in this subsection, the term "pay period"
1253 means a period (of not more than thirty-one (31) consecutive days)



1254 for which a payment of remuneration is ordinarily made to the
1255 employee by the employing unit employing him or her.

1256 (o) Service performed by a barber or beautician
1257 whose work station is leased to him or her by the owner of the
1258 shop in which he or she works and who is compensated directly by
1259 the patrons he or she serves and who is free from direction and
1260 control by the lessor.

1261 (p) Service performed by a "direct seller" if:

1262 (i) Such person is engaged in the trade or
1263 business of selling (or soliciting the sale of) consumer products
1264 to any buyer on a buy-sell basis, a deposit-commission basis, or
1265 any similar basis which the department prescribes by regulations,
1266 for resale (by the buyer or any other person) in the home or
1267 otherwise than in a permanent retail establishment; or such person
1268 is engaged in the trade or business of selling (or soliciting the
1269 sale of) consumer products in the home or otherwise than in a
1270 permanent retail establishment;

1271 (ii) Substantially all the remuneration
1272 (whether or not paid in cash) for the performance of the services
1273 described in item (i) of this subparagraph is directly related to
1274 sales or other output (including the performance of services)
1275 rather than to the number of hours worked; and

1276 (iii) The services performed by the person
1277 are performed pursuant to a written contract between such person
1278 and the person for whom the services are performed and such



1279 contract provides that the person will not be treated as an
1280 employee with respect to such services for federal tax purposes.

1281 J. "Employment office" means a free public employment office
1282 or branch thereof, operated by this state or maintained as a part
1283 of the state controlled system of public employment offices.

1284 K. "Public employment service" means the operation of a
1285 program that offers free placement and referral services to
1286 applicants and employers, including job development.

1287 L. "Fund" means the Unemployment Compensation Fund
1288 established by this chapter, to which all contributions required
1289 and from which all benefits provided under this chapter shall be
1290 paid.

1291 M. "Hospital" means an institution which has been licensed,
1292 certified, or approved by the State Department of Health as a
1293 hospital.

1294 N. "Institution of higher learning," for the purposes of
1295 this section, means an educational institution which:

1296 (1) Admits as regular students only individuals having
1297 a certificate of graduation from a high school, or the recognized
1298 equivalent of such a certificate;

1299 (2) Is legally authorized in this state to provide a
1300 program of education beyond high school;

1301 (3) Provides an educational program for which it awards
1302 a bachelor's or higher degree, or provides a program which is
1303 acceptable for full credit toward such a degree, a program of



1304 postgraduate or postdoctoral studies, or a program of training to
1305 prepare students for gainful employment in a recognized
1306 occupation;

1307 (4) Is a public or other nonprofit institution;

1308 (5) Notwithstanding any of the foregoing provisions of
1309 this subsection, all colleges and universities in this state are
1310 institutions of higher learning for purposes of this section.

1311 O. "Re-employment assistance" means money payments payable
1312 to an individual as provided in this chapter and in accordance
1313 with Section 3304(a)(4) and 3306(h) of the Federal Unemployment
1314 Tax Act and Section 303(a)(5) of the Social Security Act, with
1315 respect to his or her unemployment through no fault of his or her
1316 own. Wherever the terms "benefits" or "unemployment benefits"
1317 appear in this chapter, they shall mean re-employment assistance.

1318 P. (1) "State" includes, in addition to the states of the
1319 United States of America, the District of Columbia, Commonwealth
1320 of Puerto Rico and the Virgin Islands.

1321 (2) The term "United States" when used in a
1322 geographical sense includes the states, the District of Columbia,
1323 Commonwealth of Puerto Rico and the Virgin Islands.

1324 (3) The provisions of paragraphs (1) and (2) of this
1325 subsection P, as including the Virgin Islands, shall become
1326 effective on the day after the day on which the United States
1327 Secretary of Labor approves for the first time under Section
1328 3304(a) of the Internal Revenue Code of 1954 an unemployment



1329 compensation law submitted to the secretary by the Virgin Islands
1330 for such approval.

1331 Q. "Unemployment."

1332 (1) An individual shall be deemed "unemployed" in any
1333 week during which he or she performs no services and with respect
1334 to which no wages are payable to him or her, or in any week of
1335 less than full-time work if the wages payable to him or her with
1336 respect to such week are less than his or her weekly benefit
1337 amount as computed and adjusted in Section 71-5-505. This
1338 definition shall exclude individuals receiving voluntary payments
1339 from employers, from any source, that are in lieu of the worker's
1340 regular wages. However, individuals receiving voluntary payments
1341 of less than their set full weekly wage, as well as individuals
1342 who do not work a specified number of hours each week resulting in
1343 inconsistent weekly wages, and who are receiving voluntary
1344 payments for partial wage substitution, may be considered
1345 "unemployed," but would be required to report the gross amount of
1346 the voluntary payments to be treated as wages so the appropriate
1347 deductions to the weekly benefit amount can be made. The
1348 department shall prescribe regulations applicable to unemployed
1349 individuals, making such distinctions in the procedure as to total
1350 unemployment, part-total unemployment, partial unemployment of
1351 individuals attached to their regular jobs, and other forms of
1352 short-time work, as the department deems necessary.



1353 (2) An individual's week of total unemployment shall be
1354 deemed to commence only after his registration with an employment
1355 office, except as the department may by regulation otherwise
1356 prescribe.

1357 (3) Unemployment shall not include administrative leave
1358 for any week with respect to which:

1359 (a) An employer has designated their employee as
1360 being on official administrative leave;

1361 (b) The administrative leave is for a specified
1362 period of time;

1363 (c) There is no apparent permanent job separation;
1364 and

1365 (d) The employee has received compensation equal
1366 to his or her standard compensation.

1367 (4) If the individual on official administrative leave,
1368 as designated by the employer, does not receive full compensation
1369 in line with his or her standard hours or salary, the individual
1370 may be eligible for unemployment insurance benefits as partially
1371 unemployed for the wages they are missing.

1372 (5) Any individual on official administrative leave is
1373 required to report all compensation received.

1374 R. (1) "Wages" means all remuneration for personal
1375 services, including commissions and bonuses and the cash value of
1376 all remuneration in any medium other than cash, except that
1377 "wages," for purposes of determining employer's coverage and



1378 payment of contributions for agricultural and domestic service
1379 means cash remuneration only. Wages shall include payments from
1380 employers, from any source, and for any reason, that are in lieu
1381 of the employee's regular wages. The reasonable cash value of
1382 remuneration in any medium other than cash shall be estimated and
1383 determined in accordance with rules prescribed by the department;
1384 however, that the term "wages" shall not include:

1385 (a) The amount of any payment made to, or on
1386 behalf of, an employee under a plan or system established by an
1387 employer which makes provision for his or her employees generally
1388 or for a class or classes of his or her employees (including any
1389 amount paid by an employer for insurance or annuities, or into a
1390 fund, to provide for any such payment), on account of:

1391 (i) Retirement, or
1392 (ii) Sickness or accident disability, or
1393 (iii) Medical or hospitalization expenses in
1394 connection with sickness or actual disability, or

1395 (iv) Death, provided the employee:
1396 (A) Has not the option to receive,
1397 instead of provision for such death benefit, any part of such
1398 payment or, if such death benefit is insured, any part of the
1399 premiums (or contributions to premiums) paid by his or her
1400 employer, and

1401 (B) Has not the right, under the
1402 provisions of the plan or system or policy of insurance providing



1403 for such death benefit, to assign such benefit or to receive a
1404 cash consideration in lieu of such benefit, either upon his or her
1405 withdrawal from the plan or system providing for such benefit or
1406 upon termination of such plan or system or policy of insurance or
1407 of his or her employment with such employer;

1408 (b) Dismissal payments which the employer is not
1409 legally required to make;

1410 (c) Payment by an employer (without deduction from
1411 the remuneration of an employee) of the tax imposed by the
1412 Internal Revenue Code, 26 USCS Section 3101;

1413 (d) From and after January 1, 1992, the amount of
1414 any payment made to or on behalf of an employee for a "cafeteria"
1415 plan, which meets the following requirements:

1416 (i) Qualifies under Section 125 of the
1417 Internal Revenue Code;

1418 (ii) Covers only employees;

1419 (iii) Covers only noncash benefits;

1420 (iv) Does not include deferred compensation
1421 plans.

1422 (2) [Not enacted].

1423 S. "Week" means calendar week or such period of seven (7)
1424 consecutive days as the department may by regulation prescribe.
1425 The department may by regulation prescribe that a week shall be
1426 deemed to be in, within, or during any benefit year which includes
1427 any part of such week.



1428 T. "Insured work" means "employment" for "employers."

1429 U. The term "includes" and "including," when used in a
1430 definition contained in this chapter, shall not be deemed to
1431 exclude other things otherwise within the meaning of the term
1432 defined.

1433 V. "Employee leasing arrangement" means any agreement
1434 between an employee leasing firm and a client, whereby specified
1435 client responsibilities such as payment of wages, reporting of
1436 wages for unemployment insurance purposes, payment of unemployment
1437 insurance contributions and other such administrative duties are
1438 to be performed by an employee leasing firm, on an ongoing basis.

1439 W. "Employee leasing firm" means any entity which provides
1440 specified duties for a client company such as payment of wages,
1441 reporting of wages for unemployment insurance purposes, payment of
1442 unemployment insurance contributions and other administrative
1443 duties, in connection with the client's employees, that are
1444 directed and controlled by the client and that are providing
1445 ongoing services for the client.

1446 X. (1) "Temporary help firm" means an entity which hires
1447 its own employees and provides those employees to other
1448 individuals or organizations to perform some service, to support
1449 or supplement the existing workforce in special situations such as
1450 employee absences, temporary skill shortages, seasonal workloads
1451 and special assignments and projects, with the expectation that



1452 the worker's position will be terminated upon the completion of
1453 the specified task or function.

1454 (2) "Temporary employee" means an employee assigned to
1455 work for the clients of a temporary help firm.

1456 Y. For the purposes of this chapter, the term "notice" shall
1457 include any official communication, statement or other
1458 correspondence required under the administration of this chapter,
1459 and sent by the department through the United States Postal
1460 Service or electronic or digital transfer, via modem or the
1461 Internet.

1462 **SECTION 12.** Section 71-5-19, Mississippi Code of 1972, is
1463 reenacted as follows:

1464 71-5-19. (1) Whoever makes a false statement or
1465 representation knowing it to be false, or knowingly fails to
1466 disclose a material fact, to obtain or increase any benefit or
1467 other payment under this chapter or under an employment security
1468 law of any other state, of the federal government or of a foreign
1469 government, either for himself or for any other person, shall be
1470 punished by a fine of not less than One Hundred Dollars (\$100.00)
1471 nor more than Five Hundred Dollars (\$500.00), or by imprisonment
1472 for not longer than thirty (30) days, or by both such fine and
1473 imprisonment; and each such false statement or representation or
1474 failure to disclose a material fact shall constitute a separate
1475 offense.



1476 (2) Any employing unit, any officer or agent of an employing
1477 unit or any other person who makes a false statement or
1478 representation knowing it to be false, or who knowingly fails to
1479 disclose a material fact, to prevent or reduce the payment of
1480 benefits to any individual entitled thereto, or to avoid becoming
1481 or remaining subject hereto, or to avoid or reduce any
1482 contribution or other payment required from any employing unit
1483 under this chapter, or who willfully fails or refuses to make any
1484 such contribution or other payment, or to furnish any reports
1485 required hereunder or to produce or permit the inspection or
1486 copying of records as required hereunder, shall be punished by a
1487 fine of not less than One Hundred Dollars (\$100.00) nor more than
1488 One Thousand Dollars (\$1,000.00), or by imprisonment for not
1489 longer than sixty (60) days, or by both such fine and
1490 imprisonment; and each such false statement, or representation, or
1491 failure to disclose a material fact, and each day of such failure
1492 or refusal shall constitute a separate offense. In lieu of such
1493 fine and imprisonment, the employing unit or representative, or
1494 both employing unit and representative, if such representative is
1495 an employing unit in this state and is found to be a party to such
1496 violation, shall not be eligible for a contributions rate of less
1497 than five and four-tenths percent (5.4%) for the tax year in which
1498 such violation is discovered by the department and for the next
1499 two (2) succeeding tax years.



1500 (3) Any person who shall willfully violate any provision of
1501 this chapter or any other rule or regulation thereunder, the
1502 violation of which is made unlawful or the observance of which is
1503 required under the terms of this chapter and for which a penalty
1504 is neither prescribed herein nor provided by any other applicable
1505 statute, shall be punished by a fine of not less than One Hundred
1506 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),
1507 or by imprisonment for not longer than sixty (60) days, or by both
1508 such fine and imprisonment; and each day such violation continues
1509 shall be deemed to be a separate offense. In lieu of such fine
1510 and imprisonment, the employing unit or representative, or both
1511 employing unit and representative, if such representative is an
1512 employing unit in this state and is found to be a party to such
1513 violation, shall not be eligible for a contributions rate of less
1514 than five and four-tenths percent (5.4%) for the tax year in which
1515 the violation is discovered by the department and for the next two
1516 (2) succeeding tax years.

1517 (4) (a) An overpayment of benefits occurs when a person
1518 receives benefits under this chapter:

1519 (i) While any conditions for the receipt of
1520 benefits imposed by this chapter were not fulfilled in his case;

1521 (ii) While he was disqualified from receiving
1522 benefits; or

1523 (iii) When such person receives benefits and is
1524 later found to be disqualified or ineligible for any reason,



1525 including, but not limited to, a redetermination or reversal by
1526 the department or the courts of a previous decision to award such
1527 person benefits.

1528 (b) Any person receiving an overpayment shall, in the
1529 discretion of the department, be liable to have such sum deducted
1530 from any future benefits payable to him under this chapter and
1531 shall be liable to repay to the department for the Unemployment
1532 Compensation Fund a sum equal to the overpayment amount so
1533 received by him; and such sum shall be collectible in the manner
1534 provided in Sections 71-5-363 through 71-5-383 for the collection
1535 of past-due contributions. In addition to Sections 71-5-363
1536 through 71-5-383, the following shall apply to cases involving
1537 damages for overpaid unemployment benefits which have been
1538 obtained and/or received through fraud as defined by department
1539 regulations and laws governing the department. By definition,
1540 fraud can include failure to report earnings while filing for
1541 unemployment benefits. In the event of fraud, a penalty of twenty
1542 percent (20%) of the amount of the overpayment shall be assessed.
1543 Three-fourths (3/4) of that twenty percent (20%) penalty shall be
1544 deposited into the unemployment trust fund and shall be used only
1545 for the purpose of payment of unemployment benefits. The
1546 remainder of that twenty percent (20%) penalty shall be deposited
1547 into the Special Employment Security Administrative Fund.
1548 Interest on the overpayment balance shall accrue at a rate of one
1549 percent (1%) per month on the unpaid balance until repaid and



1550 shall be deposited into the Special Employment Security
1551 Administration Fund. All interest, penalties and damages
1552 deposited into the Special Employment Security Administration Fund
1553 shall be used by the department for administration of the
1554 Mississippi Department of Employment Security.

1555 (c) Any such judgment against such person for
1556 collection of such overpayment shall be in the form of a
1557 seven-year renewable lien. Unless action be brought thereon prior
1558 to expiration of the lien, the department must refile the notice
1559 of the lien prior to its expiration at the end of seven (7) years.
1560 There shall be no limit upon the number of times the department
1561 may refile notices of liens for collection of overpayments.

1562 (d) All warrants issued by the department for the
1563 collection of any unemployment tax or for an overpayment of
1564 benefits imposed by statute and collected by the department shall
1565 be used to levy on salaries, compensation or other monies due the
1566 delinquent employer or claimant. No such warrant shall be issued
1567 until after the delinquent employer or claimant has exhausted all
1568 appeal rights associated with the debt. The warrants shall be
1569 served by mail or by delivery by an agent of the department on the
1570 person or entity responsible or liable for the payment of the
1571 monies due the delinquent employer or claimant. Once served, the
1572 employer or other person owing compensation due the delinquent
1573 employer or claimant shall pay the monies over to the department
1574 in complete or partial satisfaction of the liability. An answer



1575 shall be made within thirty (30) days after service of the warrant
1576 in the form and manner determined satisfactory by the department.
1577 Failure to pay the money over to the department as required by
1578 this section shall result in the served party being personally
1579 liable for the full amount of the monies owed and the levy and
1580 collection process may be issued against the party in the same
1581 manner as other debts owed to the department. Except as otherwise
1582 provided by this section, the answer, the amount payable under the
1583 warrant and the obligation of the payor to continue payment shall
1584 be governed by the garnishment laws of this state but shall be
1585 payable to the department.

1586 (5) The department, by agreement with another state or the
1587 United States, as provided under Section 303(g) of the Social
1588 Security Act, may recover any overpayment of benefits paid to any
1589 individual under the laws of this state or of another state or
1590 under an unemployment benefit program of the United States. Any
1591 overpayments subject to this subsection may be deducted from any
1592 future benefits payable to the individual under the laws of this
1593 state or of another state or under an unemployment program of the
1594 United States.

1595 **SECTION 13.** Section 71-5-101, Mississippi Code of 1972, is
1596 reenacted as follows:

1597 71-5-101. There is established the Mississippi Department of
1598 Employment Security, Office of the Governor. The Department of
1599 Employment Security shall be the Mississippi Employment Security



1600 Commission and shall retain all powers and duties as granted to
1601 the Mississippi Employment Security Commission. Wherever the term
1602 "Employment Security Commission" appears in any law, the same
1603 shall mean the Mississippi Department of Employment Security,
1604 Office of the Governor. The Executive Director of the Department
1605 of Employment Security may assign to the appropriate offices such
1606 powers and duties deemed appropriate to carry out the lawful
1607 functions of the department.

1608 **SECTION 14.** Section 71-5-107, Mississippi Code of 1972, is
1609 reenacted as follows:

1610 71-5-107. The department shall administer this chapter
1611 through a full-time salaried executive director, to be appointed
1612 by the Governor, with the advice and consent of the Senate. He
1613 shall be responsible for the administration of this chapter under
1614 authority delegated to him by the Governor.

1615 **SECTION 15.** Section 71-5-109, Mississippi Code of 1972, is
1616 reenacted as follows:

1617 71-5-109. There is created a Board of Review consisting of
1618 three (3) members to be appointed by the executive director. The
1619 executive director shall designate one (1) member of the Board of
1620 Review as chairman. Each member shall be paid a salary or per
1621 diem at a rate to be determined by the executive director, and
1622 such expenses as may be allowed by the executive director. All
1623 salaries, per diem and expenses of the Board of Review shall be
1624 paid from the Employment Security Administration Fund.



1625 **SECTION 16.** Section 71-5-111, Mississippi Code of 1972, is
1626 reenacted as follows:

1627 71-5-111. There is created in the State Treasury a special
1628 fund to be known as the Employment Security Administration Fund.
1629 All monies which are deposited or paid into this fund are
1630 appropriated and made available to the department. All monies in
1631 this fund shall be expended solely for the purpose of defraying
1632 the cost of administration of this chapter, and for no other
1633 purpose whatsoever. The fund shall consist of all monies
1634 appropriated by this state and all monies received from the United
1635 States of America, or any agency thereof, or from any other source
1636 for such purpose. Notwithstanding any provision of this section,
1637 all monies requisitioned and deposited in this fund pursuant to
1638 Section 71-5-457 shall remain part of the Employment Security
1639 Administration Fund and shall be used only in accordance with the
1640 conditions specified in that section. All monies in this fund
1641 shall be deposited, administered and disbursed in the same manner
1642 and under the same conditions and requirements as is provided by
1643 law for other special funds in the State Treasury. The State
1644 Treasurer shall be liable on his official bond for the faithful
1645 performance of his duties in connection with the Employment
1646 Security Administration Fund under this chapter.

1647 **SECTION 17.** Section 71-5-112, Mississippi Code of 1972, is
1648 reenacted as follows:



1649 71-5-112. All funds received by the Mississippi Department
1650 of Employment Security shall clear through the State Treasury as
1651 provided and required by Sections 71-5-111 and 71-5-453. All
1652 expenditures from the administration fund of the department
1653 authorized by Section 71-5-111 shall be expended only pursuant to
1654 appropriation approved by the Legislature and as provided by law.

1655 **SECTION 18.** Section 71-5-113, Mississippi Code of 1972, is
1656 reenacted as follows:

1657 71-5-113. All monies received from the Social Security Board
1658 or its successors for the administration of this chapter shall be
1659 expended solely for the purposes and in the amounts found
1660 necessary by the Social Security Board or its successors for the
1661 proper and efficient administration of this chapter.

1662 It shall be the duty of the department to take appropriate
1663 action with respect to the replacement, within a reasonable time,
1664 of any monies received from the Social Security Board, or its
1665 successors, for the administration of this chapter, and monies
1666 used to match grants pursuant to the provisions of the
1667 Wagner-Peyser Act, which the board, or its successors, find,
1668 because of any action or contingency, have been lost or have been
1669 expended for purposes other than, or in amounts in excess of those
1670 found necessary by the Social Security Board, or its successors,
1671 for the proper administration of this chapter. Funds which have
1672 been expended by the department or its agents in accordance with
1673 the budget approved by the Social Security Board, or its



1674 successors, or in accordance with the general standards and
1675 limitations promulgated by the Social Security Board, or its
1676 successors, prior to such expenditure (where proposed expenditures
1677 have not been specifically disapproved by the Social Security
1678 Board, or its successors), shall not be deemed to require
1679 replacement. To effectuate the purposes of this paragraph, it
1680 shall be the duty of the department to take such action to
1681 safeguard the expenditure of the funds referred to herein as it
1682 deems necessary. In the event of a loss of such funds or an
1683 improper expenditure thereof as herein defined, it shall be the
1684 duty of the department to notify the Governor of any such loss or
1685 improper expenditure and submit to him a request for an
1686 appropriation in the amount thereof. The Governor shall transmit
1687 to the next regular session of the Legislature following such
1688 notification, the department's request for an appropriation in an
1689 amount necessary to replace funds which have been lost or
1690 improperly expended as defined above. Such request of the
1691 department for an appropriation shall not be subject to the
1692 provisions of Sections 27-103-101 through 27-103-139. The
1693 Legislature recognizes its obligation to replace such funds as may
1694 be necessary and shall make necessary appropriations in accordance
1695 with such requests.

1696 **SECTION 19.** Section 71-5-114, Mississippi Code of 1972, is
1697 reenacted as follows:



1698 71-5-114. There is created in the State Treasury a special
1699 fund, to be known as the "Special Employment Security
1700 Administration Fund," into which shall be deposited or transferred
1701 all interest, penalties and damages collected on and after July 1,
1702 1982, pursuant to Sections 71-5-363 through 71-5-379 and all
1703 interest and penalties required to be deposited into the fund
1704 pursuant to Section 71-5-19(4)(b). Interest, penalties and
1705 damages collected on delinquent payments deposited during any
1706 calendar quarter in the clearing account in the Unemployment Trust
1707 Fund shall, as soon as practicable after the close of such
1708 calendar quarter, be transferred to the Special Employment
1709 Security Administration Fund. All monies in this fund shall be
1710 deposited, administered and disbursed in the same manner and under
1711 the same conditions and requirements as is provided by law for
1712 other special funds in the State Treasury. The State Treasurer
1713 shall be liable on his official bond for the faithful performance
1714 of his duties in connection with the Special Employment Security
1715 Administration Fund under this chapter. Those monies may be
1716 expended for any programs for which the department has
1717 administrative responsibility but shall not be expended or made
1718 available for expenditure in any manner which would permit their
1719 substitution for (or permit a corresponding reduction in) federal
1720 funds which would, in the absence of those monies, be available to
1721 finance expenditures for the administration of the state
1722 unemployment compensation and employment service laws or any other



1723 laws directing the administration of any programs for which the
1724 department has the administrative responsibility. Nothing in this
1725 section shall prevent those monies in this fund from being used as
1726 a revolving fund to cover expenditures necessary and proper under
1727 the law for which federal funds have been duly requested but not
1728 yet received, subject to the charging of such expenditures against
1729 such funds when necessary. The monies in this fund may be used by
1730 the department for the payment of costs of administration of the
1731 employment security laws of this state which are found not to be
1732 or not to have been properly and validly chargeable against funds
1733 obtained from federal sources. All monies in this Special
1734 Employment Security Administration Fund shall be continuously
1735 available to the department for expenditure in accordance with the
1736 provisions of this chapter, and shall not lapse at any time. The
1737 monies in this fund are specifically made available to replace, as
1738 contemplated by Section 71-5-113, expenditures from the Employment
1739 Security Administration Fund established by Section 71-5-111,
1740 which have been found, because of any action or contingency, to
1741 have been lost or improperly expended.

1742 The department, whenever it is of the opinion that the money
1743 in the Special Employment Security Administration Fund is more
1744 than ample to pay for all foreseeable needs for which such special
1745 fund is set up, may, by written order, order the transfer
1746 therefrom to the Unemployment Compensation Fund of such amount of
1747 money in the Special Employment Security Administration Fund as it



1748 deems proper, and the same shall thereupon be immediately
1749 transferred to the Unemployment Compensation Fund.

1750 **SECTION 20.** Section 71-5-115, Mississippi Code of 1972, is
1751 reenacted as follows:

1752 71-5-115. It shall be the duty of the executive director to
1753 administer this chapter; and the executive director shall have the
1754 power and authority to adopt, amend or rescind such rules and
1755 regulations, to employ such persons, make such expenditures,
1756 require such reports, make such investigations, and take such
1757 other action as he deems necessary or suitable to that end. Such
1758 rules and regulations shall be effective upon publication in the
1759 manner, not inconsistent with the provisions of this chapter,
1760 which the executive director shall prescribe. The executive
1761 director shall determine the department's own organization and
1762 methods of procedure in accordance with the provisions of this
1763 chapter, and shall have an official seal which shall be judicially
1764 noticed. Not later than the first day of February in each year,
1765 the executive director shall submit to the Governor a report
1766 covering the administration and operation of this chapter during
1767 the preceding fiscal year and shall make such recommendations for
1768 amendments to this chapter as the executive director deems proper.
1769 Whenever the executive director believes that a change in
1770 contribution or benefit rates will become necessary to protect the
1771 solvency of the fund, he shall promptly so inform the Governor and
1772 the Legislature, and make recommendations with respect thereto.



1773 **SECTION 21.** Section 71-5-117, Mississippi Code of 1972, is
1774 reenacted as follows:

1775 71-5-117. General rules may be adopted, amended or rescinded
1776 by the executive director only after public hearing or opportunity
1777 to be heard thereon, of which proper notice has been given.
1778 General rules shall become effective ten (10) days after filing
1779 with the Secretary of State and publication in one or more
1780 newspapers of general circulation in this state. Regulations may
1781 be adopted, amended or rescinded by the executive director and
1782 shall become effective in the manner and at the time prescribed by
1783 the executive director.

1784 **SECTION 22.** Section 71-5-119, Mississippi Code of 1972, is
1785 reenacted as follows:

1786 71-5-119. The department shall cause to be available for
1787 distribution to the public the text of this chapter, its
1788 regulations and general rules, its reports to the Governor, and
1789 any other material it deems relevant and suitable, and shall
1790 furnish the same to any person upon application therefor.

1791 **SECTION 23.** Section 71-5-121, Mississippi Code of 1972, is
1792 reenacted as follows:

1793 71-5-121. Subject to other provisions of this chapter, the
1794 executive director is authorized to appoint, fix the compensation,
1795 and prescribe the duties and powers of such officers, accountants,
1796 attorneys, experts and other persons as may be necessary in the
1797 performance of department duties; however, all personnel who were



1798 former members of the Armed Forces of the United States of America
1799 shall be given credit regardless of rate, rank or commission. All
1800 positions shall be filled by persons selected and appointed on a
1801 nonpartisan merit basis, in accordance with Section 25-9-101 et
1802 seq., that provides for a state service personnel system. The
1803 executive director shall not employ any person who is an officer
1804 or committee member of any political party organization. The
1805 executive director may delegate to any such person so appointed
1806 such power and authority as he deems reasonable and proper for the
1807 effective administration of this chapter, and may in his
1808 discretion bond any person handling monies or signing checks
1809 hereunder. The veteran status of an individual shall be
1810 considered and preference given in accordance with the provisions
1811 of the State Personnel Board.

1812 The department and its employees are exempt from Sections
1813 25-15-101 and 25-15-103.

1814 The department may use federal granted funds to provide such
1815 group health, life, accident and hospitalization insurance for its
1816 employees as may be agreed upon by the department and the federal
1817 granting authorities.

1818 The department shall adopt a "layoff formula" to be used
1819 wherever it is determined that, because of reduced workload,
1820 budget reductions or in order to effect a more economical
1821 operation, a reduction in force shall occur in any group.



1822 In establishing this formula, the department shall give
1823 effect to the principle of seniority and shall provide that
1824 seniority points may be added for disabled veterans and veterans,
1825 with due regard to the efficiency of the service. Any such layoff
1826 formula shall be implemented according to the policies, rules and
1827 regulations of the State Personnel Board.

1828 **SECTION 24.** Section 71-5-123, Mississippi Code of 1972, is
1829 reenacted as follows:

1830 71-5-123. The executive director shall retain all powers and
1831 duties as granted to the state advisory council appointed by the
1832 former Employment Security Commission. The executive director may
1833 appoint local advisory councils, composed in each case of an equal
1834 number of employer representatives and employee representatives
1835 who may fairly be regarded as representative because of their
1836 vocation, employment or affiliations, and of such members
1837 representing the general public as the executive director may
1838 designate. Such councils shall aid the department in formulating
1839 policies and discussing problems related to the administration of
1840 this chapter and in assuring impartiality and freedom from
1841 political influence in the solution of such problems. Members of
1842 the advisory councils shall receive a per diem in accordance with
1843 Section 25-3-69 for attendance upon meetings of the council, and
1844 shall be reimbursed for actual and necessary traveling expenses.
1845 The per diem and expenses herein authorized shall be paid from the
1846 Employment Security Administration Fund.



1847 **SECTION 25.** Section 71-5-125, Mississippi Code of 1972, is
1848 reenacted as follows:

1849 71-5-125. The department shall take all appropriate steps to
1850 reduce and prevent unemployment; to encourage and assist in the
1851 adoption of practical methods of vocational training, retraining
1852 and vocational guidance; to investigate, recommend, advise and
1853 assist in the establishment and operation, by municipalities,
1854 counties, school districts and the state, of reserves for public
1855 works to be used in times of business depression and unemployment;
1856 to promote the reemployment of unemployed workers throughout the
1857 state in every other way that may be feasible; and to these ends
1858 to carry on and publish the results of investigation and research
1859 studies.

1860 **SECTION 26.** Section 71-5-127, Mississippi Code of 1972, is
1861 reenacted as follows:

1862 71-5-127. (1) Any information or records concerning an
1863 individual or employing unit obtained by the department pursuant
1864 to the administration of this chapter or any other federally
1865 funded programs for which the department has responsibility shall
1866 be private and confidential, except as otherwise provided in this
1867 article or by regulation. Information or records may be released
1868 by the department when the release is required by the federal
1869 government in connection with, or as a condition of funding for, a
1870 program being administered by the department.



1871 (2) Each employing unit shall keep true and accurate work
1872 records, containing such information as the department may
1873 prescribe. Such records shall be open to inspection and be
1874 subject to being copied by the department or its authorized
1875 representatives at any reasonable time and as often as may be
1876 necessary. The department, Board of Review and any referee may
1877 require from any employing unit any sworn or unsworn reports with
1878 respect to persons employed by it which they or any of them deem
1879 necessary for the effective administration of this chapter.
1880 Information, statements, transcriptions of proceedings,
1881 transcriptions of recordings, electronic recordings, letters,
1882 memoranda, and other documents and reports thus obtained or
1883 obtained from any individual pursuant to the administration of
1884 this chapter shall, except to the extent necessary for the proper
1885 administration of this chapter, be held confidential and shall not
1886 be published or be opened to public inspection (other than to
1887 public employees in the performance of their public duties) in any
1888 manner revealing the individual's or employing unit's identity.

1889 (3) Any claimant or his legal representative at a hearing
1890 before an appeal tribunal or the Board of Review shall be supplied
1891 with information from such records to the extent necessary for the
1892 proper presentation of his claim in any proceeding pursuant to
1893 this chapter.

1894 (4) Any employee or member of the Board of Review or any
1895 employee of the department who violates any provisions of this



1896 section shall be fined not less than Twenty Dollars (\$20.00) nor
1897 more than Two Hundred Dollars (\$200.00), or imprisoned for not
1898 longer than ninety (90) days, or both.

1899 (5) The department may make the state's records relating to
1900 the administration of this chapter available to the Railroad
1901 Retirement Board, and may furnish the Railroad Retirement Board,
1902 at the expense of such board, such copies thereof as the Railroad
1903 Retirement Board deems necessary for its purposes. The department
1904 may afford reasonable cooperation with every agency of the United
1905 States charged with the administration of any unemployment
1906 insurance law.

1907 **SECTION 27.** Section 71-5-129, Mississippi Code of 1972, is
1908 reenacted as follows:

1909 71-5-129. Records hereinafter designated, which are found by
1910 the department to be useless, may be disposed of in accordance
1911 with approved records control schedules.

1912 (a) Records which have been preserved by it for not
1913 less than three (3) years:

1914 (1) Initial claims for benefits,

1915 (2) Continued claims for benefits,

1916 (3) Correspondence and master index cards in
1917 connection with such claims for benefits, and

1918 (4) Individual wage slips filed by employers

1919 subject to the provisions of the Unemployment Compensation Law.



1920 (b) Records which have been preserved by it for not
1921 less than six (6) months after becoming inactive:
1922 (1) Work applications,
1923 (2) Cross-index cards for work applications,
1924 (3) Test records,
1925 (4) Employer records,
1926 (5) Work orders,
1927 (6) Clearance records,
1928 (7) Counseling records,
1929 (8) Farm placement records, and
1930 (9) Correspondence relating to all such records.

1931 Nothing herein contained shall be construed as authorizing
1932 the destruction or disposal of basic fiscal records reflecting the
1933 financial operations of the department and no records may be
1934 destroyed without the approval of the Director of the Department
1935 of Archives and History.

1936 **SECTION 28.** Section 71-5-131, Mississippi Code of 1972, is
1937 reenacted as follows:

1938 71-5-131. All letters, reports, communications, or any other
1939 matters, either oral or written, from the employer or employee to
1940 each other or to the department or any of its agents,
1941 representatives or employees, which shall have been written, sent,
1942 delivered or made in connection with the requirements and
1943 administration of this chapter shall be absolutely privileged and
1944 shall not be made the subject matter or basis of any suit for



1945 slander or libel in any court of the State of Mississippi unless
1946 the same be false in fact and maliciously written, sent, delivered
1947 or made for the purpose of causing a denial of benefits under this
1948 chapter.

1949 **SECTION 29.** Section 71-5-133, Mississippi Code of 1972, is
1950 reenacted as follows:

1951 71-5-133. In any case where an employing unit or any
1952 officer, member or agent thereof, or any other person having
1953 possession of the records thereof, shall fail or refuse upon
1954 demand by the department or its duly appointed agents to produce
1955 or permit the examination or copying of any book, paper, account,
1956 record or other data pertaining to payrolls or employment or
1957 ownership of interests or stock in any employing unit, or bearing
1958 upon the correctness of any report, or for the purpose of making a
1959 report as required by this chapter where none has been made, then
1960 and in that event the department or its duly authorized agents
1961 may, by the issuance of a subpoena, require the attendance of such
1962 employing unit or any officer, member or agent thereof, or any
1963 other person having possession of the records thereof, and take
1964 testimony with respect to any such matter and may require any such
1965 person to produce any books or records specified in such subpoena.
1966 The department or its authorized agents at any such hearing shall
1967 have power to administer oaths to any such person or persons.
1968 When any person called as a witness by a subpoena signed by the
1969 department or its agents and served upon him by the sheriff of a



1970 county of which such person is a resident, or wherein is located
1971 the principal office of such employing unit or wherein such
1972 records are located or kept, shall fail to obey such subpoena to
1973 appear before the department or its authorized agent, or shall
1974 refuse to testify or to answer any questions or to produce any
1975 book, record, paper or other data when required to do so, such
1976 failure or refusal shall be reported to the Attorney General, who
1977 shall thereupon institute proceedings by the filing of a petition
1978 in the name of the State of Mississippi, on the relation of the
1979 department, in the circuit court or other court of competent
1980 jurisdiction of the county where such witness resides, or wherein
1981 such records are located or kept, to compel the obedience of such
1982 witness. Such petition shall set forth the facts and
1983 circumstances of the demand for and refusal or failure to permit
1984 the examination or copying of such records, or the failure or
1985 refusal of such witness to testify in answer to such subpoena or
1986 to produce the records so required by such subpoena. Such court,
1987 upon the filing and docketing of such petition, shall thereupon
1988 promptly issue an order to the defendants named in the petition to
1989 produce forthwith in such court, or at a place in such county
1990 designated in such order for the examination or copying by the
1991 department or its duly appointed agents, the records, books or
1992 documents so described, and to testify concerning matters
1993 described in such petition. Unless such defendants to such
1994 petition shall appear in the court upon a day specified in such



1995 order, which day shall be not more than ten (10) days after the
1996 date of issuance of such order, and offer, under oath, good and
1997 sufficient reasons why such examination or copying should not be
1998 permitted, or why such subpoena should not be obeyed, such court
1999 shall thereupon deliver to the department or its agents, for
2000 examination or copying, the records, books and documents so
2001 described in the petition and so produced in such court, and shall
2002 order the defendants to appear in answer to the subpoena of the
2003 department or its agents, and to testify concerning matters
2004 inquired about by the department. Any employing unit or any
2005 officer, member or agent thereof, or any other person having
2006 possession of the records thereof, who shall willfully disobey
2007 such order of the court after the same shall have been served upon
2008 him shall be guilty of indirect contempt of such court from which
2009 such order shall have issued, and may be adjudged in contempt of
2010 the court and punished therefor as provided by law.

2011 **SECTION 30.** Section 71-5-135, Mississippi Code of 1972, is
2012 reenacted as follows:

2013 71-5-135. If any employing unit fails to make any report
2014 required by this chapter, the department or its authorized agents
2015 shall give notice to such employing unit to make and file such
2016 report within fifteen (15) days from the date of such notice. If
2017 such employing unit, by its proper members, officers or agents,
2018 shall fail or refuse to make and file such reports within such
2019 time, then and in that event such report shall be made by the



2020 department or its authorized agents from the best information
2021 available, and the amount of contributions due shall be computed
2022 thereon; and such report shall be prima facie correct for the
2023 purposes of this chapter.

2024 **SECTION 31.** Section 71-5-137, Mississippi Code of 1972, is
2025 reenacted as follows:

2026 71-5-137. In the discharge of the duties imposed by this
2027 chapter, the department, any referee, the members of the Board of
2028 Review, and any duly authorized representative of any of them
2029 shall have power to administer oaths and affirmations, to take
2030 depositions, certify to official acts, and issue subpoenas to
2031 compel the attendance of witnesses and the production of books,
2032 papers, correspondence, memoranda and other records deemed
2033 necessary as evidence in connection with a disputed claim or the
2034 administration of this chapter.

2035 **SECTION 32.** Section 71-5-139, Mississippi Code of 1972, is
2036 reenacted as follows:

2037 71-5-139. In case of contumacy or refusal to obey a subpoena
2038 issued to any person, any court in this state within the
2039 jurisdiction of which the inquiry is carried on, or within the
2040 jurisdiction of which the person guilty of contumacy or refusal to
2041 obey is found or resides or transacts business, upon application
2042 by the department, the Board of Review, any referee, or any duly
2043 authorized representative of any of them, shall have jurisdiction
2044 to issue to such person an order requiring such person to appear



2045 before the department, the Board of Review, any referee, or any
2046 duly authorized representative of any of them, there to produce
2047 evidence if so ordered or there to give testimony touching the
2048 matter under investigation or in question. Any failure to obey
2049 such order of the court may be punished by the court as a contempt
2050 thereof. Any person who shall, without just cause, fail or refuse
2051 to attend and testify or to answer any lawful inquiry or to
2052 produce books, papers, correspondence, memoranda and other records
2053 if it is in his power so to do, in obedience to a subpoena of the
2054 department, the Board of Review, any referee, or any duly
2055 authorized representative of any of them, shall be punished by a
2056 fine of not more than Two Hundred Dollars (\$200.00), or by
2057 imprisonment for not longer than sixty (60) days, or by both such
2058 fine and imprisonment; and each day such violation continues shall
2059 be deemed to be a separate offense.

2060 **SECTION 33.** Section 71-5-141, Mississippi Code of 1972, is
2061 reenacted as follows:

2062 71-5-141. No person shall be excused from attending and
2063 testifying or from producing books, papers, correspondence,
2064 memoranda and other records before the department, the Board of
2065 Review, any referee, or any duly authorized representative of any
2066 of them, or in obedience to the subpoena of any of them in any
2067 cause or proceeding before the department, the Board of Review or
2068 an appeal tribunal, on the ground that the testimony or evidence,
2069 documentary or otherwise, required of him may tend to incriminate



2070 him or subject him to a penalty or forfeiture; but no individual
2071 shall be prosecuted or subjected to any penalty or forfeiture for
2072 or on account of any transaction, matter or thing concerning which
2073 he is compelled, after having claimed his privilege against
2074 self-incrimination, to testify or produce evidence, documentary or
2075 otherwise, except that such individual so testifying shall not be
2076 exempt from prosecution and punishment for perjury committed in so
2077 testifying.

2078 **SECTION 34.** Section 71-5-143, Mississippi Code of 1972, is
2079 reenacted as follows:

2080 71-5-143. In the administration of this chapter, the
2081 department shall cooperate, to the fullest extent consistent with
2082 the provisions of this chapter, with the Social Security Board
2083 created by the Social Security Act, approved August 14, 1935, as
2084 amended; shall make such reports in such form and containing such
2085 information as the Social Security Board may from time to time
2086 require, and shall comply with such provisions as the Social
2087 Security Board may from time to time find necessary to assure the
2088 correctness and verification of such reports; and shall comply
2089 with the reasonable, valid and lawful regulations prescribed by
2090 the Social Security Board pursuant to and under the authority of
2091 the Social Security Act, governing the expenditures of such sums
2092 as may be allotted and paid to this state under Title III of the
2093 Social Security Act, as amended, for the purpose of assisting in
2094 the administration of this chapter.



2095 Upon request therefor, the department shall furnish to any
2096 agency of the United States charged with the administration of
2097 public works, or assistance through public employment, the name,
2098 address, ordinary occupation and employment status of each
2099 recipient of benefits, and such recipient's rights to further
2100 benefits under this chapter.

2101 **SECTION 35.** Section 71-5-201, Mississippi Code of 1972, is
2102 reenacted as follows:

2103 71-5-201. The Mississippi State Employment Service is
2104 established in the Mississippi Department of Employment Security,
2105 Office of the Governor. The department, in the conduct of such
2106 service, shall establish and maintain free public employment
2107 offices in such number and in such places as may be necessary for
2108 the proper administration of this article and for the purpose of
2109 performing such functions as are within the purview of the act of
2110 Congress entitled "An act to provide for the establishment of a
2111 national employment system and for cooperation with the states in
2112 the promotion of such system, and for other purposes" (29 USCS
2113 Section 49 et seq.). Any existing free public employment offices
2114 maintained by the state but not heretofore under the jurisdiction
2115 of the department shall be transferred to the jurisdiction of the
2116 department, and upon such transfer all duties and powers conferred
2117 upon any other department, agency or officers of this state
2118 relating to the establishment, maintenance and operation of free
2119 public employment offices shall be vested in the department. The



2120 Mississippi State Employment Service shall be administered by the
2121 department, which is charged with the duty to cooperate with any
2122 official or agency of the United States having powers or duties
2123 under the provisions of the act of Congress, as amended, and to do
2124 and perform all things necessary to secure to this state the
2125 benefits of that act of Congress, as amended, in the promotion and
2126 maintenance of a system of public employment offices. The
2127 provisions of that act of Congress, as amended, are accepted by
2128 this state, in conformity with 29 USCS Section 49c, and this state
2129 will observe and comply with the requirements thereof. The
2130 department is designated and constituted the agency of this state
2131 for the purposes of that act. The department may cooperate with
2132 or enter into agreements with the Railroad Retirement Board or
2133 veteran's organization with respect to the establishment,
2134 maintenance and use of free employment service facilities.

2135 **SECTION 36.** Section 71-5-357, Mississippi Code of 1972, is
2136 reenacted as follows:

2137 71-5-357. Benefits paid to employees of nonprofit
2138 organizations shall be financed in accordance with the provisions
2139 of this section. For the purpose of this section, a nonprofit
2140 organization is an organization (or group of organizations)
2141 described in Section 501(c)(3) of the Internal Revenue Code of
2142 1954 which is exempt from income tax under Section 501(a) of such
2143 code (26 USCS Section 501).



2144 (a) Any nonprofit organization which, under Section
2145 71-5-11, subsection H(3), is or becomes subject to this chapter
2146 shall pay contributions under the provisions of Sections 71-5-351
2147 through 71-5-355 unless it elects, in accordance with this
2148 paragraph, to pay to the department for the unemployment fund an
2149 amount equal to the amount of regular benefits and one-half (1/2)
2150 of the extended benefits paid, that is attributable to service in
2151 the employ of such nonprofit organization, to individuals for
2152 weeks of unemployment which begin during the effective period of
2153 such election.

2154 (i) Any nonprofit organization which becomes
2155 subject to this chapter may elect to become liable for payments in
2156 lieu of contributions for a period of not less than twelve (12)
2157 months, beginning with the date on which such subjectivity begins,
2158 by filing a written notice of its election with the department not
2159 later than thirty (30) days immediately following the date of the
2160 determination of such subjectivity.

2161 (ii) Any nonprofit organization which makes an
2162 election in accordance with subparagraph (i) of this paragraph
2163 will continue to be liable for payments in lieu of contributions
2164 unless it files with the department a written termination notice
2165 not later than thirty (30) days prior to the beginning of the tax
2166 year for which such termination shall first be effective.

2167 (iii) Any nonprofit organization which has been
2168 paying contributions under this chapter may change to a



2169 reimbursable basis by filing with the department, not later than
2170 thirty (30) days prior to the beginning of any tax year, a written
2171 notice of election to become liable for payments in lieu of
2172 contributions. Such election shall not be terminable by the
2173 organization for that and the next tax year.

2174 (iv) The department may for good cause extend the
2175 period within which a notice of election or a notice of
2176 termination must be filed, and may permit an election to be
2177 retroactive.

2178 (v) The department, in accordance with such
2179 regulations as it may prescribe, shall notify each nonprofit
2180 organization of any determination which it may make of its status
2181 as an employer, of the effective date of any election which it
2182 makes and of any termination of such election. Such
2183 determinations shall be subject to reconsideration, appeal and
2184 review in accordance with the provisions of Sections 71-5-351
2185 through 71-5-355.

2186 (b) Payments in lieu of contributions shall be made in
2187 accordance with the provisions of subparagraph (i) of this
2188 paragraph.

2189 (i) At the end of each calendar quarter, or at the
2190 end of any other period as determined by the department, the
2191 department shall bill each nonprofit organization (or group of
2192 such organizations) which has elected to make payments in lieu of
2193 contributions, for an amount equal to the full amount of regular



2194 benefits plus one-half (1/2) of the amount of extended benefits
2195 paid during such quarter or other prescribed period that is
2196 attributable to service in the employ of such organization.

2197 (ii) Payment of any bill rendered under
2198 subparagraph (i) of this paragraph shall be made not later than
2199 forty-five (45) days after such bill was delivered to the
2200 nonprofit organization, unless there has been an application for
2201 review and redetermination in accordance with subparagraph (v) of
2202 this paragraph.

2203 1. All of the enforcement procedures for the
2204 collection of delinquent contributions contained in Sections
2205 71-5-363 through 71-5-383 shall be applicable in all respects for
2206 the collection of delinquent payments due by nonprofit
2207 organizations who have elected to become liable for payments in
2208 lieu of contributions.

2209 2. If any nonprofit organization is
2210 delinquent in making payments in lieu of contributions, the
2211 department may terminate such organization's election to make
2212 payments in lieu of contributions as of the beginning of the next
2213 tax year, and such termination shall be effective for the balance
2214 of such tax year.

2215 (iii) Payments made by any nonprofit organization
2216 under the provisions of this paragraph shall not be deducted or
2217 deductible, in whole or in part, from the remuneration of
2218 individuals in the employ of the organization.



2219 (iv) Payments due by employers who elect to
2220 reimburse the fund in lieu of contributions as provided in this
2221 paragraph may not be noncharged under any condition. The
2222 reimbursement must be on a dollar-for-dollar basis (One Dollar
2223 (\$1.00) reimbursement for each dollar paid in benefits) in every
2224 case, so that the trust fund shall be reimbursed in full, such
2225 reimbursement to include, but not be limited to, benefits or
2226 payments erroneously or incorrectly paid, or paid as a result of a
2227 determination of eligibility which is subsequently reversed, or
2228 paid as a result of claimant fraud. However, political
2229 subdivisions who are reimbursing employers may elect to pay to the
2230 fund an amount equal to five-tenths percent (.5%) through December
2231 31, 2010, and shall pay twenty-five one-hundredths percent (.25%)
2232 thereafter of the taxable wages paid during the calendar year with
2233 respect to employment, and those employers who so elect shall be
2234 relieved of liability for reimbursement of benefits paid under the
2235 same conditions that benefits are not charged to the
2236 experience-rating record of a contributing employer as provided in
2237 Section 71-5-355(2) (b) (ii) other than Clause 5 thereof. Benefits
2238 paid in such circumstances for which reimbursing employers are
2239 relieved of liability for reimbursement shall not be considered
2240 attributable to service in the employment of such reimbursing
2241 employer.

2242 (v) The amount due specified in any bill from the
2243 department shall be conclusive on the organization unless, not



2244 later than fifteen (15) days after the bill was delivered to it,
2245 the organization files an application for redetermination by the
2246 department, setting forth the grounds for such application or
2247 appeal. The department shall promptly review and reconsider the
2248 amount due specified in the bill and shall thereafter issue a
2249 redetermination in any case in which such application for
2250 redetermination has been filed. Any such redetermination shall be
2251 conclusive on the organization unless, not later than fifteen (15)
2252 days after the redetermination was delivered to it, the
2253 organization files an appeal to the Circuit Court of the First
2254 Judicial District of Hinds County, Mississippi, in accordance with
2255 the provisions of law with respect to review of civil causes by
2256 certiorari.

2257 (vi) Past-due payments of amounts in lieu of
2258 contributions shall be subject to the same interest and penalties
2259 that, pursuant to Section 71-5-363, apply to past-due
2260 contributions.

2261 (c) Each employer that is liable for payments in lieu
2262 of contributions shall pay to the department for the fund the
2263 amount of regular benefits plus the amount of one-half (1/2) of
2264 extended benefits paid are attributable to service in the employ
2265 of such employer. If benefits paid to an individual are based on
2266 wages paid by more than one (1) employer and one or more of such
2267 employers are liable for payments in lieu of contributions, the
2268 amount payable to the fund by each employer that is liable for



2269 such payments shall be determined in accordance with the
2270 provisions of subparagraph (i) or subparagraph (ii) of this
2271 paragraph.

2272 (i) If benefits paid to an individual are based on
2273 wages paid by one or more employers that are liable for payment in
2274 lieu of contributions and on wages paid by one or more employers
2275 who are liable for contributions, the amount of benefits payable
2276 by each employer that is liable for payments in lieu of
2277 contributions shall be an amount which bears the same ratio to the
2278 total benefits paid to the individual as the total base period
2279 wages paid to the individual by such employer bear to the total
2280 base period wages paid to the individual by all of his base period
2281 employers.

2282 (ii) If benefits paid to an individual are based
2283 on wages paid by two (2) or more employers that are liable for
2284 payments in lieu of contributions, the amount of benefits payable
2285 by each such employer shall be an amount which bears the same
2286 ratio to the total benefits paid to the individual as the total
2287 base period wages paid to the individual by such employer bear to
2288 the total base period wages paid to the individual by all of his
2289 base period employers.

2290 (d) In the discretion of the department, any nonprofit
2291 organization that elects to become liable for payments in lieu of
2292 contributions shall be required to execute and file with the
2293 department a surety bond approved by the department, or it may



2294 elect instead to deposit with the department money or securities.
2295 The amount of such bond or deposit shall be determined in
2296 accordance with the provisions of this paragraph.

2297 (i) The amount of the bond or deposit required by
2298 paragraph (d) shall be equal to two and seven-tenths percent
2299 (2.7%) thereafter to December 31, 2010, and one and thirty-five
2300 one-hundredths percent (1.35%) thereafter, of the organization's
2301 taxable wages paid for employment as defined in Section 71-5-11,
2302 subsection I(4), for the four (4) calendar quarters immediately
2303 preceding the effective date of the election, the renewal date in
2304 the case of a bond, or the biennial anniversary of the effective
2305 date of election in the case of a deposit of money or securities,
2306 whichever date shall be most recent and applicable. If the
2307 nonprofit organization did not pay wages in each of such four (4)
2308 calendar quarters, the amount of the bond or deposit shall be as
2309 determined by the department.

2310 (ii) Any bond deposited under paragraph (d) shall
2311 be in force for a period of not less than two (2) tax years and
2312 shall be renewed with the approval of the department at such times
2313 as the department may prescribe, but not less frequently than at
2314 intervals of two (2) years as long as the organization continues
2315 to be liable for payments in lieu of contributions. The
2316 department shall require adjustments to be made in a previously
2317 filed bond as it deems appropriate. If the bond is to be
2318 increased, the adjusted bond shall be filed by the organization



2319 within thirty (30) days of the date notice of the required
2320 adjustment was delivered to it. Failure by any organization
2321 covered by such bond to pay the full amount of payments in lieu of
2322 contributions when due, together with any applicable interest and
2323 penalties provided in paragraph (b) (v) of this section, shall
2324 render the surety liable on the bond to the extent of the bond, as
2325 though the surety was such organization.

2326 (iii) Any deposit of money or securities in
2327 accordance with paragraph (d) shall be retained by the department
2328 in an escrow account until liability under the election is
2329 terminated, at which time it shall be returned to the
2330 organization, less any deductions as hereinafter provided. The
2331 department may deduct from the money deposited under paragraph (d)
2332 by a nonprofit organization, or sell the securities it has so
2333 deposited, to the extent necessary to satisfy any due and unpaid
2334 payments in lieu of contributions and any applicable interest and
2335 penalties provided for in paragraph (b) (v) of this section. The
2336 department shall require the organization, within thirty (30) days
2337 following any deduction from a money deposit or sale of deposited
2338 securities under the provisions hereof, to deposit sufficient
2339 additional money or securities to make whole the organization's
2340 deposit at the prior level. Any cash remaining from the sale of
2341 such securities shall be a part of the organization's escrow
2342 account. The department may, at any time, review the adequacy of
2343 the deposit made by any organization. If, as a result of such



2344 review, it determines that an adjustment is necessary, it shall
2345 require the organization to make additional deposit within thirty
2346 (30) days of notice of its determination or shall return to it
2347 such portion of the deposit as it no longer considers necessary,
2348 whichever action is appropriate. Disposition of income from
2349 securities held in escrow shall be governed by the applicable
2350 provisions of the state law.

2351 (iv) If any nonprofit organization fails to file a
2352 bond or make a deposit, or to file a bond in an increased amount,
2353 or to increase or make whole the amount of a previously made
2354 deposit as provided under this subparagraph, the department may
2355 terminate such organization's election to make payments in lieu of
2356 contributions, and such termination shall continue for not less
2357 than the four (4) consecutive calendar-quarter periods beginning
2358 with the quarter in which such termination becomes effective;
2359 however, the department may extend for good cause the applicable
2360 filing, deposit or adjustment period by not more than thirty (30)
2361 days.

2362 (v) Group account shall be established according
2363 to regulations prescribed by the department.

2364 (e) Any employer which elects to make payments in lieu
2365 of contributions into the Unemployment Compensation Fund as
2366 provided in this paragraph shall not be liable to make such
2367 payments with respect to the benefits paid to any individual whose
2368 base period wages include wages for previously uncovered services



2369 as defined in Section 71-5-511(e) to the extent that the
2370 Unemployment Compensation Fund is reimbursed for such benefits
2371 pursuant to Section 121 of Public Law 94-566.

2372 **SECTION 37.** Section 71-5-359, Mississippi Code of 1972, is
2373 reenacted as follows:

2374 71-5-359. (1) The Department of Finance and Administration
2375 shall, in the manner provided in subsection (3) of this section,
2376 pay, upon notice issued by the department, to the department for
2377 the Unemployment Compensation Fund an amount equal to the regular
2378 benefits and one-half (1/2) of the extended benefits paid that are
2379 attributable to service in the employ of a state agency. The
2380 amount required to be reimbursed by a certain agency shall be
2381 billed to the Department of Finance and Administration and shall
2382 be paid from the Employment Compensation Revolving Fund pursuant
2383 to subsection (3) of this section not later than thirty (30) days
2384 after such bill was sent, unless there has been an application for
2385 review and redetermination in accordance with Section
2386 71-5-357(b) (v) .

2387 (2) The Department of Finance and Administration shall, in
2388 the manner provided in subsection (3) of this section, pay, upon a
2389 notice issued by the department, to the department for the
2390 Unemployment Compensation Fund an amount equal to the regular
2391 benefits and the extended benefits paid that are attributable to
2392 service in the employ of a state agency. The amount required to
2393 be reimbursed by a certain agency shall be billed to the



2394 Department of Finance and Administration and shall be paid from
2395 the Employment Compensation Revolving Fund pursuant to subsection
2396 (3) of this section not later than thirty (30) days after such
2397 bill was sent, unless there has been an application for review and
2398 redetermination in accordance with Section 71-5-357(b) (v) .

2399 (3) Each agency of state government shall deposit monthly
2400 for a period of twenty-four (24) months an amount equal to
2401 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand
2402 Dollars (\$6,000.00) paid to each employee thereof during the next
2403 preceding year into the Employment Compensation Revolving Fund
2404 that is created in the State Treasury. The Department of Finance
2405 and Administration shall determine the percentage to be applied to
2406 the amount of covered wages paid in order to maintain a balance in
2407 the revolving fund of not less than the amount determined by an
2408 actuary through an annual actuarial evaluation. The State
2409 Treasurer shall invest all funds in the Employment Compensation
2410 Revolving Fund and all interest earned shall be credited to the
2411 Employment Compensation Revolving Fund.

2412 The reimbursement of benefits paid by the Mississippi
2413 Department of Employment Security shall be paid by the Department
2414 of Finance and Administration from the Employment Compensation
2415 Revolving Fund upon notice from the department; and the Department
2416 of Finance and Administration shall issue warrants or may contract
2417 for the performance of the duties prescribed by subsections (2)



2418 and (3) of this section, and other duties necessarily related
2419 thereto.

2420 (4) Any political subdivision of this state shall pay to the
2421 department for the unemployment compensation fund an amount equal
2422 to the regular benefits and the extended benefits paid that are
2423 attributable to service in the employ of such political
2424 subdivision unless it elects to make contributions to the
2425 unemployment fund as provided in subsection (9) of this section.
2426 The amount required to be reimbursed shall be billed and shall be
2427 paid as provided in Section 71-5-357, with respect to similar
2428 payments for nonprofit organizations.

2429 (5) Each political subdivision, unless it elects to make
2430 contributions to the unemployment compensation fund as provided in
2431 subsection (9) of this section, shall establish a revolving fund
2432 and deposit an amount equal to two percent (2%) of the first Six
2433 Thousand Dollars (\$6,000.00) paid to each employee thereof during
2434 the next preceding year. However, the department shall by
2435 regulation establish a procedure to allow reimbursing political
2436 subdivisions to elect to maintain the balance in the revolving
2437 fund as required under this subsection or to annually execute a
2438 surety bond to be approved by the department in an amount not less
2439 than two percent (2%) of the covered wages paid during the next
2440 preceding year.

2441 (6) In the event any political subdivision becomes
2442 delinquent in payments due under this chapter, upon due notice,



2443 and upon certification of the delinquency by the department to the
2444 Department of Finance and Administration, the Department of
2445 Revenue, the Department of Environmental Quality and the
2446 Department of Insurance, or any of them, or any other agencies of
2447 the State of Mississippi that may be indebted to such delinquent
2448 political subdivision, such agencies shall direct the issuance of
2449 warrants which in the aggregate shall be the amount of such
2450 delinquency payable to the department and drawn upon any funds in
2451 the State Treasury which may be available to such political
2452 subdivision in satisfaction of any such delinquency. This remedy
2453 shall be in addition to any other collection remedies in this
2454 chapter or otherwise provided by law.

2455 (7) Payments made by any political subdivision under the
2456 provisions of this section shall not be deducted or deductible, in
2457 whole or in part, from the remuneration of individuals in the
2458 employ of the organization.

2459 (8) Any governmental entity shall not be liable to make
2460 payments to the unemployment fund with respect to the benefits
2461 paid to any individual whose base period wages include wages for
2462 previously uncovered services as defined in Section 71-5-511,
2463 subsection (e), to the extent that the Unemployment Compensation
2464 Fund is reimbursed for such benefits pursuant to Section 121 of
2465 Public Law 94-566.

2466 (9) Any political subdivision of this state may elect to
2467 make contributions to the unemployment fund instead of making



2468 reimbursement for benefits paid as provided in subsections (4) and
2469 (5) of this section. A political subdivision which makes this
2470 election shall so notify the department, not later than three (3)
2471 months after it is officially organized or is otherwise
2472 established, and shall be subject to the provisions of Section
2473 71-5-351, with regard to the payment of contributions. A
2474 political subdivision which makes this election shall pay
2475 contributions equal to two percent (2%) of taxable wages through
2476 calendar year 2010, and one percent (1%) of taxable wages
2477 thereafter paid by it during each calendar quarter it is subject
2478 to this chapter. The department shall by regulation establish a
2479 procedure to allow political subdivisions the option periodically
2480 to elect either the reimbursement or the contribution method of
2481 financing unemployment compensation coverage.

2482 **SECTION 38.** Section 71-5-451, Mississippi Code of 1972, is
2483 reenacted as follows:

2484 71-5-451. There is established as a special fund, separate
2485 and apart from all public monies or funds of this state, an
2486 Unemployment Compensation Fund, which shall be administered by the
2487 department exclusively for:

- 2488 (a) All contributions collected under this chapter;
- 2489 (b) Interest earned upon any monies in the fund;
- 2490 (c) Any property or securities acquired through the use
2491 of monies belonging to the fund;
- 2492 (d) All earnings of such property or securities;



2493 (e) All monies credited to this state's account in the
2494 Unemployment Trust Fund pursuant to the Social Security Act, 42
2495 USCS, Section 1104; and

2496 (f) By way of reimbursement in accordance with Section
2497 204 of the Federal-State Extended Unemployment Compensation Act of
2498 1970 (84 Stat. 711). All monies in the fund shall be mingled and
2499 undivided.

2500 **SECTION 39.** Section 71-5-457, Mississippi Code of 1972, is
2501 reenacted as follows:

2502 71-5-457. (1) Except as otherwise provided in subsection
2503 (5), money credited to the account of this state in the
2504 Unemployment Trust Fund by the Secretary of the Treasury of the
2505 United States of America pursuant to the Social Security Act, 42
2506 USCS Section 1103, may be requisitioned and used for the payment
2507 of expenses incurred for the administration of this law pursuant
2508 to a specific appropriation by the Legislature, provided that the
2509 expenses are incurred and the money is requisitioned after the
2510 enactment of an appropriation law which:

2511 (a) Specifies the purposes for which such money is
2512 appropriated and the amounts appropriated therefor;

2513 (b) Limits the period within which such money may be
2514 obligated to a period ending not more than two (2) years after the
2515 date of the enactment of the appropriation law; and



2516 (c) Limits the amount which may be obligated during a
2517 twelve-month period beginning on July 1 and ending on the next
2518 June 30 to an amount which does not exceed the amount by which:

2519 (i) The aggregate of the amounts credited to the
2520 account of this state pursuant to the Social Security Act, 42 USCS
2521 Section 1103, during the same twelve-month period and the
2522 thirty-four (34) preceding twelve-month periods exceeds.

2523 (ii) The aggregate of the amounts obligated
2524 pursuant to this section and charged against the amounts credited
2525 to the account of this state during such thirty-five (35)
2526 twelve-month periods.

2527 For the purposes of this section, amounts obligated during
2528 any such twelve-month period shall be charged against equivalent
2529 amounts which were first credited and which are not already so
2530 charged; except that no amount obligated for administration during
2531 any such twelve-month period may be charged against any amount
2532 credited during such a twelve-month period earlier than the
2533 thirty-fourth preceding such period.

2534 (2) Money credited to the account of this state pursuant to
2535 the Social Security Act, 42 USCS Section 1103, may not be
2536 withdrawn or used except for the payment of benefits and for the
2537 payment of expenses for the administration of this law and of
2538 public employment offices pursuant to this section.

2539 (3) Money appropriated as provided herein for the payment of
2540 expenses of administration shall be requisitioned as needed for



2541 the payment of obligations incurred under such appropriation and,
2542 upon requisition, shall be deposited in the Employment Security
2543 Administration Fund, from which such payments shall be made.
2544 Money so deposited shall, until expended, remain a part of the
2545 Unemployment Compensation Fund and, if it will not be expended,
2546 shall be returned promptly to the account of this state in the
2547 Unemployment Trust Fund.

2548 (4) The thirty-five-year limitation provided in this section
2549 is no longer in force, effective October 1, 1991.

2550 (5) Notwithstanding subsection (1), monies credited with
2551 respect to federal fiscal years 1999, 2000 and 2001 shall be used
2552 by the department solely for the administration of the
2553 unemployment compensation program.

2554 **SECTION 40.** Section 71-5-511, Mississippi Code of 1972, is
2555 reenacted as follows:

2556 71-5-511. An unemployed individual shall be eligible to
2557 receive benefits with respect to any week only if the department
2558 finds that:

2559 (a) (i) He has registered for work at and thereafter
2560 has continued to report to the department in accordance with such
2561 regulations as the department may prescribe; except that the
2562 department may, by regulation, waive or alter either or both of
2563 the requirements of this subparagraph as to such types of cases or
2564 situations with respect to which it finds that compliance with



2565 such requirements would be oppressive or would be inconsistent
2566 with the purposes of this chapter; and

2567 (ii) He participates in reemployment services,
2568 such as job search assistance services, if, in accordance with a
2569 profiling system established by the department, it has been
2570 determined that he is likely to exhaust regular benefits and needs
2571 reemployment services, unless the department determines that:

2572 1. The individual has completed such
2573 services; or

2574 2. There is justifiable cause for the
2575 claimant's failure to participate in such services.

2576 (b) He has made a claim for benefits in accordance with
2577 the provisions of Section 71-5-515 and in accordance with such
2578 regulations as the department may prescribe thereunder.

2579 (c) He is able to work, available for work and actively
2580 seeking work.

2581 (d) He has been unemployed for a waiting period of one
2582 (1) week. No week shall be counted as a week of unemployment for
2583 the purposes of this paragraph:

2584 (i) Unless it occurs within the benefit year which
2585 includes the week with respect to which he claims payment of
2586 benefits;

2587 (ii) If benefits have been paid with respect
2588 thereto;



2589 (iii) Unless the individual was eligible for
2590 benefits with respect thereto, as provided in Sections 71-5-511
2591 and 71-5-513, except for the requirements of this paragraph.

2592 (e) For weeks beginning on or before July 1, 1982, he
2593 has, during his base period, been paid wages for insured work
2594 equal to not less than thirty-six (36) times his weekly benefit
2595 amount; he has been paid wages for insured work during at least
2596 two (2) quarters of his base period; and he has, during that
2597 quarter of his base period in which his total wages were highest,
2598 been paid wages for insured work equal to not less than sixteen
2599 (16) times the minimum weekly benefit amount. For benefit years
2600 beginning after July 1, 1982, he has, during his base period, been
2601 paid wages for insured work equal to not less than forty (40)
2602 times his weekly benefit amount; he has been paid wages for
2603 insured work during at least two (2) quarters of his base period,
2604 and he has, during that quarter of his base period in which his
2605 total wages were highest, been paid wages for insured work equal
2606 to not less than twenty-six (26) times the minimum weekly benefit
2607 amount. For purposes of this paragraph, wages shall be counted as
2608 "wages for insured work" for benefit purposes with respect to any
2609 benefit year only if such benefit year begins subsequent to the
2610 date on which the employing unit by which such wages were paid has
2611 satisfied the conditions of Section 71-5-11, subsection H, or
2612 Section 71-5-361, subsection (3), with respect to becoming an
2613 employer.



2614 (f) No individual may receive benefits in a benefit
2615 year unless, subsequent to the beginning of the next preceding
2616 benefit year during which he received benefits, he performed
2617 service in "employment" as defined in Section 71-5-11, subsection
2618 I, and earned remuneration for such service in an amount equal to
2619 not less than eight (8) times his weekly benefit amount applicable
2620 to his next preceding benefit year.

2621 (g) Benefits based on service in employment defined in
2622 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,
2623 subsection (4) shall be payable in the same amount, on the same
2624 terms, and subject to the same conditions as compensation payable
2625 on the basis of other service subject to this chapter, except that
2626 benefits based on service in an instructional, research or
2627 principal administrative capacity in an institution of higher
2628 learning (as defined in Section 71-5-11, subsection N) with
2629 respect to service performed prior to January 1, 1978, shall not
2630 be paid to an individual for any week of unemployment which begins
2631 during the period between two (2) successive academic years, or
2632 during a similar period between two (2) regular terms, whether or
2633 not successive, or during a period of paid sabbatical leave
2634 provided for in the individual's contract, if the individual has a
2635 contract or contracts to perform services in any such capacity for
2636 any institution or institutions of higher learning for both such
2637 academic years or both such terms.



2638 (h) Benefits based on service in employment defined in
2639 Section 71-5-11, subsection I(3) and I(4), shall be payable in the
2640 same amount, on the same terms and subject to the same conditions
2641 as compensation payable on the basis of other service subject to
2642 this chapter, except that:

2643 (i) With respect to service performed in an
2644 instructional, research or principal administrative capacity for
2645 an educational institution, benefits shall not be paid based on
2646 such services for any week of unemployment commencing during the
2647 period between two (2) successive academic years, or during a
2648 similar period between two (2) regular but not successive terms,
2649 or during a period of paid sabbatical leave provided for in the
2650 individual's contract, to any individual, if such individual
2651 performs such services in the first of such academic years or
2652 terms and if there is a contract or a reasonable assurance that
2653 such individual will perform services in any such capacity for any
2654 educational institution in the second of such academic years or
2655 terms, and provided that paragraph (g) of this section shall apply
2656 with respect to such services prior to January 1, 1978. In no
2657 event shall benefits be paid unless the individual employee was
2658 terminated by the employer.

2659 (ii) With respect to services performed in any
2660 other capacity for an educational institution, benefits shall not
2661 be paid on the basis of such services to any individual for any
2662 week which commences during a period between two (2) successive



2663 academic years or terms, if such individual performs such services
2664 in the first of such academic years or terms and there is a
2665 reasonable assurance that such individual will perform such
2666 services in the second of such academic years or terms, except
2667 that if compensation is denied to any individual under this
2668 subparagraph and such individual was not offered an opportunity to
2669 perform such services for the educational institution for the
2670 second of such academic years or terms, such individual shall be
2671 entitled to a retroactive payment of compensation for each week
2672 for which the individual filed a timely claim for compensation and
2673 for which compensation was denied solely by reason of this clause.
2674 In no event shall benefits be paid unless the individual employee
2675 was terminated by the employer.

2676 (iii) With respect to services described in
2677 subparagraphs (i) and (ii) of this paragraph (h), benefits shall
2678 not be payable on the basis of services in any such capacities to
2679 any individual for any week which commences during an established
2680 and customary vacation period or holiday recess if such individual
2681 performs such services in the first of such academic years or
2682 terms, or in the period immediately before such vacation period or
2683 holiday recess, and there is a reasonable assurance that such
2684 individual will perform such services in the period immediately
2685 following such vacation period or holiday recess.

2686 (iv) With respect to any services described in
2687 subparagraphs (i) and (ii) of this paragraph (h), benefits shall



2688 not be payable on the basis of services in any such capacities as
2689 specified in subparagraphs (i), (ii) and (iii) of this paragraph
2690 (h) to any individual who performed such services in an
2691 educational institution while in the employ of an educational
2692 service agency. For purposes of this paragraph, the term
2693 "educational service agency" means a governmental agency or
2694 governmental entity which is established and operated exclusively
2695 for the purpose of providing such services to one or more
2696 educational institutions.

2697 (v) With respect to services to which Sections
2698 71-5-357 and 71-5-359 apply, if such services are provided to or
2699 on behalf of an educational institution, benefits shall not be
2700 payable under the same circumstances and subject to the same terms
2701 and conditions as described in subparagraphs (i), (ii), (iii) and
2702 (iv) of this paragraph (h).

2703 (i) Subsequent to December 31, 1977, benefits shall not
2704 be paid to any individual on the basis of any services
2705 substantially all of which consist of participating in sports or
2706 athletic events or training or preparing to so participate, for
2707 any week which commences during the period between two (2)
2708 successive sports seasons (or similar periods) if such individual
2709 performs such services in the first of such seasons (or similar
2710 periods) and there is a reasonable assurance that such individual
2711 will perform such services in the later of such seasons (or
2712 similar periods).



2713 (j) (i) Subsequent to December 31, 1977, benefits
2714 shall not be payable on the basis of services performed by an
2715 alien, unless such alien is an individual who was lawfully
2716 admitted for permanent residence at the time such services were
2717 performed, was lawfully present for purposes of performing such
2718 services, or was permanently residing in the United States under
2719 color of law at the time such services were performed (including
2720 an alien who was lawfully present in the United States as a result
2721 of the application of the provisions of Section 203(a)(7) or
2722 Section 212(d)(5) of the Immigration and Nationality Act).

2723 (ii) Any data or information required of
2724 individuals applying for benefits to determine whether benefits
2725 are not payable to them because of their alien status shall be
2726 uniformly required from all applicants for benefits.

2727 (iii) In the case of an individual whose
2728 application for benefits would otherwise be approved, no
2729 determination that benefits to such individual are not payable
2730 because of his alien status shall be made, except upon a
2731 preponderance of the evidence.

2732 (k) An individual shall be deemed prima facie
2733 unavailable for work, and therefore ineligible to receive
2734 benefits, during any period which, with respect to his employment
2735 status, is found by the department to be a holiday or vacation
2736 period.



2737 (1) A temporary employee of a temporary help firm is
2738 considered to have left the employee's last work voluntarily
2739 without good cause connected with the work if the temporary
2740 employee does not contact the temporary help firm for reassignment
2741 on completion of an assignment. A temporary employee is not
2742 considered to have left work voluntarily without good cause
2743 connected with the work under this paragraph unless the temporary
2744 employee has been advised in writing:

2745 (i) That the temporary employee is obligated to
2746 contact the temporary help firm on completion of assignments; and

2747 (ii) That unemployment benefits may be denied if
2748 the temporary employee fails to do so.

2749 **SECTION 41.** Section 71-5-513, Mississippi Code of 1972, is
2750 reenacted as follows:

2751 71-5-513. A. An individual shall be disqualified for
2752 benefits:

2753 (1) (a) For the week, or fraction thereof, which
2754 immediately follows the day on which he left work voluntarily
2755 without good cause, if so found by the department, and for each
2756 week thereafter until he has earned remuneration for personal
2757 services performed for an employer, as in this chapter defined,
2758 equal to not less than eight (8) times his weekly benefit amount,
2759 as determined in each case; however, marital, filial and domestic
2760 circumstances and obligations shall not be deemed good cause
2761 within the meaning of this subsection. Pregnancy shall not be



2762 deemed to be a marital, filial or domestic circumstance for the
2763 purpose of this subsection.

2764 (b) For the week, or fraction thereof, which
2765 immediately follows the day on which he was discharged for
2766 misconduct connected with his work, if so found by the department,
2767 and for each week thereafter until he has earned remuneration for
2768 personal services performed for an employer, as in this chapter
2769 defined, equal to not less than eight (8) times his weekly benefit
2770 amount, as determined in each case.

2771 (c) The burden of proof of good cause for leaving
2772 work shall be on the claimant, and the burden of proof of
2773 misconduct shall be on the employer.

2774 (2) For the week, or fraction thereof, with respect to
2775 which he willfully makes a false statement, a false representation
2776 of fact, or willfully fails to disclose a material fact for the
2777 purpose of obtaining or increasing benefits under the provisions
2778 of this law, if so found by the department, and such individual's
2779 maximum benefit allowance shall be reduced by the amount of
2780 benefits so paid to him during any such week of disqualification;
2781 and additional disqualification shall be imposed for a period not
2782 exceeding fifty-two (52) weeks, the length of such period of
2783 disqualification and the time when such period begins to be
2784 determined by the department, in its discretion, according to the
2785 circumstances in each case.



2786 (3) If the department finds that he has failed, without
2787 good cause, either to apply for available suitable work when so
2788 directed by the employment office or the department, to accept
2789 suitable work when offered him, or to return to his customary
2790 self-employment (if any) when so directed by the department, such
2791 disqualification shall continue for the week in which such failure
2792 occurred and for not more than the twelve (12) weeks which
2793 immediately follow such week, as determined by the department
2794 according to the circumstances in each case.

2795 (a) In determining whether or not any work is
2796 suitable for an individual, the department shall consider among
2797 other factors the degree of risk involved to his health, safety
2798 and morals, his physical fitness and prior training, his
2799 experience and prior earnings, his length of unemployment and
2800 prospects for securing local work in his customary occupation, and
2801 the distance of the available work from his residence; however,
2802 offered employment paying the minimum wage or higher, if such
2803 minimum or higher wage is that prevailing for his customary
2804 occupation or similar work in the locality, shall be deemed to be
2805 suitable employment after benefits have been paid to the
2806 individual for a period of eight (8) weeks.

2807 (b) Notwithstanding any other provisions of this
2808 chapter, no work shall be deemed suitable and benefits shall not
2809 be denied under this chapter to any otherwise eligible individual



2810 for refusing to accept new work under any of the following
2811 conditions:

2812 (i) If the position offered is vacant due
2813 directly to a strike, lockout or other labor dispute;

2814 (ii) If the wages, hours or other conditions
2815 of the work offered are substantially unfavorable or unreasonable
2816 to the individual's work. The department shall have the sole
2817 discretion to determine whether or not there has been an
2818 unfavorable or unreasonable condition placed on the individual's
2819 work. Moreover, the department may consider, but shall not be
2820 limited to a consideration of, whether or not the unfavorable
2821 condition was applied by the employer to all workers in the same
2822 or similar class or merely to this individual;

2823 (iii) If as a condition of being employed the
2824 individual would be required to join a company union or to resign
2825 from or refrain from joining any bona fide labor organization;

2826 (iv) If unsatisfactory or hazardous working
2827 conditions exist that could result in a danger to the physical or
2828 mental well-being of the worker. In any such determination the
2829 department shall consider, but shall not be limited to a
2830 consideration of, the following: the safety measures used or the
2831 lack thereof and the condition of equipment or lack of proper
2832 equipment. No work shall be considered hazardous if the working
2833 conditions surrounding a worker's employment are the same or
2834 substantially the same as the working conditions generally



2835 prevailing among workers performing the same or similar work for
2836 other employers engaged in the same or similar type of activity.

2837 (c) Pursuant to Section 303(1) of the Social
2838 Security Act (42 USCS 503), the department may conduct drug tests
2839 of applicants for unemployment compensation for the unlawful use
2840 of controlled substances as a condition for receiving such
2841 compensation, if such applicant:

2842 (i) Was terminated from employment with the
2843 claimant's most recent employer, as defined by Mississippi law,
2844 because of the unlawful use of controlled substances; or

2845 (ii) Is an individual for whom suitable work,
2846 as defined by Mississippi law, is only available in an occupation
2847 (as determined under regulations issued by the U.S. Secretary of
2848 Labor) that requires drug testing.

2849 The department may deny unemployment compensation to any
2850 applicant based on the result of a drug test conducted by the
2851 department in accordance with this subsection. A positive drug
2852 test result shall be deemed by the department to be a failure to
2853 accept suitable work, and shall subject the applicant to the
2854 disqualification provisions set forth in this subsection A(3).
2855 During the disqualification period imposed by the department under
2856 this subsection, the individual may provide information to end the
2857 disqualification period early by submitting acceptable proof to
2858 the department of a negative test result from a testing facility
2859 approved by the department.



2860 (iii) Pursuant to the provisions set forth in
2861 this subsection A(3)(c), the department shall have the authority
2862 to institute a random drug testing program for all individuals who
2863 meet the requirements set forth in this section. Moreover, the
2864 department shall have the authority to create the necessary
2865 regulations, policies rules, guidelines and procedures to
2866 implement such a program.

2867 Any term or provision set forth in this subsection A(3)(c)
2868 that otherwise conflicts with federal or state law shall be
2869 disregarded but shall not, in any way, affect the remaining
2870 provisions.

2871 (4) For any week with respect to which the department
2872 finds that his total unemployment is due to a stoppage of work
2873 which exists because of a labor dispute at a factory,
2874 establishment or other premises at which he is or was last
2875 employed; however, this subsection shall not apply if it is shown
2876 to the satisfaction of the department:

2877 (a) He is unemployed due to a stoppage of work
2878 occasioned by an unjustified lockout, if such lockout was not
2879 occasioned or brought about by such individual acting alone or
2880 with other workers in concert; or

2881 (b) He is not participating in or directly
2882 interested in the labor dispute which caused the stoppage of work;
2883 and



2884 (c) He does not belong to a grade or class of
2885 workers of which, immediately before the commencement of stoppage,
2886 there were members employed at the premises at which the stoppage
2887 occurs, any of whom are participating in or directly interested in
2888 the dispute.

2889 If in any case separate branches of work which are commonly
2890 conducted as separate businesses in separate premises are
2891 conducted in separate departments of the same premises, each such
2892 department shall, for the purposes of this subsection, be deemed
2893 to be a separate factory, establishment or other premises.

2894 (5) For any week with respect to which he has received
2895 or is seeking unemployment compensation under an unemployment
2896 compensation law of another state or of the United States.
2897 However, if the appropriate agency of such other state or of the
2898 United States finally determines that he is not entitled to such
2899 unemployment compensation benefits, this disqualification shall
2900 not apply. Nothing in this subsection contained shall be
2901 construed to include within its terms any law of the United States
2902 providing unemployment compensation or allowances for honorably
2903 discharged members of the Armed Forces.

2904 (6) For any week with respect to which he is receiving
2905 or has received remuneration in the form of payments under any
2906 governmental or private retirement or pension plan, system or
2907 policy which a base-period employer is maintaining or contributing
2908 to or has maintained or contributed to on behalf of the



2909 individual; however, if the amount payable with respect to any
2910 week is less than the benefits which would otherwise be due under
2911 Section 71-5-501, he shall be entitled to receive for such week,
2912 if otherwise eligible, benefits reduced by the amount of such
2913 remuneration. However, on or after the first Sunday immediately
2914 following July 1, 2001, no social security payments, to which the
2915 employee has made contributions, shall be deducted from
2916 unemployment benefits paid for any period of unemployment
2917 beginning on or after the first Sunday following July 1, 2001.
2918 This one hundred percent (100%) exclusion shall not apply to any
2919 other governmental or private retirement or pension plan, system
2920 or policy. If benefits payable under this section, after being
2921 reduced by the amount of such remuneration, are not a multiple of
2922 One Dollar (\$1.00), they shall be adjusted to the next lower
2923 multiple of One Dollar (\$1.00).

2924 (7) For any week with respect to which he is receiving
2925 or has received remuneration in the form of a back pay award, or
2926 other compensation allocable to any week, whether by settlement or
2927 otherwise. Any benefits previously paid for weeks of unemployment
2928 with respect to which back pay awards, or other such compensation,
2929 are made shall constitute an overpayment and such amounts shall be
2930 deducted from the award by the employer prior to payment to the
2931 employee, and shall be transmitted promptly to the department by
2932 the employer for application against the overpayment and credit to
2933 the claimant's maximum benefit amount and prompt deposit into the



2934 fund; however, the removal of any charges made against the
2935 employer as a result of such previously paid benefits shall be
2936 applied to the calendar year and the calendar quarter in which the
2937 overpayment is transmitted to the department, and no attempt shall
2938 be made to relate such a credit to the period to which the award
2939 applies. Any amount of overpayment so deducted by the employer
2940 and not transmitted to the department shall be subject to the same
2941 procedures for collection as is provided for contributions by
2942 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
2943 deducted by the employer shall be established as an overpayment
2944 against the claimant and collected as provided above. It is the
2945 purpose of this paragraph to assure equity in the situations to
2946 which it applies, and it shall be construed accordingly.

2947 B. Notwithstanding any other provision in this chapter, no
2948 otherwise eligible individual shall be denied benefits for any
2949 week because he is in training with the approval of the
2950 department; nor shall such individual be denied benefits with
2951 respect to any week in which he is in training with the approval
2952 of the department by reason of the application of provisions in
2953 Section 71-5-511, subsection (c), relating to availability for
2954 work, or the provisions of subsection A(3) of this section,
2955 relating to failure to apply for, or a refusal to accept, suitable
2956 work.

2957 C. Notwithstanding any other provisions of this chapter, no
2958 otherwise eligible individual shall be denied benefits for any



2959 week because he or she is in training approved under Section
2960 236(a) (1) of the Trade Act of 1974, nor shall such individual be
2961 denied benefits by reason of leaving work to enter such training,
2962 provided the work left is not suitable employment, or because of
2963 the application to any such week in training of provisions in this
2964 law (or any applicable federal unemployment compensation law),
2965 relating to availability for work, active search for work or
2966 refusal to accept work.

2967 For purposes of this section, the term "suitable employment"
2968 means with respect to an individual, work of a substantially equal
2969 or higher skill level than the individual's past adversely
2970 affected employment (as defined for purposes of the Trade Act of
2971 1974), and wages for such work at not less than eighty percent
2972 (80%) of the individual's average weekly wage as determined for
2973 the purposes of the Trade Act of 1974.

2974 D. Notwithstanding any other provisions of this chapter, no
2975 otherwise eligible individual shall be denied benefits for any
2976 week in which they are engaged in the Self-Employment Assistance
2977 Program established in Section 71-5-545 by reason of the
2978 application of Section 71-5-511(c), relating to availability for
2979 work, or the provisions of subsection A(3) of this section,
2980 relating to failure to apply for, or a refusal to accept, suitable
2981 work.

2982 E. Any individual who is receiving benefits may participate
2983 in an approved training program under the Mississippi Employment



2984 Security Law to gain skills that may lead to employment while
2985 continuing to receive benefits. Authorization for participation
2986 of a recipient of unemployment benefits in such a program must be
2987 granted by the department and continuation of participation must
2988 be certified weekly by the participant recipient. While
2989 participating in such program approved by the department,
2990 availability and work search requirements will be waived. No
2991 individual will be allowed to participate in this program for more
2992 than twelve (12) weeks in any benefit year. Such participation
2993 shall not be considered employment for any purposes and shall not
2994 accrue benefits or wage credits. Participation in this training
2995 program shall meet the definition set forth in the U.S. Fair Labor
2996 Standards Act.

2997 **SECTION 42.** Section 71-5-517, Mississippi Code of 1972, is
2998 reenacted as follows:

2999 71-5-517. Upon the taking of a claim by the department, an
3000 initial determination thereon shall be made promptly and shall
3001 include a determination with respect to whether or not benefits
3002 are payable, the week with respect to which benefits shall
3003 commence, the weekly benefit amount payable and the maximum
3004 duration of benefits. In any case in which the payment or denial
3005 of benefits will be determined by the provisions of subsection
3006 A(4) of Section 71-5-513, the examiner shall promptly transmit all
3007 the evidence with respect to that subsection to the department,
3008 which, on the basis of evidence so submitted and such additional



3009 evidence as it may require, shall make an initial determination
3010 with respect thereto. An initial determination may for good cause
3011 be reconsidered. The claimant, his most recent employing unit and
3012 all employers whose experience-rating record would be charged with
3013 benefits pursuant to such determination shall be promptly notified
3014 of such initial determination or any amended initial determination
3015 and the reason therefor. Benefits shall be denied or, if the
3016 claimant is otherwise eligible, promptly paid in accordance with
3017 the initial determination or amended initial determination. The
3018 jurisdiction of the department over benefit claims which have not
3019 been appealed shall be continuous. The claimant or any party to
3020 the initial determination or amended initial determination may
3021 file an appeal from such initial determination or amended initial
3022 determination within fourteen (14) days after notification
3023 thereof, or after the date such notification was sent to his last
3024 known address.

3025 Notwithstanding any other provision of this section, benefits
3026 shall be paid promptly in accordance with a determination or
3027 redetermination, or the decision of an appeal tribunal, the Board
3028 of Review or a reviewing court upon the issuance of such
3029 determination, redetermination or decision in favor of the
3030 claimant (regardless of the pendency of the period to apply for
3031 reconsideration, file an appeal, or petition for judicial review,
3032 as the case may be, or the pendency of any such application,
3033 filing or petition), unless and until such determination,



3034 redetermination or decision has been modified or reversed by a
3035 subsequent redetermination or decision, in which event benefits
3036 shall be paid or denied in accordance with such modifying or
3037 reversing redetermination or decision. Any benefits finally
3038 determined to have been erroneously paid may be set up as an
3039 overpayment to the claimant and must be liquidated before any
3040 future benefits can be paid to the claimant. If, subsequent to
3041 such initial determination or amended initial determination,
3042 benefits with respect to any week for which a claim has been filed
3043 are denied for reasons other than matters included in the initial
3044 determination or amended initial determination, the claimant shall
3045 be promptly notified of the denial and the reason therefor and may
3046 appeal therefrom in accordance with the procedure herein described
3047 for appeals from initial determination or amended initial
3048 determination.

3049 **SECTION 43.** Section 71-5-519, Mississippi Code of 1972, is
3050 reenacted as follows:

3051 71-5-519. Unless such appeal is withdrawn, an appeal
3052 tribunal appointed by the executive director, after affording the
3053 parties reasonable opportunity for fair hearing, shall affirm,
3054 modify or reverse the findings of fact and initial determination
3055 or amended initial determination. The parties shall be duly
3056 notified of such tribunal's decision, together with its reasons
3057 therefor, which shall be deemed to be the final decision of the
3058 executive director unless, within fourteen (14) days after the



3059 date of notification of such decision, further appeal is initiated
3060 pursuant to Section 71-5-523.

3061 **SECTION 44.** Section 71-5-523, Mississippi Code of 1972, is
3062 reenacted as follows:

3063 71-5-523. The Board of Review may on its own motion affirm,
3064 modify, or set aside any decision of an appeal tribunal on the
3065 basis of the evidence previously submitted in such case, or direct
3066 the taking of additional evidence, or may permit any of the
3067 parties to such decision to initiate further appeals before it.
3068 The Board of Review shall permit such further appeal by any of the
3069 parties to a decision of an appeal tribunal which is not
3070 unanimous, and by the examiner whose decision has been overruled
3071 or modified by an appeal tribunal. The Board of Review may remove
3072 to itself or transfer to another appeal tribunal the proceedings
3073 on any claim pending before an appeal tribunal. Any proceedings
3074 so removed to the Board of Review shall be heard by a quorum
3075 thereof in accordance with the requirements of Section 71-5-519
3076 and within fifteen (15) days after notice of appeal has been
3077 received by the executive director. No notice of appeal shall be
3078 deemed to be received by the executive director, within the
3079 meaning of this section, until all prior appeals pending before
3080 the Board of Review have been heard. The Board of Review shall,
3081 within four (4) days after its decision, so notify the parties to
3082 any proceeding of its findings and decision.



3083 **SECTION 45.** Section 71-5-525, Mississippi Code of 1972, is
3084 reenacted as follows:

3085 71-5-525. The manner in which appealed claims shall be
3086 presented and the conduct of hearings and appeals shall be in
3087 accordance with regulations prescribed by the Board of Review for
3088 determining the rights of the parties, whether or not such
3089 regulations conform to common law or statutory rules of evidence
3090 and other technical rules of procedure. A full and complete
3091 record shall be kept of all proceedings in connection with an
3092 appealed claim. The department's entire file relative to the
3093 appealed claim shall be a part of such record and shall be
3094 considered as evidence. All testimony at any hearing upon an
3095 appealed claim shall be recorded, but need not be transcribed
3096 unless the claim is further appealed.

3097 **SECTION 46.** Section 71-5-529, Mississippi Code of 1972, is
3098 reenacted as follows:

3099 71-5-529. Any decision of the Board of Review, in the
3100 absence of an appeal therefrom as herein provided, shall become
3101 final ten (10) days after the date of notification; and judicial
3102 review thereof shall be permitted only after any party claiming to
3103 be aggrieved thereby has exhausted his administrative remedies as
3104 provided by this chapter. The department shall be deemed to be a
3105 party to any judicial action involving any such decision, and may
3106 be represented in any such judicial action by any qualified



3107 attorney employed by the department and designated by it for that
3108 purpose or, at the department's request, by the Attorney General.

3109 **SECTION 47.** Section 71-5-531, Mississippi Code of 1972, is
3110 reenacted as follows:

3111 71-5-531. Within ten (10) days after the decision of the
3112 Board of Review has become final, any party aggrieved thereby may
3113 secure judicial review thereof by commencing an action, in the
3114 circuit court of the county in which the plaintiff resides,
3115 against the department for the review of such decision, in which
3116 action any other party to the proceeding before the Board of
3117 Review shall be made a defendant. In cases wherein the plaintiff
3118 is not a resident of the State of Mississippi, such action may be
3119 filed in the circuit court of the county in which the employer
3120 resides, the county in which the cause of action arose, or in the
3121 county of employment. In such action, a petition which need not
3122 be verified, but which shall state the grounds upon which a review
3123 is sought, shall be served upon the department or upon such person
3124 as the department may designate, and such service shall be deemed
3125 completed service on all parties; but there shall be left with the
3126 party so served as many copies of the petition as there are
3127 defendants, and the department shall forthwith mail one (1) such
3128 copy to each such defendant. With its answer, the department
3129 shall certify and file with said court all documents and papers
3130 and a transcript of all testimony taken in the matter, together
3131 with the Board of Review's findings of fact and decision therein.



3132 The department may also, in its discretion, certify to such court
3133 questions of law involved in any decision. In any judicial
3134 proceedings under this section, the findings of the Board of
3135 Review as to the facts, if supported by evidence and in the
3136 absence of fraud, shall be conclusive, and the jurisdiction of the
3137 court shall be confined to questions of law. Such actions, and
3138 the questions so certified, shall be heard in a summary manner and
3139 shall be given precedence over all other civil cases. An appeal
3140 may be taken from the decision of the circuit court of the county
3141 in which the plaintiff resides to the Supreme Court of
3142 Mississippi, in the same manner, but not inconsistent with the
3143 provisions of this chapter, as is provided in civil cases. It
3144 shall not be necessary, in any judicial proceeding under this
3145 section, to enter exceptions to the rulings of the Board of
3146 Review, and no bond shall be required for entering such appeal.
3147 Upon the final determination of such judicial proceeding, the
3148 Board of Review shall enter an order in accordance with such
3149 determination. A petition for judicial review shall not act as a
3150 supersedeas or stay unless the Board of Review shall so order.

3151 **SECTION 48.** Section 71-5-541, Mississippi Code of 1972, is
3152 reenacted as follows:

3153 71-5-541. A. (1) In the administration of this chapter,
3154 the department shall cooperate with the Department of Labor to the
3155 fullest extent consistent with the provisions of this chapter and
3156 shall take such action, through the adoption of appropriate rules,



3157 regulations, administrative methods and standards, as may be
3158 necessary to secure to this state and its citizens all advantages
3159 available under the provisions of the Social Security Act that
3160 relate to unemployment compensation, the Federal Unemployment Tax
3161 Act, the Wagner-Peyser Act and the Federal-State Extended
3162 Unemployment Compensation Act of 1970, all as amended.

3163 (2) In the administration of the provisions of this
3164 section, which are enacted to conform with the requirements of the
3165 Federal-State Extended Unemployment Compensation Act of 1970, as
3166 amended, the department shall take such actions as may be
3167 necessary:

3168 (a) To ensure that the provisions are so
3169 interpreted and applied as to meet the requirements of such
3170 federal act as interpreted by the United States Department of
3171 Labor; and

3172 (b) To secure to this state the full reimbursement
3173 of the federal share of extended benefits paid under this chapter
3174 that are reimbursable under the federal act; and also

3175 (c) To limit the amount of extended benefits paid
3176 as may be necessary so that the reimbursement of the federal share
3177 of extended benefits paid shall remain at one-half (1/2) of the
3178 total extended benefits paid.

3179 B. As used in this section, unless the context clearly
3180 requires otherwise:

3181 (1) "Extended benefit period" means a period which:



3182 (a) Begins with the third week after a week for
3183 which there is a state "on" indicator; and

3184 (b) Ends with either of the following weeks,
3185 whichever occurs later:

3186 (i) The third week after the first week for
3187 which there is a state "off" indicator; or

3188 (ii) The thirteenth consecutive week of such
3189 period.

3190 No extended benefit period may begin by reason of a state
3191 "on" indicator before the fourteenth week following the end of a
3192 prior extended benefit period which was in effect with respect to
3193 this state.

3194 (2) For weeks beginning after September 25, 1982, there
3195 is a "state 'on' indicator" for a week if the rate of insured
3196 unemployment under this chapter for the period consisting of such
3197 week and the immediately preceding twelve (12) weeks:

3198 (a) Equalled or exceeded one hundred twenty percent
3199 (120%) of the average of such rates for the corresponding period
3200 of thirteen (13) weeks ending in each of the preceding two (2)
3201 calendar years; and

3202 (b) Equalled or exceeded five percent (5%).

3203 The determination of whether there has been a state "on" or
3204 "off" indicator beginning or ending any extended benefit period
3205 shall be made under this subsection as if (i) paragraph (2) did
3206 not contain subparagraph (a) thereof, and (ii) the figure "5"



3207 contained in subparagraph (b) thereof were "6"; except that,
3208 notwithstanding any such provision of this subsection, any week
3209 for which there would otherwise be a "state 'on' indicator" shall
3210 continue to be such week and shall not be determined to be a week
3211 for which there is a "state 'off' indicator."

3212 (3) There is a "state 'off' indicator" for a week if,
3213 for the period consisting of such week and the immediately
3214 preceding twelve (12) weeks, either subparagraph (a) or (b) of
3215 paragraph (2) was not satisfied.

3216 (4) "Rate of insured unemployment," for purposes of
3217 paragraphs (2) and (3) of this subsection, means the percentage
3218 derived by dividing:

3219 (a) The average number of continued weeks claimed
3220 for regular state compensation in this state for weeks of
3221 unemployment with respect to the most recent period of thirteen
3222 (13) consecutive weeks, as determined by the department on the
3223 basis of its reports to the United States Secretary of Labor; by

3224 (b) The average monthly employment covered under
3225 this chapter for the first four (4) of the most recent six (6)
3226 completed calendar quarters ending before the end of such period
3227 of thirteen (13) weeks.

3228 (5) "Regular benefits" means benefits payable to an
3229 individual under this chapter or under any other state law
3230 (including benefits payable to federal civilian employees and to



3231 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than
3232 extended benefits.

3233 (6) "Extended benefits" means benefits (including
3234 benefits payable to federal civilian employees and to
3235 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an
3236 individual under the provisions of this section for weeks of
3237 unemployment in his eligibility period.

3238 (7) "Eligibility period" of an individual means the
3239 period consisting of the weeks in his benefit year which begin in
3240 an extended benefit period and, if his benefit year ends within
3241 such extended benefit period, any weeks thereafter which begin in
3242 such period.

3243 (8) "Exhaustee" means an individual who, with respect
3244 to any week of unemployment in his eligibility period:

3245 (a) Has received, prior to such week, all of the
3246 regular benefits that were available to him under this chapter or
3247 any other state law (including dependents' allowances and benefits
3248 payable to federal civilian employees and ex-servicemen under 5
3249 USCS Section 8501-8525) in his current benefit year that includes
3250 such week.

3251 For the purposes of this subparagraph, an individual shall be
3252 deemed to have received all of the regular benefits that were
3253 available to him although, as a result of a pending appeal with
3254 respect to wages that were not considered in the original monetary



3255 determination in his benefit year, he may subsequently be
3256 determined to be entitled to added regular benefits; or

3257 (b) Has no, or insufficient, wages on the basis of
3258 which he could establish a new benefit year that would include
3259 such week, his benefit year having expired prior to such week; and

3260 (c) (i) Has no right to unemployment benefits or
3261 allowances, as the case may be, under the Railroad Unemployment
3262 Insurance Act, the Trade Expansion Act of 1962, the Automotive
3263 Products Trade Act of 1965, and such other federal laws as are
3264 specified in regulations issued by the United States Secretary of
3265 Labor; and

3266 (ii) Has not received and is not seeking
3267 unemployment benefits under the Unemployment Compensation Law of
3268 the Virgin Islands or of Canada; but if he is seeking such
3269 benefits and the appropriate agency finally determines that he is
3270 not entitled to benefits under such law, he is considered an
3271 exhaustee; however, the reference in this subsection to the Virgin
3272 Islands shall be inapplicable effective on the day on which the
3273 United States Secretary of Labor approves under Section 3304(a) of
3274 the Internal Revenue Code of 1954, an unemployment compensation
3275 law submitted to the Secretary by the Virgin Islands for approval.

3276 (9) "State law" means the unemployment insurance law of
3277 any state, approved by the United States Secretary of Labor under
3278 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section
3279 3304).



3280 C. Except when the result would be inconsistent with the
3281 other provisions of this section, as provided in the regulations
3282 of the department, the provisions of this chapter which apply to
3283 claims for, or the payment of, regular benefits shall apply to
3284 claims for, and the payment of, extended benefits.

3285 D. An individual shall be eligible to receive extended
3286 benefits with respect to any week of unemployment in his
3287 eligibility period only if the department finds that with respect
3288 to such week:

3289 (1) He is an "exhaustee" as defined in subsection B(8)
3290 of this section.

3291 (2) He has satisfied the requirements of this chapter
3292 for the receipt of regular benefits that are applicable to
3293 individuals claiming extended benefits, including not being
3294 subject to a disqualification for the receipt of benefits.

3295 (3) For a week beginning after September 25, 1982, he
3296 has, during his base period, been paid wages for insured work
3297 equal to not less than forty (40) times his weekly benefit amount;
3298 he has been paid wages for insured work during at least two (2)
3299 quarters of his base period, and he has, during that quarter of
3300 his base period in which his total wages were highest, been paid
3301 wages for insured work equal to not less than twenty-six (26)
3302 times the minimum weekly benefit amount.

3303 E. The weekly extended benefit amount payable to an
3304 individual for a week of total unemployment in his eligibility



3305 period shall be an amount equal to the weekly benefit amount
3306 payable to him during his applicable benefit year; however,
3307 benefits paid to individuals during eligibility periods beginning
3308 before October 1, 1983, shall be computed to the next higher
3309 multiple of One Dollar (\$1.00), if not a multiple of One Dollar
3310 (\$1.00); and benefits paid to individuals during eligibility
3311 periods beginning on or after October 1, 1983, shall be computed
3312 to the next lower multiple of One Dollar (\$1.00), if not a
3313 multiple of One Dollar (\$1.00). In no event shall the weekly
3314 extended benefit amount payable to an individual be more than two
3315 (2) times the amount of the reimbursement of the federal share of
3316 extended benefits paid.

3317 F. (1) The total extended benefit amount payable to any
3318 eligible individual with respect to his applicable benefit year
3319 shall be the least of the following amounts:

3320 (a) Fifty percent (50%) of the total amount of
3321 regular benefits which were payable to him under this chapter in
3322 his applicable benefit year; however, benefits paid to individuals
3323 during eligibility periods beginning before October 1, 1983, shall
3324 be computed to the next higher multiple of One Dollar (\$1.00), if
3325 not a multiple of One Dollar (\$1.00), and benefits paid to
3326 individuals during eligibility periods beginning on or after
3327 October 1, 1983, shall be computed to the next lower multiple of
3328 One Dollar (\$1.00), if not a multiple of One Dollar (\$1.00); or



3329 (b) Thirteen (13) times his weekly benefit amount
3330 which was payable to him under this chapter for a week of total
3331 unemployment in the applicable benefit year.

3332 (2) The total extended benefits otherwise payable to an
3333 individual who is filing an interstate claim under the interstate
3334 benefit payment plan shall not exceed two (2) weeks whenever an
3335 extended benefit period is not in effect for such week in the
3336 state where the claim is filed.

3337 (3) In no event shall the total extended benefit amount
3338 payable to any eligible individual with respect to his applicable
3339 benefit year be more than two (2) times the amount of the
3340 reimbursement of the federal share of extended benefits paid.

3341 G. (1) Whenever an extended benefit period is to become
3342 effective in this state as a result of a state "on" indicator, or
3343 an extended benefit period is to be terminated in this state as a
3344 result of state "off" indicators, the department shall make an
3345 appropriate public announcement.

3346 (2) Computations required by the provisions of
3347 subsection B(4) shall be made by the department, in accordance
3348 with regulations prescribed by the United States Secretary of
3349 Labor.

3350 H. Extended benefits paid under the provisions of this
3351 section which are not reimbursable from federal funds shall be
3352 charged to the experience-rating record of base period employers.



3353 I. (1) Notwithstanding the provisions of subsections C and
3354 D of this section, an individual shall be disqualified for receipt
3355 of extended benefits if the department finds that during any week
3356 of his eligibility period:

3357 (a) He has failed either to apply for or to accept
3358 an offer of suitable work (as defined under paragraph (3)) to
3359 which he was referred by the department; or

3360 (b) He has failed to furnish tangible evidence
3361 that he has actively engaged in a systematic and sustained effort
3362 to find work, unless such individual is not actively engaged in
3363 seeking work because such individual is:

3364 (i) Before any court of the United States or
3365 any state pursuant to a lawfully issued summons to appear for jury
3366 duty;

3367 (ii) Hospitalized for treatment of an
3368 emergency or a life-threatening condition.

3369 The entitlement to benefits of any individual who is
3370 determined not to be actively engaged in seeking work in any week
3371 for the foregoing reasons shall be decided pursuant to the able
3372 and available requirements in Section 71-5-511 without regard to
3373 the disqualification provisions otherwise applicable under Section
3374 71-5-541. The conditions prescribed in clauses (i) and (ii) of
3375 this subparagraph (b) must be applied in the same manner to
3376 individuals filing claims for regular benefits.



3377 (2) Such disqualification shall begin with the week in
3378 which such failure occurred and shall continue until he has been
3379 employed in each of eight (8) subsequent weeks (whether or not
3380 consecutive) and has earned remuneration for personal services
3381 performed for an employer, as in this chapter defined, equal to
3382 not less than eight (8) times his weekly extended benefit amount.

3383 (3) For the purpose of subparagraph (a) of paragraph
3384 (1) the term "suitable work" means any work which is within the
3385 individual's capabilities to perform, if:

3386 (a) The gross average weekly remuneration payable
3387 for the work exceeds the sum of the individual's weekly extended
3388 benefit amount plus the amount, if any, of supplemental
3389 unemployment benefits (as defined in Section 501(c)(17)(D) of the
3390 Internal Revenue Code of 1954) payable to such individual for such
3391 week;

3392 (b) The wages payable for the work equal the
3393 higher of the minimum wages provided by Section 6(a)(1) of the
3394 Fair Labor Standards Act of 1938 (without regard to any
3395 exemption), or the state or local minimum wage; and

3396 (c) The position was offered to the individual in
3397 writing or was listed with the state employment service; and

3398 (d) Such work otherwise meets the definition of
3399 "suitable work" for regular benefits contained in Section
3400 71-5-513A(4) to the extent that such criteria of suitability are
3401 not inconsistent with the provisions of this paragraph (3); and



3402 (e) The individual cannot furnish satisfactory
3403 evidence to the department that his prospects for obtaining work
3404 in his customary occupation within a reasonably short period are
3405 good. If such evidence is deemed satisfactory for this purpose,
3406 the determination of whether any work is suitable with respect to
3407 such individual shall be made in accordance with the definition of
3408 suitable work contained in Section 71-5-513A(4) without regard to
3409 the definition specified by this paragraph (3).

3410 (4) Notwithstanding any provisions of subsection I to
3411 the contrary, no work shall be deemed to be suitable work for an
3412 individual which does not accord with the labor standard
3413 provisions set forth herein under Section 71-5-513A(4).

3414 (5) The employment service shall refer any claimant
3415 entitled to extended benefits under this section to any suitable
3416 work which meets the criteria prescribed in paragraph (3).

3417 (6) An individual shall be disqualified for extended
3418 benefits for the week, or fraction thereof, which immediately
3419 follows the day on which he left work voluntarily without good
3420 cause (as defined in Section 71-5-513A(1)), was discharged for
3421 misconduct connected with his work, or refused suitable work
3422 (except as provided in subsection I of this section), and for each
3423 week thereafter until he has earned remuneration for personal
3424 services performed for an employer, as in this chapter defined,
3425 equal to not less than eight (8) times his weekly benefit amount,
3426 as determined in each case.



3427 (7) The provisions of paragraphs I(1) through (6) of
3428 this section shall not apply to claims for weeks of unemployment
3429 beginning after March 6, 1993, and before January 1, 1995, and
3430 during that period the provisions of this chapter applicable to
3431 claims for regular compensation shall apply.

3432 J. Notwithstanding any other provisions of this chapter, if
3433 the benefit year of any individual ends within an extended benefit
3434 period, the remaining balance of extended benefits that such
3435 individual would, but for this section, be entitled to receive in
3436 that extended benefit period, with respect to weeks of
3437 unemployment beginning after the end of the benefit year, shall be
3438 reduced (but not below zero) by the product of the number of weeks
3439 for which the individual received any amounts as trade
3440 readjustment allowances within that benefit year, multiplied by
3441 the individual's weekly benefit amount for extended benefits.

3442 **SECTION 49.** Section 73-30-25, Mississippi Code of 1972, is
3443 reenacted as follows:

3444 73-30-25. It is not the intent of this article to regulate
3445 against members of other duly regulated professions in this state
3446 who do counseling in the normal course of the practice of their
3447 own profession. This article does not apply to:

3448 (a) Any person registered, certified or licensed by the
3449 state to practice any other occupation or profession while
3450 rendering counseling services in the performance of the occupation



3451 or profession for which he or she is registered, certified or
3452 licensed;

3453 (b) Certified school counselors when they are
3454 practicing counseling within the scope of their employment;

3455 (c) Certified vocational counselors when they are
3456 practicing vocational counseling within the scope of their
3457 employment;

3458 (d) [Deleted]

3459 (e) Student interns or trainees in counseling pursuing
3460 a course of study in counseling in a regionally or nationally
3461 accredited institution of higher learning or training institution
3462 if activities and services constitute a part of the supervised
3463 course of study, provided that such persons be designated a
3464 counselor intern;

3465 (f) [Deleted]

3466 (g) [Deleted]

3467 (h) Duly ordained ministers or clergy while functioning
3468 in their ministerial capacity and duly accredited Christian
3469 Science practitioners;

3470 (i) Professional employees of regional mental health
3471 centers, state mental hospitals, vocational rehabilitation
3472 institutions, youth court counselors and employees of the
3473 Mississippi Department of Employment Security or other
3474 governmental agency so long as they practice within the scope of
3475 their employment;



3476 (j) Professional employees of alcohol or drug abuse
3477 centers or treatment facilities, whether privately or publicly
3478 funded, so long as they practice within the scope of their
3479 employment;

3480 (k) Private employment counselors;

3481 (l) Any nonresident temporarily employed in this state
3482 to render counseling services for not more than thirty (30) days
3483 in any year, if in the opinion of the board the person would
3484 qualify for a license under this article and if the person holds
3485 any license required for counselors in his or her home state or
3486 country; and

3487 (m) [Deleted]

3488 **SECTION 50.** Section 7-1-355, Mississippi Code of 1972, is
3489 reenacted as follows:

3490 7-1-355. (1) The Mississippi Department of Employment
3491 Security, Office of the Governor, is designated as the sole
3492 administrator of all programs for which the state is the prime
3493 sponsor under Title 1(B) of Public Law 105-220, Workforce
3494 Investment Act of 1998, and the regulations promulgated
3495 thereunder, and may take all necessary action to secure to this
3496 state the benefits of that legislation. The Mississippi
3497 Department of Employment Security, Office of the Governor, may
3498 receive and disburse funds for those programs that become
3499 available to it from any source.



3500 (2) The Mississippi Department of Employment Security,
3501 Office of the Governor, shall establish guidelines on the amount
3502 and/or percentage of indirect and/or administrative expenses by
3503 the local fiscal agent or the Workforce Development Center
3504 operator. The Mississippi Department of Employment Security,
3505 Office of the Governor, shall develop an accountability system and
3506 make an annual report to the Legislature before December 31 of
3507 each year on Workforce Investment Act activities. The report
3508 shall include, but is not limited to, the following:

3509 (a) The total number of individuals served through the
3510 Workforce Development Centers and the percentage and number of
3511 individuals for which a quarterly follow-up is provided;

3512 (b) The number of individuals who receive core services
3513 by each center;

3514 (c) The number of individuals who receive intensive
3515 services by each center;

3516 (d) The number of Workforce Investment Act vouchers
3517 issued by the Workforce Development Centers including:

3518 (i) A list of schools and colleges to which these
3519 vouchers were issued and the average cost per school of the
3520 vouchers; and

3521 (ii) A list of the types of programs for which
3522 these vouchers were issued;

3523 (e) The number of individuals placed in a job through
3524 Workforce Development Centers;



3525 (f) The monies and the amount retained for
3526 administrative and other costs received from Workforce Investment
3527 Act funds for each agency or organization that Workforce
3528 Investment Act funds flow through as a percentage and actual
3529 dollar amount of all Workforce Investment Act funds received.

3530 **SECTION 51.** Section 43-1-30, Mississippi Code of 1972, is
3531 reenacted as follows:

3532 43-1-30. (1) There is created the Mississippi TANF
3533 Implementation Council. It shall serve as the independent, single
3534 state advisory and review council for assuring Mississippi's
3535 compliance with the federal Personal Responsibility and Work
3536 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as
3537 amended. The council shall further cooperation between
3538 government, education and the private sector in meeting the needs
3539 of the TANF program. It shall also further cooperation between
3540 the business and labor communities, education and training
3541 delivery systems, and between businesses in developing highly
3542 skilled workers for high skill, high paying jobs in Mississippi.

3543 (2) The council shall be comprised of thirteen (13) public
3544 members and certain ex officio nonvoting members. All public
3545 members of the council shall be appointed as follows by the
3546 Governor:

3547 Ten (10) members shall be representatives from business and
3548 industry, provided that no fewer than five (5) members are from
3549 the manufacturing and industry sector who are also serving as



3550 members of private industry councils established within the state,
3551 and one (1) member may be a representative of a nonprofit
3552 organization. Three (3) members shall be recipients or former
3553 recipients of TANF assistance appointed from the state at large.

3554 The ex officio nonvoting members of the council shall consist
3555 of the following, or their designees:

3556 (a) The Executive Director of the Mississippi
3557 Department of Human Services;

3558 (b) The Executive Director of the Mississippi
3559 Department of Employment Security;

3560 (c) The Executive Director of the Mississippi
3561 Development Authority;

3562 (d) The State Superintendent of Public Education;

3563 (e) The Director of the Mississippi Community College
3564 Board;

3565 (f) The Executive Director of the Division of Medicaid;

3566 (g) The Commissioner of the Mississippi Department of
3567 Corrections; and

3568 (h) The Director of the Mississippi Cooperative
3569 Extension Service.

3570 (3) The Governor shall designate one (1) public member to
3571 serve as chairman of the council for a term of two (2) years and
3572 until a successor as chairman is appointed and qualified.



3573 (4) The term of office for public members appointed by the
3574 Governor shall be four (4) years and until their successors are
3575 appointed and qualified.

3576 (5) Any vacancy shall be filled for the unexpired term by
3577 the Governor in the manner of the original appointment, unless
3578 otherwise specified in this section.

3579 (6) Public members shall receive a per diem as authorized in
3580 Section 25-3-69, for each day actually engaged in meetings of the
3581 council, and shall be reimbursed for mileage and necessary
3582 expenses incurred in the performance of their duties, as provided
3583 in Section 25-3-41.

3584 (7) The council shall:

3585 (a) Annually review and recommend policies and programs
3586 to the Governor and the Legislature that will implement and meet
3587 federal requirements under the TANF program.

3588 (b) Annually review and recommend policies and programs
3589 to the Governor and to the Legislature that will enable citizens
3590 of Mississippi to acquire the skills necessary to maximize their
3591 economic self-sufficiency.

3592 (c) Review the provision of services and the use of
3593 funds and resources under the TANF program, and under all
3594 state-financed job training and job retraining programs, and
3595 advise the Governor and the Legislature on methods of coordinating
3596 such provision of services and use of funds and resources
3597 consistent with the laws and regulations governing such programs.



3598 (d) Assist in developing outcome and output measures to
3599 measure the success of the Department of Human Services' efforts
3600 in implementing the TANF program. These recommendations shall be
3601 made to the Department of Human Services at such times as required
3602 in the event that the department implements new programs to comply
3603 with the TANF program requirements.

3604 (e) Collaborate with the Mississippi Development
3605 Authority, local planning and development districts and local
3606 industrial development boards, and shall develop an economic
3607 development plan for the creation of manufacturing jobs in each of
3608 the counties in the state that has an unemployment rate of ten
3609 percent (10%) or more, which shall include, but not be limited to,
3610 procedures for business development, entrepreneurship and
3611 financial and technical assistance.

3612 (8) A majority of the members of the council shall
3613 constitute a quorum for the conduct of meetings and all actions of
3614 the council shall be by a majority of the members present at a
3615 meeting.

3616 (9) The council shall adopt rules and regulations as it
3617 deems necessary to carry out its responsibilities under this
3618 section and under applicable federal human resources programs.

3619 (10) The council may make and enter into contracts and
3620 interagency agreements as may be necessary and proper.

3621 (11) The council is authorized to commit and expend monies
3622 appropriated to it by the Legislature for its authorized purposes.



3623 The council is authorized to solicit, accept and expend public and
3624 private gifts, grants, awards and contributions related to
3625 furtherance of its statutory duties.

3626 (12) Funds for the operations of the council shall be
3627 derived from federal funds for the operation of state councils
3628 pursuant to applicable federal human resources programs and from
3629 such other monies appropriated to it by the Legislature.

3630 **SECTION 52.** Section 43-17-5, Mississippi Code of 1972, is
3631 reenacted as follows:

3632 43-17-5. (1) The amount of Temporary Assistance for Needy
3633 Families (TANF) benefits which may be granted for any dependent
3634 child and a needy caretaker relative shall be determined by the
3635 county department with due regard to the resources and necessary
3636 expenditures of the family and the conditions existing in each
3637 case, and in accordance with the rules and regulations made by the
3638 Department of Human Services which shall not be less than the
3639 Standard of Need in effect for 1988, and shall be sufficient when
3640 added to all other income (except that any income specified in the
3641 federal Social Security Act, as amended, may be disregarded) and
3642 support available to the child to provide such child with a
3643 reasonable subsistence compatible with decency and health. The
3644 first family member in the dependent child's budget may receive an
3645 amount not to exceed Two Hundred Dollars (\$200.00) per month; the
3646 second family member in the dependent child's budget may receive
3647 an amount not to exceed Thirty-six Dollars (\$36.00) per month; and



3648 each additional family member in the dependent child's budget an
3649 amount not to exceed Twenty-four Dollars (\$24.00) per month. The
3650 maximum for any individual family member in the dependent child's
3651 budget may be exceeded for foster or medical care or in cases of
3652 children with an intellectual disability or a physical disability.
3653 TANF benefits granted shall be specifically limited only (a) to
3654 children existing or conceived at the time the caretaker relative
3655 initially applies and qualifies for such assistance, unless this
3656 limitation is specifically waived by the department, or (b) to a
3657 child born following a twelve-consecutive-month period of
3658 discontinued benefits by the caretaker relative.

3659 (2) TANF benefits in Mississippi shall be provided to the
3660 recipient family by an online electronic benefits transfer system.

3661 (3) The Department of Human Services shall deny TANF
3662 benefits to the following categories of individuals, except for
3663 individuals and families specifically exempt or excluded for good
3664 cause as allowed by federal statute or regulation:

3665 (a) Families without a minor child residing with the
3666 custodial parent or other adult caretaker relative of the child;

3667 (b) Families which include an adult who has received
3668 TANF assistance for sixty (60) months after the commencement of
3669 the Mississippi TANF program, whether or not such period of time
3670 is consecutive;

3671 (c) Families not assigning to the state any rights a
3672 family member may have, on behalf of the family member or of any



3673 other person for whom the family member has applied for or is
3674 receiving such assistance, to support from any other person, as
3675 required by law;

3676 (d) Families who fail to cooperate in establishing
3677 paternity or obtaining child support, as required by law;

3678 (e) Any individual who has not attained eighteen (18)
3679 years of age, is not married to the head of household, has a minor
3680 child at least twelve (12) weeks of age in his or her care, and
3681 has not successfully completed a high school education or its
3682 equivalent, if such individual does not participate in educational
3683 activities directed toward the attainment of a high school diploma
3684 or its equivalent, or an alternative educational or training
3685 program approved by the department;

3686 (f) Any individual who has not attained eighteen (18)
3687 years of age, is not married, has a minor child in his or her
3688 care, and does not reside in a place or residence maintained by a
3689 parent, legal guardian or other adult relative or the individual
3690 as such parent's, guardian's or adult relative's own home;

3691 (g) Any minor child who has been, or is expected by a
3692 parent or other caretaker relative of the child to be, absent from
3693 the home for a period of more than thirty (30) days;

3694 (h) Any individual who is a parent or other caretaker
3695 relative of a minor child who fails to notify the department of
3696 the absence of the minor child from the home for the thirty-day
3697 period specified in paragraph (g), by the end of the five-day



3698 period that begins with the date that it becomes clear to the
3699 individual that the minor child will be absent for the thirty-day
3700 period;

3701 (i) Any individual who fails to comply with the
3702 provisions of the Employability Development Plan signed by the
3703 individual which prescribe those activities designed to help the
3704 individual become and remain employed, or to participate
3705 satisfactorily in the assigned work activity, as authorized under
3706 subsection (6) (c) and (d), or who does not engage in applicant job
3707 search activities within the thirty-day period for TANF
3708 application approval after receiving the advice and consultation
3709 of eligibility workers and/or caseworkers of the department
3710 providing a detailed description of available job search venues in
3711 the individual's county of residence or the surrounding counties;

3712 (j) A parent or caretaker relative who has not engaged
3713 in an allowable work activity once the department determines the
3714 parent or caretaker relative is ready to engage in work, or once
3715 the parent or caretaker relative has received TANF assistance
3716 under the program for twenty-four (24) months, whether or not
3717 consecutive, whichever is earlier;

3718 (k) Any individual who is fleeing to avoid prosecution,
3719 or custody or confinement after conviction, under the laws of the
3720 jurisdiction from which the individual flees, for a crime, or an
3721 attempt to commit a crime, which is a felony under the laws of the
3722 place from which the individual flees, or who is violating a



3723 condition of probation or parole imposed under federal or state
3724 law;

3725 (l) Aliens who are not qualified under federal law;

3726 (m) For a period of ten (10) years following
3727 conviction, individuals convicted in federal or state court of
3728 having made a fraudulent statement or representation with respect
3729 to the individual's place of residence in order to receive TANF,
3730 food stamps or Supplemental Security Income (SSI) assistance under
3731 Title XVI or Title XIX simultaneously from two (2) or more states;

3732 (n) Individuals who are recipients of federal
3733 Supplemental Security Income (SSI) assistance; and

3734 (o) Individuals who are eighteen (18) years of age or
3735 older who are not in compliance with the drug testing and
3736 substance use disorder treatment requirements of Section 43-17-6.

3737 (4) (a) Any person who is otherwise eligible for TANF
3738 benefits, including custodial and noncustodial parents, shall be
3739 required to attend school and meet the monthly attendance
3740 requirement as provided in this subsection if all of the following
3741 apply:

3742 (i) The person is under age twenty (20);

3743 (ii) The person has not graduated from a public or
3744 private high school or obtained a High School Equivalency Diploma
3745 equivalent;

3746 (iii) The person is physically able to attend
3747 school and is not excused from attending school; and



3748 (iv) If the person is a parent or caretaker
3749 relative with whom a dependent child is living, child care is
3750 available for the child.

3751 The monthly attendance requirement under this subsection
3752 shall be attendance at the school in which the person is enrolled
3753 for each day during a month that the school conducts classes in
3754 which the person is enrolled, with not more than two (2) absences
3755 during the month for reasons other than the reasons listed in
3756 paragraph (e)(iv) of this subsection. Persons who fail to meet
3757 participation requirements in this subsection shall be subject to
3758 sanctions as provided in paragraph (f) of this subsection.

3759 (b) As used in this subsection, "school" means any one
3760 (1) of the following:

3761 (i) A school as defined in Section 37-13-91(2);

3762 (ii) A vocational, technical and adult education
3763 program; or

3764 (iii) A course of study meeting the standards
3765 established by the State Department of Education for the granting
3766 of a declaration of equivalency of high school graduation.

3767 (c) If any compulsory-school-age child, as defined in
3768 Section 37-13-91(2), to which TANF eligibility requirements apply
3769 is not in compliance with the compulsory school attendance
3770 requirements of Section 37-13-91(6), the superintendent of schools
3771 of the school district in which the child is enrolled or eligible
3772 to attend shall notify the county department of human services of



3773 the child's noncompliance. The Department of Human Services shall
3774 review school attendance information as provided under this
3775 paragraph at all initial eligibility determinations and upon
3776 subsequent report of unsatisfactory attendance.

3777 (d) The signature of a person on an application for
3778 TANF benefits constitutes permission for the release of school
3779 attendance records for that person or for any child residing with
3780 that person. The department shall request information from the
3781 child's school district about the child's attendance in the school
3782 district's most recently completed semester of attendance. If
3783 information about the child's previous school attendance is not
3784 available or cannot be verified, the department shall require the
3785 child to meet the monthly attendance requirement for one (1)
3786 semester or until the information is obtained. The department
3787 shall use the attendance information provided by a school district
3788 to verify attendance for a child. The department shall review
3789 with the parent or caretaker relative a child's claim that he or
3790 she has a good cause for not attending school.

3791 A school district shall provide information to the department
3792 about the attendance of a child who is enrolled in a public school
3793 in the district within five (5) working days of the receipt of a
3794 written request for that information from the department. The
3795 school district shall define how many hours of attendance count as
3796 a full day and shall provide that information, upon request, to
3797 the department. In reporting attendance, the school district may



3798 add partial days' absence together to constitute a full day's
3799 absence.

3800 If a school district fails to provide to the department the
3801 information about the school attendance of any child within
3802 fifteen (15) working days after a written request, the department
3803 shall notify the Department of Audit within three (3) working days
3804 of the school district's failure to comply with that requirement.
3805 The Department of Audit shall begin audit proceedings within five
3806 (5) working days of notification by the Department of Human
3807 Services to determine the school district's compliance with the
3808 requirements of this subsection (4). If the Department of Audit
3809 finds that the school district is not in compliance with the
3810 requirements of this subsection, the school district shall be
3811 penalized as follows: The Department of Audit shall notify the
3812 State Department of Education of the school district's
3813 noncompliance, and the Department of Education shall reduce the
3814 calculation of the school district's average daily attendance
3815 (ADA) that is used to determine the allocation of Mississippi
3816 Adequate Education Program funds by the number of children for
3817 which the district has failed to provide to the Department of
3818 Human Services the required information about the school
3819 attendance of those children. The reduction in the calculation of
3820 the school district's ADA under this paragraph shall be effective
3821 for a period of one (1) year.



3822 (e) A child who is required to attend school to meet
3823 the requirements under this subsection shall comply except when
3824 there is good cause, which shall be demonstrated by any of the
3825 following circumstances:

3826 (i) The minor parent is the caretaker of a child
3827 less than twelve (12) weeks old; or

3828 (ii) The department determines that child care
3829 services are necessary for the minor parent to attend school and
3830 there is no child care available; or

3831 (iii) The child is prohibited by the school
3832 district from attending school and an expulsion is pending. This
3833 exemption no longer applies once the teenager has been expelled;
3834 however, a teenager who has been expelled and is making
3835 satisfactory progress towards obtaining a High School Equivalency
3836 Diploma equivalent shall be eligible for TANF benefits; or

3837 (iv) The child failed to attend school for one or
3838 more of the following reasons:

3839 1. Illness, injury or incapacity of the child
3840 or the minor parent's child;

3841 2. Court-required appearances or temporary
3842 incarceration;

3843 3. Medical or dental appointments for the
3844 child or minor parent's child;

3845 4. Death of a close relative;

3846 5. Observance of a religious holiday;



- 3847 6. Family emergency;
3848 7. Breakdown in transportation;
3849 8. Suspension; or
3850 9. Any other circumstance beyond the control
3851 of the child, as defined in regulations of the department.

3852 (f) Upon determination that a child has failed without
3853 good cause to attend school as required, the department shall
3854 provide written notice to the parent or caretaker relative
3855 (whoever is the primary recipient of the TANF benefits) that
3856 specifies:

3857 (i) That the family will be sanctioned in the next
3858 possible payment month because the child who is required to attend
3859 school has failed to meet the attendance requirement of this
3860 subsection;

3861 (ii) The beginning date of the sanction, and the
3862 child to whom the sanction applies;

3863 (iii) The right of the child's parents or
3864 caretaker relative (whoever is the primary recipient of the TANF
3865 benefits) to request a fair hearing under this subsection.

3866 The child's parent or caretaker relative (whoever is the
3867 primary recipient of the TANF benefits) may request a fair hearing
3868 on the department's determination that the child has not been
3869 attending school. If the child's parents or caretaker relative
3870 does not request a fair hearing under this subsection, or if,
3871 after a fair hearing has been held, the hearing officer finds that



3872 the child without good cause has failed to meet the monthly
3873 attendance requirement, the department shall discontinue or deny
3874 TANF benefits to the child thirteen (13) years old, or older, in
3875 the next possible payment month. The department shall discontinue
3876 or deny twenty-five percent (25%) of the family grant when a child
3877 six (6) through twelve (12) years of age without good cause has
3878 failed to meet the monthly attendance requirement. Both the child
3879 and family sanction may apply when children in both age groups
3880 fail to meet the attendance requirement without good cause. A
3881 sanction applied under this subsection shall be effective for one
3882 (1) month for each month that the child failed to meet the monthly
3883 attendance requirement. In the case of a dropout, the sanction
3884 shall remain in force until the parent or caretaker relative
3885 provides written proof from the school district that the child has
3886 reenrolled and met the monthly attendance requirement for one (1)
3887 calendar month. Any month in which school is in session for at
3888 least ten (10) days during the month may be used to meet the
3889 attendance requirement under this subsection. This includes
3890 attendance at summer school. The sanction shall be removed the
3891 next possible payment month.

3892 (5) All parents or caretaker relatives shall have their
3893 dependent children receive vaccinations and booster vaccinations
3894 against those diseases specified by the State Health Officer under
3895 Section 41-23-37 in accordance with the vaccination and booster
3896 vaccination schedule prescribed by the State Health Officer for



3897 children of that age, in order for the parents or caretaker
3898 relatives to be eligible or remain eligible to receive TANF
3899 benefits. Proof of having received such vaccinations and booster
3900 vaccinations shall be given by presenting the certificates of
3901 vaccination issued by any health care provider licensed to
3902 administer vaccinations, and submitted on forms specified by the
3903 State Board of Health. If the parents without good cause do not
3904 have their dependent children receive the vaccinations and booster
3905 vaccinations as required by this subsection and they fail to
3906 comply after thirty (30) days' notice, the department shall
3907 sanction the family's TANF benefits by twenty-five percent (25%)
3908 for the next payment month and each subsequent payment month until
3909 the requirements of this subsection are met.

3910 (6) (a) If the parent or caretaker relative applying for
3911 TANF assistance is work eligible, as determined by the Department
3912 of Human Services, the person shall be required to engage in an
3913 allowable work activity once the department determines the parent
3914 or caretaker relative is determined work eligible, or once the
3915 parent or caretaker relative has received TANF assistance under
3916 the program for twenty-four (24) months, whether or not
3917 consecutive, whichever is earlier. No TANF benefits shall be
3918 given to any person to whom this section applies who fails without
3919 good cause to comply with the Employability Development Plan
3920 prepared by the department for the person, or who has refused to
3921 accept a referral or offer of employment, training or education in



3922 which he or she is able to engage, subject to the penalties
3923 prescribed in paragraph (e) of this subsection. A person shall be
3924 deemed to have refused to accept a referral or offer of
3925 employment, training or education if he or she:

3926 (i) Willfully fails to report for an interview
3927 with respect to employment when requested to do so by the
3928 department; or

3929 (ii) Willfully fails to report to the department
3930 the result of a referral to employment; or

3931 (iii) Willfully fails to report for allowable work
3932 activities as prescribed in paragraphs (c) and (d) of this
3933 subsection.

3934 (b) The Department of Human Services shall operate a
3935 statewide work program for TANF recipients to provide work
3936 activities and supportive services to enable families to become
3937 self-sufficient and improve their competitive position in the
3938 workforce in accordance with the requirements of the federal
3939 Personal Responsibility and Work Opportunity Reconciliation Act of
3940 1996 (Public Law 104-193), as amended, and the regulations
3941 promulgated thereunder, and the Deficit Reduction Act of 2005
3942 (Public Law 109-171), as amended. Within sixty (60) days after
3943 the initial application for TANF benefits, the TANF recipient must
3944 participate in a job search skills training workshop or a job
3945 readiness program, which shall include resume writing, job search
3946 skills, employability skills and, if available at no charge, the



3947 General Aptitude Test Battery or its equivalent. All adults who
3948 are not specifically exempt shall be referred by the department
3949 for allowable work activities. An adult may be exempt from the
3950 mandatory work activity requirement for the following reasons:

3951 (i) Incapacity;

3952 (ii) Temporary illness or injury, verified by
3953 physician's certificate;

3954 (iii) Is in the third trimester of pregnancy, and
3955 there are complications verified by the certificate of a
3956 physician, nurse practitioner, physician assistant, or any other
3957 licensed health care professional practicing under a protocol with
3958 a licensed physician;

3959 (iv) Caretaker of a child under twelve (12)
3960 months, for not more than twelve (12) months of the sixty-month
3961 maximum benefit period;

3962 (v) Caretaker of an ill or incapacitated person,
3963 as verified by physician's certificate;

3964 (vi) Age, if over sixty (60) or under eighteen
3965 (18) years of age;

3966 (vii) Receiving treatment for substance abuse, if
3967 the person is in compliance with the substance abuse treatment
3968 plan;

3969 (viii) In a two-parent family, the caretaker of a
3970 severely disabled child, as verified by a physician's certificate;

3971 or



3972 (ix) History of having been a victim of domestic
3973 violence, which has been reported as required by state law and is
3974 substantiated by police reports or court records, and being at
3975 risk of further domestic violence, shall be exempt for a period as
3976 deemed necessary by the department but not to exceed a total of
3977 twelve (12) months, which need not be consecutive, in the
3978 sixty-month maximum benefit period. For the purposes of this
3979 subparagraph (ix), "domestic violence" means that an individual
3980 has been subjected to:

- 3981 1. Physical acts that resulted in, or
3982 threatened to result in, physical injury to the individual;
- 3983 2. Sexual abuse;
- 3984 3. Sexual activity involving a dependent
3985 child;
- 3986 4. Being forced as the caretaker relative of
3987 a dependent child to engage in nonconsensual sexual acts or
3988 activities;
- 3989 5. Threats of, or attempts at, physical or
3990 sexual abuse;
- 3991 6. Mental abuse; or
- 3992 7. Neglect or deprivation of medical care.

3993 (c) For all families, all adults who are not
3994 specifically exempt shall be required to participate in work
3995 activities for at least the minimum average number of hours per
3996 week specified by federal law or regulation, not fewer than twenty



3997 (20) hours per week (thirty-five (35) hours per week for
3998 two-parent families) of which are attributable to the following
3999 allowable work activities:

- 4000 (i) Unsubsidized employment;
- 4001 (ii) Subsidized private employment;
- 4002 (iii) Subsidized public employment;
- 4003 (iv) Work experience (including work associated
4004 with the refurbishing of publicly assisted housing), if sufficient
4005 private employment is not available;
- 4006 (v) On-the-job training;
- 4007 (vi) Job search and job readiness assistance
4008 consistent with federal TANF regulations;
- 4009 (vii) Community service programs;
- 4010 (viii) Vocational educational training (not to
4011 exceed twelve (12) months with respect to any individual);
- 4012 (ix) The provision of child care services to an
4013 individual who is participating in a community service program;
- 4014 (x) Satisfactory attendance at high school or in a
4015 course of study leading to a high school equivalency certificate,
4016 for heads of household under age twenty (20) who have not
4017 completed high school or received such certificate;
- 4018 (xi) Education directly related to employment, for
4019 heads of household under age twenty (20) who have not completed
4020 high school or received such equivalency certificate.



4021 (d) The following are allowable work activities which
4022 may be attributable to hours in excess of the minimum specified in
4023 paragraph (c) of this subsection:

4024 (i) Job skills training directly related to
4025 employment;

4026 (ii) Education directly related to employment for
4027 individuals who have not completed high school or received a high
4028 school equivalency certificate;

4029 (iii) Satisfactory attendance at high school or in
4030 a course of study leading to a high school equivalency, for
4031 individuals who have not completed high school or received such
4032 equivalency certificate;

4033 (iv) Job search and job readiness assistance
4034 consistent with federal TANF regulations.

4035 (e) If any adult or caretaker relative refuses to
4036 participate in allowable work activity as required under this
4037 subsection (6), the following full family TANF benefit penalty
4038 will apply, subject to due process to include notification,
4039 conciliation and a hearing if requested by the recipient:

4040 (i) For the first violation, the department shall
4041 terminate the TANF assistance otherwise payable to the family for
4042 a two-month period or until the person has complied with the
4043 required work activity, whichever is longer;

4044 (ii) For the second violation, the department
4045 shall terminate the TANF assistance otherwise payable to the



4046 family for a six-month period or until the person has complied
4047 with the required work activity, whichever is longer;

4048 (iii) For the third violation, the department
4049 shall terminate the TANF assistance otherwise payable to the
4050 family for a twelve-month period or until the person has complied
4051 with the required work activity, whichever is longer;

4052 (iv) For the fourth violation, the person shall be
4053 permanently disqualified.

4054 For a two-parent family, unless prohibited by state or
4055 federal law, Medicaid assistance shall be terminated only for the
4056 person whose failure to participate in allowable work activity
4057 caused the family's TANF assistance to be sanctioned under this
4058 paragraph (e), unless an individual is pregnant, but shall not be
4059 terminated for any other person in the family who is meeting that
4060 person's applicable work requirement or who is not required to
4061 work. Minor children shall continue to be eligible for Medicaid
4062 benefits regardless of the disqualification of their parent or
4063 caretaker relative for TANF assistance under this subsection (6),
4064 unless prohibited by state or federal law.

4065 (f) Any person enrolled in a two-year or four-year
4066 college program who meets the eligibility requirements to receive
4067 TANF benefits, and who is meeting the applicable work requirements
4068 and all other applicable requirements of the TANF program, shall
4069 continue to be eligible for TANF benefits while enrolled in the



4070 college program for as long as the person meets the requirements
4071 of the TANF program, unless prohibited by federal law.

4072 (g) No adult in a work activity required under this
4073 subsection (6) shall be employed or assigned (i) when any other
4074 individual is on layoff from the same or any substantially
4075 equivalent job within six (6) months before the date of the TANF
4076 recipient's employment or assignment; or (ii) if the employer has
4077 terminated the employment of any regular employee or otherwise
4078 caused an involuntary reduction of its workforce in order to fill
4079 the vacancy so created with an adult receiving TANF assistance.
4080 The Mississippi Department of Employment Security, established
4081 under Section 71-5-101, shall appoint one or more impartial
4082 hearing officers to hear and decide claims by employees of
4083 violations of this paragraph (g). The hearing officer shall hear
4084 all the evidence with respect to any claim made hereunder and such
4085 additional evidence as he may require and shall make a
4086 determination and the reason therefor. The claimant shall be
4087 promptly notified of the decision of the hearing officer and the
4088 reason therefor. Within ten (10) days after the decision of the
4089 hearing officer has become final, any party aggrieved thereby may
4090 secure judicial review thereof by commencing an action, in the
4091 circuit court of the county in which the claimant resides, against
4092 the department for the review of such decision, in which action
4093 any other party to the proceeding before the hearing officer shall
4094 be made a defendant. Any such appeal shall be on the record which



4095 shall be certified to the court by the department in the manner
4096 provided in Section 71-5-531, and the jurisdiction of the court
4097 shall be confined to questions of law which shall render its
4098 decision as provided in that section.

4099 (7) The Department of Human Services may provide child care
4100 for eligible participants who require such care so that they may
4101 accept employment or remain employed. The department may also
4102 provide child care for those participating in the TANF program
4103 when it is determined that they are satisfactorily involved in
4104 education, training or other allowable work activities. The
4105 department may contract with Head Start agencies to provide child
4106 care services to TANF recipients. The department may also arrange
4107 for child care by use of contract or vouchers, provide vouchers in
4108 advance to a caretaker relative, reimburse a child care provider,
4109 or use any other arrangement deemed appropriate by the department,
4110 and may establish different reimbursement rates for child care
4111 services depending on the category of the facility or home. Any
4112 center-based or group home child care facility under this
4113 subsection shall be licensed by the State Department of Health
4114 pursuant to law. When child care is being provided in the child's
4115 own home, in the home of a relative of the child, or in any other
4116 unlicensed setting, the provision of such child care may be
4117 monitored on a random basis by the Department of Human Services or
4118 the State Department of Health. Transitional child care
4119 assistance may be continued if it is necessary for parents to



4120 maintain employment once support has ended, unless prohibited
4121 under state or federal law. Transitional child care assistance
4122 may be provided for up to twenty-four (24) months after the last
4123 month during which the family was eligible for TANF assistance, if
4124 federal funds are available for such child care assistance.

4125 (8) The Department of Human Services may provide
4126 transportation or provide reasonable reimbursement for
4127 transportation expenses that are necessary for individuals to be
4128 able to participate in allowable work activity under the TANF
4129 program.

4130 (9) Medicaid assistance shall be provided to a family of
4131 TANF program participants for up to twenty-four (24) consecutive
4132 calendar months following the month in which the participating
4133 family would be ineligible for TANF benefits because of increased
4134 income, expiration of earned income disregards, or increased hours
4135 of employment of the caretaker relative; however, Medicaid
4136 assistance for more than twelve (12) months may be provided only
4137 if a federal waiver is obtained to provide such assistance for
4138 more than twelve (12) months and federal and state funds are
4139 available to provide such assistance.

4140 (10) The department shall require applicants for and
4141 recipients of public assistance from the department to sign a
4142 personal responsibility contract that will require the applicant
4143 or recipient to acknowledge his or her responsibilities to the
4144 state.



4145 (11) The department shall enter into an agreement with the
4146 State Personnel Board and other state agencies that will allow
4147 those TANF participants who qualify for vacant jobs within state
4148 agencies to be placed in state jobs. State agencies participating
4149 in the TANF work program shall receive any and all benefits
4150 received by employers in the private sector for hiring TANF
4151 recipients. This subsection (11) shall be effective only if the
4152 state obtains any necessary federal waiver or approval and if
4153 federal funds are available therefor. Not later than September 1,
4154 2021, the department shall prepare a report, which shall be
4155 provided to the Chairmen of the House and Senate Public Health
4156 Committees and to any other member of the Legislature upon
4157 request, on the history, status, outcomes and effectiveness of the
4158 agreements required under this subsection.

4159 (12) Any unspent TANF funds remaining from the prior fiscal
4160 year may be expended for any TANF allowable activities.

4161 (13) The Mississippi Department of Human Services shall
4162 provide TANF applicants information and referral to programs that
4163 provide information about birth control, prenatal health care,
4164 abstinence education, marriage education, family preservation and
4165 fatherhood. Not later than September 1, 2021, the department
4166 shall prepare a report, which shall be provided to the Chairmen of
4167 the House and Senate Public Health Committees and to any other
4168 member of the Legislature upon request, on the history, status,



4169 outcomes and effectiveness of the information and referral
4170 requirements under this subsection.

4171 (14) No new TANF program requirement or restriction
4172 affecting a person's eligibility for TANF assistance, or allowable
4173 work activity, which is not mandated by federal law or regulation
4174 may be implemented by the Department of Human Services after July
4175 1, 2004, unless such is specifically authorized by an amendment to
4176 this section by the Legislature.

4177 **SECTION 53.** Section 43-19-45, Mississippi Code of 1972, is
4178 reenacted as follows:

4179 43-19-45. (1) The Child Support Unit shall establish a
4180 state parent locator service for the purpose of locating absent
4181 and nonsupporting parents and alleged parents, which will utilize
4182 all appropriate public and private locator sources. In order to
4183 carry out the responsibilities imposed under Sections 43-19-31
4184 through 43-19-53, the Child Support Unit may secure, by
4185 administrative subpoena from the customer records of public
4186 utilities and cable television companies, the names and addresses
4187 of individuals and the names and addresses of employers of such
4188 individuals that would enable the location of parents or alleged
4189 parents who have a duty to provide support and maintenance for
4190 their children. The Child Support Unit may also administratively
4191 subpoena any and all financial information, including account
4192 numbers, names and social security numbers of record for assets,
4193 accounts, and account balances from any individual, financial



4194 institution, business or other entity, public or private, needed
4195 to establish, modify or enforce a support order. No entity
4196 complying with an administrative subpoena to supply the requested
4197 information of whatever nature shall be liable in any civil action
4198 or proceeding on account of such compliance. Full faith and
4199 credit shall be given to all uniform administrative subpoenas
4200 issued by other state child support units. The recipient of an
4201 administrative subpoena shall supply the Child Support Unit, other
4202 state and federal IV-D agencies, its attorneys, investigators,
4203 probation officers, county or district attorneys in this state,
4204 all information relative to the location, employment,
4205 employment-related benefits including, but not limited to,
4206 availability of medical insurance, income and property of such
4207 parents and alleged parents and with all information on hand
4208 relative to the location and prosecution of any person who has, by
4209 means of a false statement or misrepresentation or by
4210 impersonation or other fraudulent device, obtained Temporary
4211 Assistance for Needy Families (TANF) to which he or she was not
4212 entitled, notwithstanding any provision of law making such
4213 information confidential. The Mississippi Department of
4214 Information Technology Services and any other agency in this state
4215 using the facilities of the Mississippi Department of Information
4216 Technology Services are directed to permit the Child Support Unit
4217 access to their files, inclusive of those maintained for other
4218 state agencies, for the purpose of locating absent and



4219 nonsupporting parents and alleged parents, except to the extent
4220 that any such access would violate any valid federal statute or
4221 regulation issued pursuant thereto. The Child Support Unit, other
4222 state and federal IV-D agencies, its attorneys, investigators,
4223 probation officers, or county or district attorneys, shall use
4224 such information only for the purpose of investigating or
4225 enforcing the support liability of such absent parents or alleged
4226 parents or for the prosecution of other persons mentioned herein.
4227 Neither the Child Support Unit nor those authorities shall use the
4228 information, or disclose it, for any other purpose. All records
4229 maintained pursuant to the provisions of Sections 43-19-31 through
4230 43-19-53 shall be confidential and shall be available only to the
4231 Child Support Unit, other state and federal IV-D agencies, the
4232 attorneys, investigators and other staff employed or under
4233 contract under Sections 43-19-31 through 43-19-53, district or
4234 county attorneys, probation departments, child support units in
4235 other states, and courts having jurisdiction in paternity, support
4236 or abandonment proceedings. The Child Support Unit may release to
4237 the public the name, photo, last-known address, arrearage amount
4238 and other necessary information of a parent who has a judgment
4239 against him for child support and is currently in arrears in the
4240 payment of this support. Such release may be included in a "Most
4241 Wanted List" or other media in order to solicit assistance.

4242 (2) The Child Support Unit shall have the authority to
4243 secure information from the records of the Mississippi Department



4244 of Employment Security that may be necessary to locate absent and
4245 nonsupporting parents and alleged parents under the provisions of
4246 Sections 43-19-31 through 43-19-53. Upon request of the Child
4247 Support Unit, all departments, boards, bureaus and agencies of the
4248 state shall provide to the Child Support Unit verification of
4249 employment or payment and the address and social security number
4250 of any person designated as an absent or nonsupporting parent or
4251 alleged parent. In addition, upon request of the Child Support
4252 Unit, the Mississippi Department of Employment Security, or any
4253 private employer or payor of any income to a person designated as
4254 an absent or nonsupporting parent or alleged parent, shall provide
4255 to the Child Support Unit verification of employment or payment
4256 and the address and social security number of the person so
4257 designated. Full faith and credit shall be given to such notices
4258 issued by child support units in other states. All such records
4259 and information shall be confidential and shall not be used for
4260 any purposes other than those specified by Sections 43-19-31
4261 through 43-19-53. The violation of the provisions of this
4262 subsection shall be unlawful and any person convicted of violating
4263 the provisions of this subsection shall be guilty of a misdemeanor
4264 and shall pay a fine of not more than Two Hundred Dollars
4265 (\$200.00).

4266 (3) Federal and state IV-D agencies shall have access to the
4267 state parent locator service and any system used by the Child
4268 Support Unit to locate an individual for purposes relating to



4269 motor vehicles or law enforcement. No employer or other source of
4270 income who complies with this section shall be liable in any civil
4271 action or proceeding brought by the obligor or obligee on account
4272 of such compliance.

4273 **SECTION 54.** Section 43-19-46, Mississippi Code of 1972, is
4274 reenacted as follows:

4275 43-19-46. (1) Each employer paying wages, salary or
4276 commission and doing business in Mississippi shall report to the
4277 Directory of New Hires within the Mississippi Department of Human
4278 Services:

4279 (a) The hiring of any person who resides or works in
4280 this state to whom the employer anticipates paying wages, salary
4281 or commission; and

4282 (b) The hiring or return to work of any employee who
4283 was laid off, furloughed, separated, granted leave without pay or
4284 was terminated from employment.

4285 (2) Employers shall report, by mailing or by other means
4286 authorized by the Department of Human Services, a copy of the
4287 employee's W-4 form or its equivalent that will result in timely
4288 reporting. Each employer shall submit reports within fifteen (15)
4289 days of the hiring, rehiring or return to work of the employee.
4290 The report shall contain:

4291 (a) The employee's name, address, social security
4292 number and the date of birth;



4293 (b) The employer's name, address, and federal and state
4294 withholding tax identification numbers; and

4295 (c) The date upon which the employee began or resumed
4296 employment, or is scheduled to begin or otherwise resume
4297 employment.

4298 (3) The department shall retain the information, which shall
4299 be forwarded to the federal registry of new hires.

4300 (4) The Department of Human Services may operate the
4301 program, may enter into a mutual agreement with the Mississippi
4302 Department of Employment Security or the Department of Revenue, or
4303 both, for the operation of the Directory of New Hires Program, or
4304 the Department of Human Services may contract for that service, in
4305 which case the department shall maintain administrative control of
4306 the program.

4307 (5) In cases in which an employer fails to report
4308 information, as required by this section, an administratively
4309 levied civil penalty in an amount not to exceed Five Hundred
4310 Dollars (\$500.00) shall apply if the failure is the result of a
4311 conspiracy between the employer and employee to not supply the
4312 required report or to supply a false or incomplete report. The
4313 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).
4314 Appeal shall be as provided in Section 43-19-58.

4315 **SECTION 55.** Section 57-62-5, Mississippi Code of 1972, is
4316 reenacted as follows:



4317 **[For businesses or industries that received or applied for**
4318 **incentive payments prior to July 1, 2005, this section shall read**
4319 **as follows:]**

4320 57-62-5. As used in this chapter, the following words and
4321 phrases shall have the meanings ascribed in this section unless
4322 the context clearly indicates otherwise:

4323 (a) "Qualified business or industry" means any
4324 corporation, limited liability company, partnership, sole
4325 proprietorship, business trust or other legal entity and subunits
4326 or affiliates thereof, pursuant to rules and regulations of the
4327 MDA, which provides an average annual salary, excluding benefits
4328 which are not subject to Mississippi income taxes, of at least one
4329 hundred twenty-five percent (125%) of the most recently published
4330 state average annual wage or the most recently published average
4331 annual wage of the county in which the qualified business or
4332 industry is located as determined by the Mississippi Department of
4333 Employment Security, whichever is the lesser. An establishment
4334 shall not be considered to be a qualified business or industry
4335 unless it offers, or will offer within one hundred eighty (180)
4336 days of the date it receives the first incentive payment pursuant
4337 to the provisions of this chapter, a basic health benefits plan to
4338 the individuals it employs in new direct jobs in this state which
4339 is approved by the MDA. Qualified business or industry does not
4340 include retail business or gaming business;



4341 (b) "New direct job" means full-time employment in this
4342 state in a qualified business or industry that has qualified to
4343 receive an incentive payment pursuant to this chapter, which
4344 employment did not exist in this state before the date of approval
4345 by the MDA of the application of the qualified business or
4346 industry pursuant to the provisions of this chapter. "New direct
4347 job" shall include full-time employment in this state of employees
4348 who are employed by an entity other than the establishment that
4349 has qualified to receive an incentive payment and who are leased
4350 to the qualified business or industry, if such employment did not
4351 exist in this state before the date of approval by the MDA of the
4352 application of the establishment;

4353 (c) "Full-time job" means a job of at least thirty-five
4354 (35) hours per week;

4355 (d) "Estimated direct state benefits" means the tax
4356 revenues projected by the MDA to accrue to the state as a result
4357 of the qualified business or industry;

4358 (e) "Estimated direct state costs" means the costs
4359 projected by the MDA to accrue to the state as a result of the
4360 qualified business or industry;

4361 (f) "Estimated net direct state benefits" means the
4362 estimated direct state benefits less the estimated direct state
4363 costs;



4364 (g) "Net benefit rate" means the estimated net direct
4365 state benefits computed as a percentage of gross payroll, provided
4366 that:

4367 (i) Except as otherwise provided in this paragraph
4368 (g), the net benefit rate may be variable and shall not exceed
4369 four percent (4%) of the gross payroll; and shall be set in the
4370 sole discretion of the MDA;

4371 (ii) In no event shall incentive payments,
4372 cumulatively, exceed the estimated net direct state benefits;

4373 (h) "Gross payroll" means wages for new direct jobs of
4374 the qualified business or industry; and

4375 (i) "MDA" means the Mississippi Development Authority.

4376 **[For businesses or industries that received or applied for**
4377 **incentive payments from and after July 1, 2005, but prior to July**
4378 **1, 2010, this section shall read as follows:]**

4379 57-62-5. As used in this chapter, the following words and
4380 phrases shall have the meanings ascribed in this section unless
4381 the context clearly indicates otherwise:

4382 (a) "Qualified business or industry" means any
4383 corporation, limited liability company, partnership, sole
4384 proprietorship, business trust or other legal entity and subunits
4385 or affiliates thereof, pursuant to rules and regulations of the
4386 MDA, which:

4387 (i) Is a data/information processing enterprise
4388 meeting minimum criteria established by the MDA that provides an



4389 average annual salary, excluding benefits which are not subject to
4390 Mississippi income taxes, of at least one hundred percent (100%)
4391 of the most recently published state average annual wage or the
4392 most recently published average annual wage of the county in which
4393 the qualified business or industry is located as determined by the
4394 Mississippi Department of Employment Security, whichever is the
4395 lesser, and creates not less than two hundred (200) new direct
4396 jobs if the enterprise is located in a Tier One or Tier Two area
4397 (as such areas are designated in accordance with Section
4398 57-73-21), or which creates not less than one hundred (100) new
4399 jobs if the enterprise is located in a Tier Three area (as such
4400 areas are designated in accordance with Section 57-73-21);

4401 (ii) Is a manufacturing or distribution enterprise
4402 meeting minimum criteria established by the MDA that provides an
4403 average annual salary, excluding benefits which are not subject to
4404 Mississippi income taxes, of at least one hundred ten percent
4405 (110%) of the most recently published state average annual wage or
4406 the most recently published average annual wage of the county in
4407 which the qualified business or industry is located as determined
4408 by the Mississippi Department of Employment Security, whichever is
4409 the lesser, invests not less than Twenty Million Dollars
4410 (\$20,000,000.00) in land, buildings and equipment, and creates not
4411 less than fifty (50) new direct jobs if the enterprise is located
4412 in a Tier One or Tier Two area (as such areas are designated in
4413 accordance with Section 57-73-21), or which creates not less than



4414 twenty (20) new jobs if the enterprise is located in a Tier Three
4415 area (as such areas are designated in accordance with Section
4416 57-73-21);

4417 (iii) Is a corporation, limited liability company,
4418 partnership, sole proprietorship, business trust or other legal
4419 entity and subunits or affiliates thereof, pursuant to rules and
4420 regulations of the MDA, which provides an average annual salary,
4421 excluding benefits which are not subject to Mississippi income
4422 taxes, of at least one hundred twenty-five percent (125%) of the
4423 most recently published state average annual wage or the most
4424 recently published average annual wage of the county in which the
4425 qualified business or industry is located as determined by the
4426 Mississippi Department of Employment Security, whichever is the
4427 lesser, and creates not less than twenty-five (25) new direct jobs
4428 if the enterprise is located in a Tier One or Tier Two area (as
4429 such areas are designated in accordance with Section 57-73-21), or
4430 which creates not less than ten (10) new jobs if the enterprise is
4431 located in a Tier Three area (as such areas are designated in
4432 accordance with Section 57-73-21). An establishment shall not be
4433 considered to be a qualified business or industry unless it
4434 offers, or will offer within one hundred eighty (180) days of the
4435 date it receives the first incentive payment pursuant to the
4436 provisions of this chapter, a basic health benefits plan to the
4437 individuals it employs in new direct jobs in this state which is



4438 approved by the MDA. Qualified business or industry does not
4439 include retail business or gaming business; or
4440 (iv) Is a research and development or a technology
4441 intensive enterprise meeting minimum criteria established by the
4442 MDA that provides an average annual salary, excluding benefits
4443 which are not subject to Mississippi income taxes, of at least one
4444 hundred fifty percent (150%) of the most recently published state
4445 average annual wage or the most recently published average annual
4446 wage of the county in which the qualified business or industry is
4447 located as determined by the Mississippi Department of Employment
4448 Security, whichever is the lesser, and creates not less than ten
4449 (10) new direct jobs.

4450 An establishment shall not be considered to be a qualified
4451 business or industry unless it offers, or will offer within one
4452 hundred eighty (180) days of the date it receives the first
4453 incentive payment pursuant to the provisions of this chapter, a
4454 basic health benefits plan to the individuals it employs in new
4455 direct jobs in this state which is approved by the MDA. Qualified
4456 business or industry does not include retail business or gaming
4457 business.

4458 (b) "New direct job" means full-time employment in this
4459 state in a qualified business or industry that has qualified to
4460 receive an incentive payment pursuant to this chapter, which
4461 employment did not exist in this state before the date of approval
4462 by the MDA of the application of the qualified business or



4463 industry pursuant to the provisions of this chapter. "New direct
4464 job" shall include full-time employment in this state of employees
4465 who are employed by an entity other than the establishment that
4466 has qualified to receive an incentive payment and who are leased
4467 to the qualified business or industry, if such employment did not
4468 exist in this state before the date of approval by the MDA of the
4469 application of the establishment.

4470 (c) "Full-time job" or "full-time employment" means a
4471 job of at least thirty-five (35) hours per week.

4472 (d) "Estimated direct state benefits" means the tax
4473 revenues projected by the MDA to accrue to the state as a result
4474 of the qualified business or industry.

4475 (e) "Estimated direct state costs" means the costs
4476 projected by the MDA to accrue to the state as a result of the
4477 qualified business or industry.

4478 (f) "Estimated net direct state benefits" means the
4479 estimated direct state benefits less the estimated direct state
4480 costs.

4481 (g) "Net benefit rate" means the estimated net direct
4482 state benefits computed as a percentage of gross payroll, provided
4483 that:

4484 (i) Except as otherwise provided in this paragraph
4485 (g), the net benefit rate may be variable and shall not exceed
4486 four percent (4%) of the gross payroll; and shall be set in the
4487 sole discretion of the MDA;



4488 (ii) In no event shall incentive payments,
4489 cumulatively, exceed the estimated net direct state benefits.

4490 (h) "Gross payroll" means wages for new direct jobs of
4491 the qualified business or industry.

4492 (i) "MDA" means the Mississippi Development Authority.

4493 **[For businesses or industries that apply for incentive**
4494 **payments from and after July 1, 2010, this section shall read as**
4495 **follows:]**

4496 57-62-5. As used in this chapter, the following words and
4497 phrases shall have the meanings ascribed in this section unless
4498 the context clearly indicates otherwise:

4499 (a) "Qualified business or industry" means any
4500 corporation, limited liability company, partnership, sole
4501 proprietorship, business trust or other legal entity and subunits
4502 or affiliates thereof, pursuant to rules and regulations of the
4503 MDA, which:

4504 (i) Is a data/information processing enterprise
4505 meeting minimum criteria established by the MDA that provides an
4506 average annual salary, excluding benefits which are not subject to
4507 Mississippi income taxes, of at least one hundred percent (100%)
4508 of the most recently published state average annual wage or the
4509 most recently published average annual wage of the county in which
4510 the qualified business or industry is located as determined by the
4511 Mississippi Department of Employment Security, whichever is the



4512 lesser, and creates not less than two hundred (200) new direct
4513 jobs;

4514 (ii) Is a corporation, limited liability company,
4515 partnership, sole proprietorship, business trust or other legal
4516 entity and subunits or affiliates thereof, pursuant to rules and
4517 regulations of the MDA, which provides an average annual salary,
4518 excluding benefits which are not subject to Mississippi income
4519 taxes, of at least one hundred ten percent (110%) of the most
4520 recently published state average annual wage or the most recently
4521 published average annual wage of the county in which the qualified
4522 business or industry is located as determined by the Mississippi
4523 Department of Employment Security, whichever is the lesser, and
4524 creates not less than twenty-five (25) new direct jobs; or

4525 (iii) Is a corporation, limited liability company,
4526 partnership, sole proprietorship, business trust or other legal
4527 entity and subunits or affiliates thereof, pursuant to rules and
4528 regulations of the MDA, which is a manufacturer that:

4529 1. Provides an average annual salary,
4530 excluding benefits which are not subject to Mississippi income
4531 taxes, of at least one hundred ten percent (110%) of the most
4532 recently published state average annual wage or the most recently
4533 published average annual wage of the county in which the qualified
4534 business or industry is located as determined by the Mississippi
4535 Department of Employment Security, whichever is the lesser;



4536 2. Has a minimum of five thousand (5,000)
4537 existing employees as of the last day of the previous calendar
4538 year; and

4539 3. MDA determines will create not less than
4540 three thousand (3,000) new direct jobs within forty-eight (48)
4541 months of the date the MDA determines that the applicant is
4542 qualified to receive incentive payments.

4543 An establishment shall not be considered to be a qualified
4544 business or industry unless it offers, or will offer within one
4545 hundred eighty (180) days of the date it receives the first
4546 incentive payment pursuant to the provisions of this chapter, a
4547 basic health benefits plan to the individuals it employs in new
4548 direct jobs in this state which is approved by the MDA. Qualified
4549 business or industry does not include retail business or gaming
4550 business, or any medical cannabis establishment as defined in the
4551 Mississippi Medical Cannabis Act.

4552 (b) "New direct job" means full-time employment in this
4553 state in a qualified business or industry that has qualified to
4554 receive an incentive payment pursuant to this chapter, which
4555 employment did not exist in this state:

4556 (i) Before the date of approval by the MDA of the
4557 application of the qualified business or industry pursuant to the
4558 provisions of this chapter; or

4559 (ii) Solely with respect to any farm equipment
4560 manufacturer that locates its North American headquarters to



4561 Mississippi between January 1, 2018, and December 31, 2020, before
4562 a specific date determined by the MDA that falls on or after the
4563 date that the MDA first issues to such farm equipment manufacturer
4564 one or more written commitments or offers of any incentives in
4565 connection with the new headquarters project and related
4566 facilities expected to result in the creation of such new job.

4567 "New direct job" shall include full-time employment in this
4568 state of employees who are employed by an entity other than the
4569 establishment that has qualified to receive an incentive payment
4570 and who are leased to the qualified business or industry, if such
4571 employment did not exist in this state before the date of approval
4572 by the MDA of the application of the establishment.

4573 (c) "Full-time job" or "full-time employment" means a
4574 job of at least thirty-five (35) hours per week.

4575 (d) "Gross payroll" means wages for new direct jobs of
4576 the qualified business or industry.

4577 (e) "MDA" means the Mississippi Development Authority.

4578 **SECTION 56.** Section 57-62-9, Mississippi Code of 1972, is
4579 reenacted as follows:

4580 **[For businesses or industries that received or applied for**
4581 **incentive payments prior to July 1, 2005, this section shall read**
4582 **as follows:]**

4583 57-62-9. (1) Except as otherwise provided in this section,
4584 a qualified business or industry that meets the qualifications
4585 specified in this chapter may receive quarterly incentive payments



4586 for a period not to exceed ten (10) years from the Department of
4587 Revenue pursuant to the provisions of this chapter in an amount
4588 which shall be equal to the net benefit rate multiplied by the
4589 actual gross payroll of new direct jobs for a calendar quarter as
4590 verified by the Mississippi Department of Employment Security, but
4591 not to exceed the amount of money previously paid into the fund by
4592 the employer. A qualified business or industry that is a project
4593 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4594 which the ten-year period will begin. Such date may not be later
4595 than sixty (60) months after the date the business or industry
4596 applied for incentive payments.

4597 (2) (a) A qualified business or industry that is a project
4598 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4599 receive incentive payments for an additional period not to exceed
4600 five (5) years beyond the expiration date of the initial ten-year
4601 period if:

4602 (i) The qualified business or industry creates at
4603 least three thousand (3,000) new direct jobs within five (5) years
4604 after the date the business or industry commences commercial
4605 production;

4606 (ii) Within five (5) years after the date the
4607 business or industry commences commercial production, the average
4608 annual wage of the jobs is at least one hundred fifty percent
4609 (150%) of the most recently published state average annual wage or
4610 the most recently published average annual wage of the county in



4611 which the qualified business or industry is located as determined
4612 by the Mississippi Department of Employment Security, whichever is
4613 the lesser. The criteria for the average annual wage requirement
4614 shall be based upon the state average annual wage or the average
4615 annual wage of the county whichever is appropriate, at the time of
4616 creation of the minimum number of jobs, and the threshold
4617 established at that time will remain constant for the duration of
4618 the additional period; and

4619 (iii) The qualified business or industry meets and
4620 maintains the job and wage requirements of subparagraphs (i) and
4621 (ii) of this paragraph (a) for four (4) consecutive calendar
4622 quarters.

4623 (b) A qualified business or industry that is a project
4624 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4625 incentive payments for the additional period provided in paragraph
4626 (a) of this subsection (2) may apply to the MDA to receive
4627 incentive payments for an additional period not to exceed ten (10)
4628 years beyond the expiration date of the additional period provided
4629 in paragraph (a) of this subsection (2) if:

4630 (i) The qualified business or industry creates at
4631 least four thousand (4,000) new direct jobs after qualifying for
4632 the additional incentive period provided in paragraph (a) of this
4633 subsection (2) but before the expiration of the additional period.
4634 For purposes of determining whether the business or industry meets
4635 the minimum jobs requirement of this subparagraph (i), the number



4636 of jobs the business or industry created in order to meet the
4637 minimum jobs requirement of paragraph (a) of this subsection (2)
4638 shall be subtracted from the minimum jobs requirement of this
4639 subparagraph (i);

4640 (ii) The average annual wage of the jobs is at
4641 least one hundred fifty percent (150%) of the most recently
4642 published state average annual wage or the most recently published
4643 average annual wage of the county in which the qualified business
4644 or industry is located as determined by the Mississippi Department
4645 of Employment Security, whichever is the lesser. The criteria for
4646 the average annual wage requirement shall be based upon the state
4647 average annual wage or the average annual wage of the county
4648 whichever is appropriate, at the time of creation of the minimum
4649 number of jobs, and the threshold established at that time will
4650 remain constant for the duration of the additional period; and

4651 (iii) The qualified business or industry meets and
4652 maintains the job and wage requirements of subparagraphs (i) and
4653 (ii) of this paragraph (b) for four (4) consecutive calendar
4654 quarters.

4655 (3) In order to receive incentive payments, an establishment
4656 shall apply to the MDA. The application shall be on a form
4657 prescribed by the MDA and shall contain such information as may be
4658 required by the MDA to determine if the applicant is qualified.

4659 (4) In order to qualify to receive such payments, the
4660 establishment applying shall be required to:



4661 (a) Be engaged in a qualified business or industry;

4662 (b) Provide an average salary, excluding benefits which
4663 are not subject to Mississippi income taxes, of at least one
4664 hundred twenty-five percent (125%) of the most recently published
4665 state average annual wage or the most recently published average
4666 annual wage of the county in which the qualified business or
4667 industry is located as determined by the Mississippi Department of
4668 Employment Security, whichever is the lesser. The criteria for
4669 this requirement shall be based upon the state average annual wage
4670 or the average annual wage of the county whichever is appropriate,
4671 at the time of application, and the threshold established upon
4672 application will remain constant for the duration of the project;

4673 (c) The business or industry must create and maintain a
4674 minimum of ten (10) full-time jobs in counties that have an
4675 average unemployment rate over the previous twelve-month period
4676 which is at least one hundred fifty percent (150%) of the most
4677 recently published state unemployment rate, as determined by the
4678 Mississippi Department of Employment Security or in Tier Three
4679 counties as determined under Section 57-73-21. In all other
4680 counties, the business or industry must create and maintain a
4681 minimum of twenty-five (25) full-time jobs. The criteria for this
4682 requirement shall be based on the designation of the county at the
4683 time of the application. The threshold established upon the
4684 application will remain constant for the duration of the project.
4685 The business or industry must meet its job creation commitment



4686 within twenty-four (24) months of the application approval.
4687 However, if the qualified business or industry is applying for
4688 incentive payments for an additional period under subsection (2)
4689 of this section, the business or industry must comply with the
4690 applicable job and wage requirements of subsection (2) of this
4691 section.

4692 (5) The MDA shall determine if the applicant is qualified to
4693 receive incentive payments. If the applicant is determined to be
4694 qualified by the MDA, the MDA shall conduct a cost/benefit
4695 analysis to determine the estimated net direct state benefits and
4696 the net benefit rate applicable for a period not to exceed ten
4697 (10) years and to estimate the amount of gross payroll for the
4698 period. If the applicant is determined to be qualified to receive
4699 incentive payments for an additional period under subsection (2)
4700 of this section, the MDA shall conduct a cost/benefit analysis to
4701 determine the estimated net direct state benefits and the net
4702 benefit rate applicable for the appropriate additional period and
4703 to estimate the amount of gross payroll for the additional period.
4704 In conducting such cost/benefit analysis, the MDA shall consider
4705 quantitative factors, such as the anticipated level of new tax
4706 revenues to the state along with the cost to the state of the
4707 qualified business or industry, and such other criteria as deemed
4708 appropriate by the MDA, including the adequacy of retirement
4709 benefits that the business or industry provides to individuals it
4710 employs in new direct jobs in this state. In no event shall



4711 incentive payments, cumulatively, exceed the estimated net direct
4712 state benefits. Once the qualified business or industry is
4713 approved by the MDA, an agreement shall be deemed to exist between
4714 the qualified business or industry and the State of Mississippi,
4715 requiring the continued incentive payment, together with any
4716 amount due pursuant to subsection (8) of this section, if
4717 applicable, to be made as long as the qualified business or
4718 industry retains its eligibility.

4719 (6) Upon approval of such an application, the MDA shall
4720 notify the Department of Revenue and shall provide it with a copy
4721 of the approved application and the estimated net direct state
4722 benefits. The Department of Revenue may require the qualified
4723 business or industry to submit such additional information as may
4724 be necessary to administer the provisions of this chapter. The
4725 qualified business or industry shall report to the Department of
4726 Revenue periodically to show its continued eligibility for
4727 incentive payments. The qualified business or industry may be
4728 audited by the Department of Revenue to verify such eligibility.
4729 In addition, the State Auditor may conduct performance and
4730 compliance audits under this chapter according to Section
4731 7-7-211(o) and may bill the oversight agency.

4732 (7) If the qualified business or industry is located in an
4733 area that has been declared by the Governor to be a disaster area
4734 and as a result of the disaster the business or industry is unable
4735 to create or maintain the full-time jobs required by this section:



4736 (a) The Commissioner of Revenue may extend the period
4737 of time that the business or industry may receive incentive
4738 payments for a period of time not to exceed two (2) years;

4739 (b) The Commissioner of Revenue may waive the
4740 requirement that a certain number of jobs be maintained for a
4741 period of time not to exceed twenty-four (24) months; and

4742 (c) The MDA may extend the period of time within which
4743 the jobs must be created for a period of time not to exceed
4744 twenty-four (24) months.

4745 (8) Notwithstanding any other provision of this section to
4746 the contrary, from and after January 1, 2023, if the amount of the
4747 incentive payment that a qualified business or industry is
4748 eligible to receive under this chapter is less than the amount
4749 that the incentive payment would have been if the payment had been
4750 calculated using any applicable income tax rates in Section 27-7-5
4751 that were in effect before January 1, 2023, then the qualified
4752 business or industry also shall receive a grant equal to the
4753 difference between such two (2) amounts. Further, the term
4754 "incentive payment," as such term is used in this chapter, shall
4755 be deemed to not refer to or otherwise include any grant payment
4756 payable to a qualified business or industry pursuant to this
4757 subsection.

4758 **[For businesses or industries that received or applied for**
4759 **incentive payments from and after July 1, 2005, but prior to July**
4760 **1, 2010, this section shall read as follows:]**



4761 57-62-9. (1) (a) Except as otherwise provided in this
4762 section, a qualified business or industry that meets the
4763 qualifications specified in this chapter may receive quarterly
4764 incentive payments for a period not to exceed ten (10) years from
4765 the Department of Revenue pursuant to the provisions of this
4766 chapter in an amount which shall be equal to the net benefit rate
4767 multiplied by the actual gross payroll of new direct jobs for a
4768 calendar quarter as verified by the Mississippi Department of
4769 Employment Security, but not to exceed:

4770 (i) Ninety percent (90%) of the amount of money
4771 previously paid into the fund by the employer if the employer
4772 provides an average annual salary, excluding benefits which are
4773 not subject to Mississippi income taxes, of at least one hundred
4774 seventy-five percent (175%) of the most recently published state
4775 average annual wage or the most recently published average annual
4776 wage of the county in which the qualified business or industry is
4777 located as determined by the Mississippi Department of Employment
4778 Security, whichever is the lesser;

4779 (ii) Eighty percent (80%) of the amount of money
4780 previously paid into the fund by the employer if the employer
4781 provides an average annual salary, excluding benefits which are
4782 not subject to Mississippi income taxes, of at least one hundred
4783 twenty-five percent (125%) but less than one hundred seventy-five
4784 percent (175%) of the most recently published state average annual
4785 wage or the most recently published average annual wage of the



4786 county in which the qualified business or industry is located as
4787 determined by the Mississippi Department of Employment Security,
4788 whichever is the lesser; or

4789 (iii) Seventy percent (70%) of the amount of money
4790 previously paid into the fund by the employer if the employer
4791 provides an average annual salary, excluding benefits which are
4792 not subject to Mississippi income taxes, of less than one hundred
4793 twenty-five percent (125%) of the most recently published state
4794 average annual wage or the most recently published average annual
4795 wage of the county in which the qualified business or industry is
4796 located as determined by the Mississippi Department of Employment
4797 Security, whichever is the lesser.

4798 (b) A qualified business or industry that is a project
4799 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4800 which the ten-year period will begin. Such date may not be later
4801 than sixty (60) months after the date the business or industry
4802 applied for incentive payments.

4803 (2) (a) A qualified business or industry that is a project
4804 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4805 receive incentive payments for an additional period not to exceed
4806 five (5) years beyond the expiration date of the initial ten-year
4807 period if:

4808 (i) The qualified business or industry creates at
4809 least three thousand (3,000) new direct jobs within five (5) years



4810 after the date the business or industry commences commercial
4811 production;

4812 (ii) Within five (5) years after the date the
4813 business or industry commences commercial production, the average
4814 annual wage of the jobs is at least one hundred fifty percent
4815 (150%) of the most recently published state average annual wage or
4816 the most recently published average annual wage of the county in
4817 which the qualified business or industry is located as determined
4818 by the Mississippi Department of Employment Security, whichever is
4819 the lesser. The criteria for the average annual wage requirement
4820 shall be based upon the state average annual wage or the average
4821 annual wage of the county whichever is appropriate, at the time of
4822 creation of the minimum number of jobs, and the threshold
4823 established at that time will remain constant for the duration of
4824 the additional period; and

4825 (iii) The qualified business or industry meets and
4826 maintains the job and wage requirements of subparagraphs (i) and
4827 (ii) of this paragraph (a) for four (4) consecutive calendar
4828 quarters.

4829 (b) A qualified business or industry that is a project
4830 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4831 incentive payments for the additional period provided in paragraph
4832 (a) of this subsection (2) may apply to the MDA to receive
4833 incentive payments for an additional period not to exceed ten (10)



4834 years beyond the expiration date of the additional period provided
4835 in paragraph (a) of this subsection (2) if:

4836 (i) The qualified business or industry creates at
4837 least four thousand (4,000) new direct jobs after qualifying for
4838 the additional incentive period provided in paragraph (a) of this
4839 subsection (2) but before the expiration of the additional period.
4840 For purposes of determining whether the business or industry meets
4841 the minimum jobs requirement of this subparagraph (i), the number
4842 of jobs the business or industry created in order to meet the
4843 minimum jobs requirement of paragraph (a) of this subsection (2)
4844 shall be subtracted from the minimum jobs requirement of this
4845 subparagraph (i);

4846 (ii) The average annual wage of the jobs is at
4847 least one hundred fifty percent (150%) of the most recently
4848 published state average annual wage or the most recently published
4849 average annual wage of the county in which the qualified business
4850 or industry is located as determined by the Mississippi Department
4851 of Employment Security, whichever is the lesser. The criteria for
4852 the average annual wage requirement shall be based upon the state
4853 average annual wage or the average annual wage of the county
4854 whichever is appropriate, at the time of creation of the minimum
4855 number of jobs, and the threshold established at that time will
4856 remain constant for the duration of the additional period; and

4857 (iii) The qualified business or industry meets and
4858 maintains the job and wage requirements of subparagraphs (i) and



4859 (ii) of this paragraph (b) for four (4) consecutive calendar
4860 quarters.

4861 (3) In order to receive incentive payments, an establishment
4862 shall apply to the MDA. The application shall be on a form
4863 prescribed by the MDA and shall contain such information as may be
4864 required by the MDA to determine if the applicant is qualified.

4865 (4) (a) In order to qualify to receive such payments, the
4866 establishment applying shall be required to meet the definition of
4867 the term "qualified business or industry";

4868 (b) The criteria for the average annual salary
4869 requirement shall be based upon the state average annual wage or
4870 the average annual wage of the county whichever is appropriate, at
4871 the time of application, and the threshold established upon
4872 application will remain constant for the duration of the project;

4873 (c) The business or industry must meet its job creation
4874 commitment within twenty-four (24) months of the application
4875 approval. However, if the qualified business or industry is
4876 applying for incentive payments for an additional period under
4877 subsection (2) of this section, the business or industry must
4878 comply with the applicable job and wage requirements of subsection
4879 (2) of this section.

4880 (5) (a) The MDA shall determine if the applicant is
4881 qualified to receive incentive payments.

4882 (b) If the applicant is determined to be qualified to
4883 receive incentive payments for an additional period under



4884 subsection (2) of this section, the MDA shall conduct a
4885 cost/benefit analysis to determine the estimated net direct state
4886 benefits and the net benefit rate applicable for the appropriate
4887 additional period and to estimate the amount of gross payroll for
4888 the additional period. In conducting such cost/benefit analysis,
4889 the MDA shall consider quantitative factors, such as the
4890 anticipated level of new tax revenues to the state along with the
4891 cost to the state of the qualified business or industry, and such
4892 other criteria as deemed appropriate by the MDA, including the
4893 adequacy of retirement benefits that the business or industry
4894 provides to individuals it employs in new direct jobs in this
4895 state. In no event shall incentive payments, cumulatively, exceed
4896 the estimated net direct state benefits. Once the qualified
4897 business or industry is approved by the MDA, an agreement shall be
4898 deemed to exist between the qualified business or industry and the
4899 State of Mississippi, requiring the continued incentive payment,
4900 together with any amount due pursuant to subsection (8) of this
4901 section, if applicable, to be made as long as the qualified
4902 business or industry retains its eligibility.

4903 (6) Upon approval of such an application, the MDA shall
4904 notify the Department of Revenue and shall provide it with a copy
4905 of the approved application and the estimated net direct state
4906 benefits. The Department of Revenue may require the qualified
4907 business or industry to submit such additional information as may
4908 be necessary to administer the provisions of this chapter. The



4909 qualified business or industry shall report to the Department of
4910 Revenue periodically to show its continued eligibility for
4911 incentive payments. The qualified business or industry may be
4912 audited by the Department of Revenue to verify such eligibility.
4913 In addition, the State Auditor may conduct performance and
4914 compliance audits under this chapter according to Section
4915 7-7-211(o) and may bill the oversight agency.

4916 (7) If the qualified business or industry is located in an
4917 area that has been declared by the Governor to be a disaster area
4918 and as a result of the disaster the business or industry is unable
4919 to create or maintain the full-time jobs required by this section:

4920 (a) The Commissioner of Revenue may extend the period
4921 of time that the business or industry may receive incentive
4922 payments for a period of time not to exceed two (2) years;

4923 (b) The Commissioner of Revenue may waive the
4924 requirement that a certain number of jobs be maintained for a
4925 period of time not to exceed twenty-four (24) months; and

4926 (c) The MDA may extend the period of time within which
4927 the jobs must be created for a period of time not to exceed
4928 twenty-four (24) months.

4929 (8) Notwithstanding any other provision of this section to
4930 the contrary, from and after January 1, 2023, if the amount of the
4931 incentive payment that a qualified business or industry is
4932 eligible to receive under this chapter is less than the amount
4933 that the incentive payment would have been if the payment had been



4934 calculated using any applicable income tax rates in Section 27-7-5
4935 that were in effect before January 1, 2023, then the qualified
4936 business or industry also shall receive a grant equal to the
4937 difference between such two (2) amounts. Further, the term
4938 "incentive payment," as such term is used in this chapter, shall
4939 be deemed to not refer to or otherwise include any grant payment
4940 payable to a qualified business or industry pursuant to this
4941 subsection.

4942 **[For businesses or industries that apply for incentive**
4943 **payments from and after July 1, 2010, this section shall read as**
4944 **follows:]**

4945 57-62-9. (1) (a) Except as otherwise provided in this
4946 section, a qualified business or industry that meets the
4947 qualifications specified in this chapter may receive quarterly
4948 incentive payments for a period not to exceed ten (10) years from
4949 the Department of Revenue pursuant to the provisions of this
4950 chapter in an amount which shall be equal to ninety percent (90%)
4951 of the amount of actual income tax withheld for employees with new
4952 direct jobs, but in no event more than four percent (4%) of the
4953 total annual salary paid for new direct jobs during such period,
4954 excluding benefits which are not subject to Mississippi income
4955 taxes.

4956 (b) A qualified business or industry that is a project
4957 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4958 which the ten-year period will begin. Such date may not be later



4959 than sixty (60) months after the date the business or industry
4960 applied for incentive payments.

4961 (c) A qualified business or industry as defined in
4962 Section 57-62-5(a)(iii) may elect the date upon which the ten-year
4963 period will begin and may elect to begin receiving incentive
4964 payments as early as the second quarter after that date.

4965 Incentive payments will be calculated on all jobs above the
4966 existing number of jobs as of the date the MDA determines that the
4967 applicant is qualified to receive incentive payments. In the
4968 event that the qualified business or industry falls below the
4969 number of existing jobs at the time of determination that the
4970 applicant is qualified to receive the incentive payment, the
4971 incentive payment shall cease until the qualified business or
4972 industry once again exceeds that number. If after forty-eight
4973 (48) months, the qualified business or industry has failed to
4974 create at least three thousand (3,000) new direct jobs, incentive
4975 payments shall cease and the qualified business or industry shall
4976 not be qualified to receive further incentive payments.

4977 (2) (a) A qualified business or industry that is a project
4978 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4979 receive incentive payments for an additional period not to exceed
4980 five (5) years beyond the expiration date of the initial ten-year
4981 period if:

4982 (i) The qualified business or industry creates at
4983 least three thousand (3,000) new direct jobs within five (5) years



4984 after the date the business or industry commences commercial
4985 production;

4986 (ii) Within five (5) years after the date the
4987 business or industry commences commercial production, the average
4988 annual wage of the jobs is at least one hundred fifty percent
4989 (150%) of the most recently published state average annual wage or
4990 the most recently published average annual wage of the county in
4991 which the qualified business or industry is located as determined
4992 by the Mississippi Department of Employment Security, whichever is
4993 the lesser. The criteria for the average annual wage requirement
4994 shall be based upon the state average annual wage or the average
4995 annual wage of the county whichever is appropriate, at the time of
4996 creation of the minimum number of jobs, and the threshold
4997 established at that time will remain constant for the duration of
4998 the additional period; and

4999 (iii) The qualified business or industry meets and
5000 maintains the job and wage requirements of subparagraphs (i) and
5001 (ii) of this paragraph (a) for four (4) consecutive calendar
5002 quarters.

5003 (b) A qualified business or industry that is a project
5004 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
5005 incentive payments for the additional period provided in paragraph
5006 (a) of this subsection (2) may apply to the MDA to receive
5007 incentive payments for an additional period not to exceed ten (10)



5008 years beyond the expiration date of the additional period provided
5009 in paragraph (a) of this subsection (2) if:

5010 (i) The qualified business or industry creates at
5011 least four thousand (4,000) new direct jobs after qualifying for
5012 the additional incentive period provided in paragraph (a) of this
5013 subsection (2) but before the expiration of the additional period.
5014 For purposes of determining whether the business or industry meets
5015 the minimum jobs requirement of this subparagraph (i), the number
5016 of jobs the business or industry created in order to meet the
5017 minimum jobs requirement of paragraph (a) of this subsection (2)
5018 shall be subtracted from the minimum jobs requirement of this
5019 subparagraph (i);

5020 (ii) The average annual wage of the jobs is at
5021 least one hundred fifty percent (150%) of the most recently
5022 published state average annual wage or the most recently published
5023 average annual wage of the county in which the qualified business
5024 or industry is located as determined by the Mississippi Department
5025 of Employment Security, whichever is the lesser. The criteria for
5026 the average annual wage requirement shall be based upon the state
5027 average annual wage or the average annual wage of the county
5028 whichever is appropriate, at the time of creation of the minimum
5029 number of jobs, and the threshold established at that time will
5030 remain constant for the duration of the additional period; and

5031 (iii) The qualified business or industry meets and
5032 maintains the job and wage requirements of subparagraphs (i) and



5033 (ii) of this paragraph (b) for four (4) consecutive calendar
5034 quarters.

5035 (3) In order to receive incentive payments, an establishment
5036 shall apply to the MDA. The application shall be on a form
5037 prescribed by the MDA and shall contain such information as may be
5038 required by the MDA to determine if the applicant is qualified.

5039 (4) (a) In order to qualify to receive such payments, the
5040 establishment applying shall be required to meet the definition of
5041 the term "qualified business or industry";

5042 (b) The criteria for the average annual salary
5043 requirement shall be based upon the state average annual wage or
5044 the average annual wage of the county whichever is appropriate, at
5045 the time of application, and the threshold established upon
5046 application will remain constant for the duration of the project;

5047 (c) Except as otherwise provided for a qualified
5048 business or industry as defined in Section 57-62-5(a)(iii), the
5049 business or industry must meet its job creation commitment within
5050 twenty-four (24) months of the application approval. However, if
5051 the qualified business or industry is applying for incentive
5052 payments for an additional period under subsection (2) of this
5053 section, the business or industry must comply with the applicable
5054 job and wage requirements of subsection (2) of this section.

5055 (5) (a) The MDA shall determine if the applicant is
5056 qualified to receive incentive payments.



5057 (b) If the applicant is determined to be qualified to
5058 receive incentive payments for an additional period under
5059 subsection (2) of this section, the MDA shall conduct an analysis
5060 to estimate the amount of gross payroll for the appropriate
5061 additional period. Incentive payments, cumulatively, shall not
5062 exceed ninety percent (90%) of the amount of actual income tax
5063 withheld for employees with new direct jobs, but in no event more
5064 than four percent (4%) of the total annual salary paid for new
5065 direct jobs during the additional period, excluding benefits which
5066 are not subject to Mississippi income taxes. Once the qualified
5067 business or industry is approved by the MDA, an agreement shall be
5068 deemed to exist between the qualified business or industry and the
5069 State of Mississippi, requiring the continued incentive payment,
5070 together with any amount due pursuant to subsection (8) of this
5071 section, if applicable, to be made as long as the qualified
5072 business or industry retains its eligibility.

5073 (6) Upon approval of such an application, the MDA shall
5074 notify the Department of Revenue and shall provide it with a copy
5075 of the approved application and the minimum job and salary
5076 requirements. The Department of Revenue may require the qualified
5077 business or industry to submit such additional information as may
5078 be necessary to administer the provisions of this chapter. The
5079 qualified business or industry shall report to the Department of
5080 Revenue periodically to show its continued eligibility for
5081 incentive payments. The qualified business or industry may be



5082 audited by the Department of Revenue to verify such eligibility.
5083 In addition, the State Auditor may conduct performance and
5084 compliance audits under this chapter according to Section
5085 7-7-211(o) and may bill the oversight agency.

5086 (7) If the qualified business or industry is located in an
5087 area that has been declared by the Governor to be a disaster area
5088 and as a result of the disaster the business or industry is unable
5089 to create or maintain the full-time jobs required by this section:

5090 (a) The Commissioner of Revenue may extend the period
5091 of time that the business or industry may receive incentive
5092 payments for a period of time not to exceed two (2) years;

5093 (b) The Commissioner of Revenue may waive the
5094 requirement that a certain number of jobs be maintained for a
5095 period of time not to exceed twenty-four (24) months; and

5096 (c) The MDA may extend the period of time within which
5097 the jobs must be created for a period of time not to exceed
5098 twenty-four (24) months.

5099 (8) Notwithstanding any other provision of this section to
5100 the contrary, from and after January 1, 2023, if the amount of the
5101 incentive payment that a qualified business or industry is
5102 eligible to receive under this chapter is less than the amount
5103 that the incentive payment would have been if the payment had been
5104 calculated using any applicable income tax rates in Section 27-7-5
5105 that were in effect before January 1, 2023, then the qualified
5106 business or industry also shall receive a grant equal to the



5107 difference between such two (2) amounts. Further, the term
5108 "incentive payment," as such term is used in this chapter, shall
5109 be deemed to not refer to or otherwise include any grant payment
5110 payable to a qualified business or industry pursuant to this
5111 subsection.

5112 **SECTION 57.** Section 57-75-5, Mississippi Code of 1972, is
5113 reenacted as follows:

5114 57-75-5. Words and phrases used in this chapter shall have
5115 meanings as follows, unless the context clearly indicates a
5116 different meaning:

5117 (a) "Act" means the Mississippi Major Economic Impact
5118 Act as originally enacted or as hereafter amended.

5119 (b) "Authority" means the Mississippi Major Economic
5120 Impact Authority created pursuant to the act.

5121 (c) "Bonds" means general obligation bonds, interim
5122 notes and other evidences of debt of the State of Mississippi
5123 issued pursuant to this chapter.

5124 (d) "Facility related to the project" means and
5125 includes any of the following, as the same may pertain to the
5126 project within the project area: (i) facilities to provide
5127 potable and industrial water supply systems, sewage and waste
5128 disposal systems and water, natural gas and electric transmission
5129 systems to the site of the project; (ii) airports, airfields and
5130 air terminals; (iii) rail lines; (iv) port facilities; (v)
5131 highways, streets and other roadways; (vi) public school



5132 buildings, classrooms and instructional facilities, training
5133 facilities and equipment, including any functionally related
5134 facilities; (vii) parks, outdoor recreation facilities and
5135 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
5136 art centers, cultural centers, folklore centers and other public
5137 facilities; (ix) health care facilities, public or private; and
5138 (x) fire protection facilities, equipment and elevated water
5139 tanks.

5140 (e) "Person" means any natural person, corporation,
5141 association, partnership, limited liability company, receiver,
5142 trustee, guardian, executor, administrator, fiduciary,
5143 governmental unit, public agency, political subdivision, or any
5144 other group acting as a unit, and the plural as well as the
5145 singular.

5146 (f) "Project" means:

5147 (i) Any industrial, commercial, research and
5148 development, warehousing, distribution, transportation,
5149 processing, mining, United States government or tourism enterprise
5150 together with all real property required for construction,
5151 maintenance and operation of the enterprise with an initial
5152 capital investment of not less than Three Hundred Million Dollars
5153 (\$300,000,000.00) from private or United States government sources
5154 together with all buildings, and other supporting land and
5155 facilities, structures or improvements of whatever kind required
5156 or useful for construction, maintenance and operation of the



5157 enterprise; or with an initial capital investment of not less than
5158 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
5159 or United States government sources together with all buildings
5160 and other supporting land and facilities, structures or
5161 improvements of whatever kind required or useful for construction,
5162 maintenance and operation of the enterprise and which creates at
5163 least one thousand (1,000) net new full-time jobs; or which
5164 creates at least one thousand (1,000) net new full-time jobs which
5165 provides an average salary, excluding benefits which are not
5166 subject to Mississippi income taxation, of at least one hundred
5167 twenty-five percent (125%) of the most recently published average
5168 annual wage of the state as determined by the Mississippi
5169 Department of Employment Security. "Project" shall include any
5170 addition to or expansion of an existing enterprise if such
5171 addition or expansion has an initial capital investment of not
5172 less than Three Hundred Million Dollars (\$300,000,000.00) from
5173 private or United States government sources, or has an initial
5174 capital investment of not less than One Hundred Fifty Million
5175 Dollars (\$150,000,000.00) from private or United States government
5176 sources together with all buildings and other supporting land and
5177 facilities, structures or improvements of whatever kind required
5178 or useful for construction, maintenance and operation of the
5179 enterprise and which creates at least one thousand (1,000) net new
5180 full-time jobs; or which creates at least one thousand (1,000) net
5181 new full-time jobs which provides an average salary, excluding



5182 benefits which are not subject to Mississippi income taxation, of
5183 at least one hundred twenty-five percent (125%) of the most
5184 recently published average annual wage of the state as determined
5185 by the Mississippi Department of Employment Security. "Project"
5186 shall also include any ancillary development or business resulting
5187 from the enterprise, of which the authority is notified, within
5188 three (3) years from the date that the enterprise entered into
5189 commercial production, that the project area has been selected as
5190 the site for the ancillary development or business.

5191 (ii) 1. Any major capital project designed to
5192 improve, expand or otherwise enhance any active duty or reserve
5193 United States armed services bases and facilities or any major
5194 Mississippi National Guard training installations, their support
5195 areas or their military operations, upon designation by the
5196 authority that any such base was or is at risk to be recommended
5197 for closure or realignment pursuant to the Defense Base Closure
5198 and Realignment Act of 1990, as amended, or other applicable
5199 federal law; or any major development project determined by the
5200 authority to be necessary to acquire or improve base properties
5201 and to provide employment opportunities through construction of
5202 projects as defined in Section 57-3-5, which shall be located on
5203 or provide direct support service or access to such military
5204 installation property in the event of closure or reduction of
5205 military operations at the installation.



5206 2. Any major study or investigation related
5207 to such a facility, installation or base, upon a determination by
5208 the authority that the study or investigation is critical to the
5209 expansion, retention or reuse of the facility, installation or
5210 base.

5211 3. Any project as defined in Section 57-3-5,
5212 any business or enterprise determined to be in the furtherance of
5213 the public purposes of this act as determined by the authority or
5214 any facility related to such project each of which shall be,
5215 directly or indirectly, related to any military base or other
5216 military-related facility no longer operated by the United States
5217 armed services or the Mississippi National Guard.

5218 (iii) Any enterprise to be maintained, improved or
5219 constructed in Tishomingo County by or for a National Aeronautics
5220 and Space Administration facility in such county.

5221 (iv) 1. Any major capital project with an initial
5222 capital investment from private sources of not less than Seven
5223 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
5224 at least three thousand (3,000) jobs meeting criteria established
5225 by the Mississippi Development Authority.

5226 2. "Project" shall also include any ancillary
5227 development or business resulting from an enterprise operating a
5228 project as defined in item 1 of this paragraph (f) (iv), of which
5229 the authority is notified, within three (3) years from the date
5230 that the enterprise entered into commercial production, that the



5231 state has been selected as the site for the ancillary development
5232 or business.

5233 (v) Any manufacturing, processing or industrial
5234 project determined by the authority, in its sole discretion, to
5235 contribute uniquely and significantly to the economic growth and
5236 development of the state, and which meets the following criteria:

5237 1. The project shall create at least two
5238 thousand (2,000) net new full-time jobs meeting criteria
5239 established by the authority, which criteria shall include, but
5240 not be limited to, the requirement that such jobs must be held by
5241 persons eligible for employment in the United States under
5242 applicable state and federal law.

5243 2. The project and any facility related to
5244 the project shall include a total investment from private sources
5245 of not less than Sixty Million Dollars (\$60,000,000.00), or from
5246 any combination of sources of not less than Eighty Million Dollars
5247 (\$80,000,000.00).

5248 (vi) Any real property owned or controlled by the
5249 National Aeronautics and Space Administration, the United States
5250 government, or any agency thereof, which is legally conveyed to
5251 the State of Mississippi or to the State of Mississippi for the
5252 benefit of the Mississippi Major Economic Impact Authority, its
5253 successors and assigns pursuant to Section 212 of Public Law
5254 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).



5255 (vii) Any major capital project related to the
5256 establishment, improvement, expansion and/or other enhancement of
5257 any active duty military installation and having a minimum capital
5258 investment from any source or combination of sources other than
5259 the State of Mississippi of at least Forty Million Dollars
5260 (\$40,000,000.00), and which will create at least four hundred
5261 (400) military installation related full-time jobs, which jobs may
5262 be military jobs, civilian jobs or a combination of military and
5263 civilian jobs. The authority shall require that binding
5264 commitments be entered into requiring that the minimum
5265 requirements for the project provided for in this subparagraph
5266 shall be met not later than July 1, 2008.

5267 (viii) Any major capital project with an initial
5268 capital investment from any source or combination of sources of
5269 not less than Ten Million Dollars (\$10,000,000.00) which will
5270 create at least eighty (80) full-time jobs which provide an
5271 average annual salary, excluding benefits which are not subject to
5272 Mississippi income taxes, of at least one hundred thirty-five
5273 percent (135%) of the most recently published average annual wage
5274 of the state or the most recently published average annual wage of
5275 the county in which the project is located as determined by the
5276 Mississippi Department of Employment Security, whichever is the
5277 lesser. The authority shall require that binding commitments be
5278 entered into requiring that:



5279 1. The minimum requirements for the project
5280 provided for in this subparagraph shall be met; and

5281 2. That if such commitments are not met, all
5282 or a portion of the funds provided by the state for the project as
5283 determined by the authority shall be repaid.

5284 (ix) Any regional retail shopping mall with an
5285 initial capital investment from private sources in excess of One
5286 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
5287 footage in excess of eight hundred thousand (800,000) square feet,
5288 which will create at least seven hundred (700) full-time jobs with
5289 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
5290 authority shall require that binding commitments be entered into
5291 requiring that:

5292 1. The minimum requirements for the project
5293 provided for in this subparagraph shall be met; and

5294 2. That if such commitments are not met, all
5295 or a portion of the funds provided by the state for the project as
5296 determined by the authority shall be repaid.

5297 (x) Any major capital project with an initial
5298 capital investment from any source or combination of sources of
5299 not less than Seventy-five Million Dollars (\$75,000,000.00) which
5300 will create at least one hundred twenty-five (125) full-time jobs
5301 which provide an average annual salary, excluding benefits which
5302 are not subject to Mississippi income taxes, of at least one
5303 hundred thirty-five percent (135%) of the most recently published



5304 average annual wage of the state or the most recently published
5305 average annual wage of the county in which the project is located
5306 as determined by the Mississippi Department of Employment
5307 Security, whichever is the greater. The authority shall require
5308 that binding commitments be entered into requiring that:

5309 1. The minimum requirements for the project
5310 provided for in this subparagraph shall be met; and

5311 2. That if such commitments are not met, all
5312 or a portion of the funds provided by the state for the project as
5313 determined by the authority shall be repaid.

5314 (xi) Any potential major capital project that the
5315 authority has determined is feasible to recruit.

5316 (xii) Any project built according to the
5317 specifications and federal provisions set forth by the National
5318 Aeronautics and Space Administration Center Operations Directorate
5319 at Stennis Space Center for the purpose of consolidating common
5320 services from National Aeronautics and Space Administration
5321 centers in human resources, procurement, financial management and
5322 information technology located on land owned or controlled by the
5323 National Aeronautics and Space Administration, which will create
5324 at least four hundred seventy (470) full-time jobs.

5325 (xiii) Any major capital project with an initial
5326 capital investment from any source or combination of sources of
5327 not less than Ten Million Dollars (\$10,000,000.00) which will
5328 create at least two hundred fifty (250) full-time jobs. The



5329 authority shall require that binding commitments be entered into
5330 requiring that:

5331 1. The minimum requirements for the project
5332 provided for in this subparagraph shall be met; and

5333 2. That if such commitments are not met, all
5334 or a portion of the funds provided by the state for the project as
5335 determined by the authority shall be repaid.

5336 (xiv) Any major pharmaceutical facility with a
5337 capital investment of not less than Fifty Million Dollars
5338 (\$50,000,000.00) made after July 1, 2002, through four (4) years
5339 after the initial date of any loan or grant made by the authority
5340 for such project, which will maintain at least seven hundred fifty
5341 (750) full-time employees. The authority shall require that
5342 binding commitments be entered into requiring that:

5343 1. The minimum requirements for the project
5344 provided for in this subparagraph shall be met; and

5345 2. That if such commitments are not met, all
5346 or a portion of the funds provided by the state for the project as
5347 determined by the authority shall be repaid.

5348 (xv) Any pharmaceutical manufacturing, packaging
5349 and distribution facility with an initial capital investment from
5350 any local or federal sources of not less than Five Hundred
5351 Thousand Dollars (\$500,000.00) which will create at least ninety
5352 (90) full-time jobs. The authority shall require that binding
5353 commitments be entered into requiring that:



5354 1. The minimum requirements for the project
5355 provided for in this subparagraph shall be met; and

5356 2. That if such commitments are not met, all
5357 or a portion of the funds provided by the state for the project as
5358 determined by the authority shall be repaid.

5359 (xvi) Any major industrial wood processing
5360 facility with an initial capital investment of not less than One
5361 Hundred Million Dollars (\$100,000,000.00) which will create at
5362 least one hundred twenty-five (125) full-time jobs which provide
5363 an average annual salary, excluding benefits which are not subject
5364 to Mississippi income taxes, of at least Thirty Thousand Dollars
5365 (\$30,000.00). The authority shall require that binding
5366 commitments be entered into requiring that:

5367 1. The minimum requirements for the project
5368 provided for in this subparagraph shall be met; and

5369 2. That if such commitments are not met, all
5370 or a portion of the funds provided by the state for the project as
5371 determined by the authority shall be repaid.

5372 (xvii) Any technical, engineering,
5373 manufacturing-logistic service provider with an initial capital
5374 investment of not less than One Million Dollars (\$1,000,000.00)
5375 which will create at least ninety (90) full-time jobs. The
5376 authority shall require that binding commitments be entered into
5377 requiring that:



5378 1. The minimum requirements for the project
5379 provided for in this subparagraph shall be met; and

5380 2. That if such commitments are not met, all
5381 or a portion of the funds provided by the state for the project as
5382 determined by the authority shall be repaid.

5383 (xviii) Any major capital project with an initial
5384 capital investment from any source or combination of sources other
5385 than the State of Mississippi of not less than Six Hundred Million
5386 Dollars (\$600,000,000.00) which will create at least four hundred
5387 fifty (450) full-time jobs with an average annual salary,
5388 excluding benefits which are not subject to Mississippi income
5389 taxes, of at least Seventy Thousand Dollars (\$70,000.00). The
5390 authority shall require that binding commitments be entered into
5391 requiring that:

5392 1. The minimum requirements for the project
5393 provided for in this subparagraph shall be met; and

5394 2. That if such commitments are not met, all
5395 or a portion of the funds provided by the state for the project as
5396 determined by the authority shall be repaid.

5397 (xix) Any major coal and/or petroleum coke
5398 gasification project with an initial capital investment from any
5399 source or combination of sources other than the State of
5400 Mississippi of not less than Eight Hundred Million Dollars
5401 (\$800,000,000.00), which will create at least two hundred (200)
5402 full-time jobs with an average annual salary, excluding benefits



5403 which are not subject to Mississippi income taxes, of at least
5404 Forty-five Thousand Dollars (\$45,000.00). The authority shall
5405 require that binding commitments be entered into requiring that:

5406 1. The minimum requirements for the project
5407 provided for in this subparagraph shall be met; and

5408 2. That if such commitments are not met, all
5409 or a portion of the funds provided by the state for the project as
5410 determined by the authority shall be repaid.

5411 (xx) Any planned mixed use development located on
5412 not less than four thousand (4,000) acres of land that will
5413 consist of commercial, recreational, resort, tourism and
5414 residential development with a capital investment from private
5415 sources of not less than Four Hundred Seventy-five Million Dollars
5416 (\$475,000,000.00) in the aggregate in any one (1) or any
5417 combination of tourism projects that will create at least three
5418 thousand five hundred (3,500) jobs in the aggregate. For the
5419 purposes of this paragraph (f)(xx), the term "tourism project"
5420 means and has the same definition as that term has in Section
5421 57-28-1. In order to meet the minimum capital investment required
5422 under this paragraph (f)(xx), at least Two Hundred Thirty-seven
5423 Million Five Hundred Thousand Dollars (\$237,500,000.00) of such
5424 investment must be made not later than June 1, 2015, and the
5425 remainder of the minimum capital investment must be made not later
5426 than June 1, 2017. In order to meet the minimum number of jobs
5427 required to be created under this paragraph (f)(xx), at least one



5428 thousand seven hundred fifty (1,750) of such jobs must be created
5429 not later than June 1, 2015, and the remainder of the jobs must be
5430 created not later than June 1, 2017. The authority shall require
5431 that binding commitments be entered into requiring that:

5432 1. The minimum requirements for the project
5433 provided for in this subparagraph shall be met; and

5434 2. That if such commitments are not met, all
5435 or a portion of the funds provided by the state for the project as
5436 determined by the authority shall be repaid.

5437 (xxi) Any enterprise owning or operating an
5438 automotive manufacturing and assembly plant and its affiliates for
5439 which construction begins after March 2, 2007, and not later than
5440 December 1, 2007, with an initial capital investment from private
5441 sources of not less than Five Hundred Million Dollars
5442 (\$500,000,000.00) which will create at least one thousand five
5443 hundred (1,500) jobs meeting criteria established by the
5444 authority, which criteria shall include, but not be limited to,
5445 the requirement that such jobs must be held by persons eligible
5446 for employment in the United States under applicable state and
5447 federal law. The authority shall require that binding commitments
5448 be entered into requiring that:

5449 1. The minimum requirements for the project
5450 provided for in this subparagraph shall be met; and



5451 2. That if such commitments are not met, all
5452 or a portion of the funds provided by the state for the project as
5453 determined by the authority shall be repaid.

5454 (xxii) Any enterprise owning or operating a major
5455 powertrain component manufacturing and assembly plant for which
5456 construction begins after May 11, 2007, and not later than
5457 December 1, 2007, with an initial capital investment from private
5458 sources of not less than Three Hundred Million Dollars
5459 (\$300,000,000.00) which will create at least five hundred (500)
5460 new full-time jobs meeting criteria established by the authority,
5461 which criteria shall include, but not be limited to, the
5462 requirement that such jobs must be held by persons eligible for
5463 employment in the United States under applicable state and federal
5464 law, and the requirement that the average annual wages and taxable
5465 benefits of such jobs shall be at least one hundred twenty-five
5466 percent (125%) of the most recently published average annual wage
5467 of the state or the most recently published average annual wage of
5468 the county in which the project is located as determined by the
5469 Mississippi Department of Employment Security, whichever is the
5470 lesser. The authority shall require that binding commitments be
5471 entered into requiring that:

5472 1. The minimum requirements for the project
5473 provided for in this subparagraph shall be met; and



5474 2. That if such commitments are not met, all
5475 or a portion of the funds provided by the state for the project as
5476 determined by the authority shall be repaid.

5477 (xxiii) Any biological and agricultural defense
5478 project operated by an agency of the government of the United
5479 States with an initial capital investment of not less than Four
5480 Hundred Fifty Million Dollars (\$450,000,000.00) from any source
5481 other than the State of Mississippi and its subdivisions, which
5482 will create at least two hundred fifty (250) new full-time jobs.
5483 All jobs created by the project must be held by persons eligible
5484 for employment in the United States under applicable state and
5485 federal law.

5486 (xxiv) Any enterprise owning or operating an
5487 existing tire manufacturing plant which adds to such plant capital
5488 assets of not less than Twenty-five Million Dollars
5489 (\$25,000,000.00) after January 1, 2009, and that maintains at
5490 least one thousand two hundred (1,200) full-time jobs in this
5491 state at one (1) location with an average annual salary, excluding
5492 benefits which are not subject to Mississippi income taxes, of at
5493 least Forty-five Thousand Dollars (\$45,000.00). The authority
5494 shall require that binding commitments be entered into requiring
5495 that:

5496 1. The minimum requirements for the project
5497 provided for in this subparagraph shall be met; and



5498 2. That if such commitments are not met, all
5499 or a portion of the funds provided by the state for the project as
5500 determined by the authority shall be repaid.

5501 (xxv) Any enterprise owning or operating a
5502 facility for the manufacture of composite components for the
5503 aerospace industry which will have an investment from private
5504 sources of not less than One Hundred Seventy-five Million Dollars
5505 (\$175,000,000.00) by not later than December 31, 2015, and which
5506 will result in the full-time employment at the project site of not
5507 less than two hundred seventy-five (275) persons by December 31,
5508 2011, and not less than four hundred twenty-five (425) persons by
5509 December 31, 2013, and not less than eight hundred (800) persons
5510 by December 31, 2017, all with an average annual compensation,
5511 excluding benefits which are not subject to Mississippi income
5512 taxes, of at least Fifty-three Thousand Dollars (\$53,000.00). The
5513 authority shall require that binding commitments be entered into
5514 requiring that:

5515 1. The minimum requirements for the project
5516 provided for in this subparagraph shall be met; and

5517 2. That if such commitments are not met, all
5518 or a portion of the funds provided by the state for the project as
5519 determined by the authority shall be repaid.

5520 (xxvi) Any enterprise owning or operating a
5521 facility for the manufacture of pipe which will have an investment
5522 from any source other than the State of Mississippi and its



5523 subdivisions of not less than Three Hundred Million Dollars
5524 (\$300,000,000.00) by not later than December 31, 2015, and which
5525 will create at least five hundred (500) new full-time jobs within
5526 five (5) years after the start of commercial production and
5527 maintain such jobs for at least ten (10) years, all with an
5528 average annual compensation, excluding benefits which are not
5529 subject to Mississippi income taxes, of at least Thirty-two
5530 Thousand Dollars (\$32,000.00). The authority shall require that
5531 binding commitments be entered into requiring that:

5532 1. The minimum requirements for the project
5533 provided for in this subparagraph shall be met; and

5534 2. That if such commitments are not met, all
5535 or a portion of the funds provided by the state for the project as
5536 determined by the authority shall be repaid.

5537 (xxvii) Any enterprise owning or operating a
5538 facility for the manufacture of solar panels which will have an
5539 investment from any source other than the State of Mississippi and
5540 its subdivisions of not less than One Hundred Thirty-two Million
5541 Dollars (\$132,000,000.00) by not later than December 31, 2015, and
5542 which will create at least five hundred (500) new full-time jobs
5543 within five (5) years after the start of commercial production and
5544 maintain such jobs for at least ten (10) years, all with an
5545 average annual compensation, excluding benefits which are not
5546 subject to Mississippi income taxes, of at least Thirty-four



5547 Thousand Dollars (\$34,000.00). The authority shall require that
5548 binding commitments be entered into requiring that:

5549 1. The minimum requirements for the project
5550 provided for in this subparagraph shall be met; and

5551 2. That if such commitments are not met, all
5552 or a portion of the funds provided by the state for the project as
5553 determined by the authority shall be repaid.

5554 (xxviii) 1. Any enterprise owning or operating an
5555 automotive parts manufacturing plant and its affiliates for which
5556 construction begins after June 1, 2013, and not later than June
5557 30, 2014, with an initial capital investment of not less than
5558 Three Hundred Million Dollars (\$300,000,000.00) which will create
5559 at least five hundred (500) new full-time jobs meeting criteria
5560 established by the authority, which criteria shall include, but
5561 not be limited to, the requirement that such jobs must be held by
5562 persons eligible for employment in the United States under
5563 applicable state and federal law, and the requirement that the
5564 average annual wages and taxable benefits of such jobs shall be at
5565 least one hundred ten percent (110%) of the most recently
5566 published average annual wage of the state or the most recently
5567 published average annual wage of the county in which the project
5568 is located as determined by the Mississippi Department of
5569 Employment Security, whichever is the lesser. The authority shall
5570 require that binding commitments be entered into requiring that:



5571 a. The minimum requirements for the
5572 project provided for in this subparagraph shall be met; and
5573 b. That if such commitments are not met,
5574 all or a portion of the funds provided by the state for the
5575 project as determined by the authority shall be repaid.

5576 2. It is anticipated that the project defined
5577 in this subparagraph (xxviii) will expand in three (3) additional
5578 phases, will create an additional five hundred (500) full-time
5579 jobs meeting the above criteria in each phase, and will invest an
5580 additional Three Hundred Million Dollars (\$300,000,000.00) per
5581 phase.

5582 (xxix) Any enterprise engaged in the manufacture
5583 of tires or other related rubber or automotive products for which
5584 construction of a plant begins after January 1, 2016, and is
5585 substantially completed no later than December 31, 2022, and for
5586 which such enterprise commits to an aggregate capital investment
5587 by such enterprise and its affiliates of not less than One Billion
5588 Four Hundred Fifty Million Dollars (\$1,450,000,000.00) and the
5589 creation thereby of at least two thousand five hundred (2,500) new
5590 full-time jobs meeting criteria established by the authority,
5591 which criteria shall include, but not be limited to, the
5592 requirement that such jobs must be held by persons eligible for
5593 employment in the United States under applicable state and federal
5594 law, and the requirement that the average annual salary or wage,
5595 excluding the value of any benefits which are not subject to



5596 Mississippi income tax, of such jobs shall be at least Forty
5597 Thousand Dollars (\$40,000.00). The authority shall require that
5598 binding commitments be entered into requiring that:

5599 1. Minimum requirements for investment and
5600 jobs for the project shall be met; and

5601 2. If such requirements are not met, all or a
5602 portion of the funds provided by the state for the project may, as
5603 determined by the authority, be subject to repayment by such
5604 enterprise and/or its affiliates, together with any penalties or
5605 damages required by the authority in connection therewith.

5606 (xxx) Any enterprise owning or operating a
5607 maritime fabrication and assembly facility for which construction
5608 begins after February 1, 2016, and concludes not later than
5609 December 31, 2018, with an initial capital investment in land,
5610 buildings and equipment not less than Sixty-eight Million Dollars
5611 (\$68,000,000.00) and will create not less than one thousand
5612 (1,000) new full-time jobs meeting criteria established by the
5613 authority, which criteria shall include, but not be limited to,
5614 the requirement that such jobs must be held by persons eligible
5615 for employment in the United States under applicable state and
5616 federal law, and the requirement that the average annual
5617 compensation, excluding benefits which are not subject to
5618 Mississippi income taxes, of at least Forty Thousand Dollars
5619 (\$40,000.00). The authority shall require that binding
5620 commitments be entered into requiring that:



5621 1. The minimum requirements for the project
5622 provided for in this subparagraph shall be met; and

5623 2. If such commitments are not met, all or a
5624 portion of the funds provided by the state for the project may, as
5625 determined by the authority, be subject to repayment by such
5626 enterprise, together with any penalties or damages required by the
5627 authority in connection therewith.

5628 (xxxi) Each of the projects defined in this
5629 paragraph (f)(xxxi)1 and 2 that are undertaken by affiliated
5630 enterprises, together with any or all of the projects defined in
5631 this paragraph (f)(xxxi)3 and/or 4 if they are undertaken by the
5632 same or other enterprises affiliated with those enterprises that
5633 undertake projects defined in this paragraph (f)(xxxi)1 and 2:

5634 1. An enterprise engaged in the manufacturing
5635 and production of recycled flat-rolled aluminum or related
5636 products for which construction of recycled aluminum flat-rolled
5637 mill begins after January 1, 2023, and is substantially completed
5638 no later than December 31, 2026; and

5639 2. An enterprise engaged in the manufacturing
5640 and production of biocarbon from biomass for which construction of
5641 the biocarbon manufacturing facility begins after December 1,
5642 2022, and is substantially completed no later than December 31,
5643 2026; provided that such series of projects may additionally, but
5644 shall not be required to, include:



5645 3. Any other affiliated enterprise that
5646 undertakes the development and operation of a new industrial or
5647 commercial facility in the state, excluding any area or areas
5648 designated by the authority in a written agreement between such
5649 enterprise or any affiliate thereof, for which the construction of
5650 any such facility begins after January 1, 2023, and is
5651 substantially completed no later than December 31, 2029; and/or

5652 4. An enterprise engaged in the development
5653 and operation of port activities (e.g., the loading and unloading
5654 of barges, rail cars and trucks, the storage and handling of
5655 materials, and other port-related operations) in support of all or
5656 any of the enterprises enumerated in this paragraph (f)(xxxi)1, 2
5657 and 3, or otherwise in support of an existing electric arc furnace
5658 steel mill producing flat-rolled steel and related products; and
5659 for which the parent enterprise of such affiliated enterprises
5660 enumerated in this paragraph (f)(xxxi)1, 2, 3 and/or 4 commits to
5661 an aggregate, collective capital investment by one or more or any
5662 combination of such enterprises and their affiliates, as well as
5663 by any co-located customers, of not less than Two Billion Five
5664 Hundred Million Dollars (\$2,500,000,000.00) and the creation
5665 thereby of at least one thousand (1,000) new full-time jobs
5666 meeting criteria established by the authority, which criteria
5667 shall include, but not be limited to, the requirement that such
5668 jobs must be held by persons eligible for employment in the United
5669 States under applicable state and federal law, and the requirement



5670 that the average annual salary or wage, excluding the value of any
5671 benefits which are not subject to Mississippi income tax, of such
5672 jobs shall be at least Ninety-three Thousand Dollars (\$93,000.00).
5673 The authority shall require that binding commitments be entered
5674 into requiring that:

5675 a. Minimum requirements for investment
5676 and jobs for such affiliated projects shall be met; and

5677 b. If such requirements are not
5678 collectively met, all or a portion of the funds provided by the
5679 state for such affiliated projects may, as determined by the
5680 authority, be subject to repayment by such enterprises and/or
5681 their affiliates, together with any penalties or damages required
5682 by the authority in connection therewith.

5683 For purposes of this paragraph (f)(xxxi), A. a co-located
5684 customer shall mean a person who locates and operates any new
5685 manufacturing, processing, warehousing and/or distribution
5686 facility within the project area for the project defined in this
5687 paragraph (f)(xxxi)1 and utilizes, directly or indirectly, in its
5688 operations any aluminum or related products produced by such
5689 project, and B. an affiliated enterprise or an affiliate means a
5690 related business entity which shares a common direct or indirect
5691 ownership with the enterprise owning or operating a project as
5692 defined in this paragraph (f)(xxxi)1, 2, 3 or 4. References in
5693 the act to a project, as defined by this paragraph (f)(xxxi) shall



5694 mean any one of, any combination or all of the projects as defined
5695 in this paragraph (f) (xxxi)1, 2, 3 or 4.

5696 (g) (i) "Project area" means the project site,
5697 together with any area or territory within the state lying within
5698 sixty-five (65) miles of any portion of the project site whether
5699 or not such area or territory be contiguous; however, for the
5700 project defined in paragraph (f) (iv) of this section the term
5701 "project area" means any area or territory within the state. The
5702 project area shall also include all territory within a county if
5703 any portion of such county lies within sixty-five (65) miles of
5704 any portion of the project site. "Project site" means the real
5705 property on which the principal facilities of the enterprise will
5706 operate. The provisions of this subparagraph (i) shall not apply
5707 to a project as defined in paragraph (f) (xxi) of this section.

5708 (ii) For the purposes of a project as defined in
5709 paragraph (f) (xxi) of this section, the term "project area" means
5710 the acreage authorized in the certificate of convenience and
5711 necessity issued by the Mississippi Development Authority to a
5712 regional economic development alliance under Section 57-64-1 et
5713 seq.

5714 (iii) For the purposes of a project as defined in
5715 paragraph (f) (xxxi)1 of this section, the term "project area"
5716 means the acreage specified by the authority in written agreement
5717 with the enterprise undertaking such project and/or an affiliate
5718 thereof.



5719 (h) "Public agency" means:

5720 (i) Any department, board, commission, institution

5721 or other agency or instrumentality of the state;

5722 (ii) Any city, town, county, political

5723 subdivision, school district or other district created or existing

5724 under the laws of the state or any public agency of any such city,

5725 town, county, political subdivision or district or any other

5726 public entity created or existing under local and private

5727 legislation;

5728 (iii) Any department, commission, agency or

5729 instrumentality of the United States of America; and

5730 (iv) Any other state of the United States of

5731 America which may be cooperating with respect to location of the

5732 project within the state, or any agency thereof.

5733 (i) "State" means State of Mississippi.

5734 (j) "Fee-in-lieu" means a negotiated fee to be paid by

5735 the project in lieu of any franchise taxes imposed on the project

5736 by Chapter 13, Title 27, Mississippi Code of 1972. The

5737 fee-in-lieu shall not be less than Twenty-five Thousand Dollars

5738 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an

5739 enterprise operating an existing project defined in paragraph

5740 (f)(iv)¹ of this section; however, a fee-in-lieu shall not be

5741 negotiated for other existing enterprises that fall within the

5742 definition of the term "project."



5743 (k) (i) "Affiliate" means a subsidiary or related
5744 business entity which shares a common direct or indirect ownership
5745 with the enterprise owning or operating a project as defined in
5746 paragraph (f)(xxi), paragraph (f)(xxviii) or paragraph (f)(xxix)
5747 of this section. The subsidiary or related business must provide
5748 services directly related to the core activities of the project.

5749 (ii) For the purposes of a project as defined in
5750 paragraph (f)(xxxi) of this section, an "affiliated enterprise" or
5751 an "affiliate" means a related business entity which shares a
5752 common direct or indirect ownership with the enterprise owning or
5753 operating a project as defined in paragraph (f)(xxxi)1, 2, 3 or 4
5754 of this section.

5755 (l) "Tier One supplier" means a supplier of a project
5756 as defined in paragraph (f)(xxi) of this section that is certified
5757 by the enterprise owning the project and creates a minimum of
5758 fifty (50) new full-time jobs.

5759 **SECTION 58.** Section 57-80-7, Mississippi Code of 1972, is
5760 reenacted as follows:

5761 57-80-7. (1) From and after December 31, 2000, the
5762 following counties may apply to the MDA for the issuance of a
5763 certificate of public convenience and necessity:

5764 (a) Any county of this state which has an annualized
5765 unemployment rate that is at least two hundred percent (200%) of
5766 the state's unemployment rate as of December 31 of any year after



5767 December 31, 2000, as determined by the Mississippi Department of
5768 Employment Security's most recently published data;

5769 (b) Any county of this state in which thirty percent
5770 (30%) or more of the population of the county is at or below the
5771 federal poverty level according to the official data compiled by
5772 the United States Census Bureau as of August 30, 2000, for
5773 counties that apply before December 31, 2002, or the most recent
5774 official data compiled by the United States Census Bureau for
5775 counties that apply from and after December 31, 2002; or

5776 (c) Any county of this state having an eligible
5777 supervisors district.

5778 (2) The application, at a minimum, must contain (a) the
5779 Mississippi Department of Employment Security's most recently
5780 published figures that reflect the annualized unemployment rate of
5781 the applying county as of December 31 or the most recent official
5782 data by the United States Census Bureau required by subsection (1)
5783 of this section, as the case may be, and (b) an order or
5784 resolution of the county consenting to the designation of the
5785 county as a growth and prosperity county.

5786 (3) Any municipality of a designated growth and prosperity
5787 county or within an eligible supervisors district and not more
5788 than eight (8) miles from the boundary of the county that meets
5789 the criteria of subsection (1)(b) of this section may by order or
5790 resolution of the municipality consent to participation in the
5791 Growth and Prosperity Program.



5792 (4) No incentive or tax exemption shall be given under this
5793 chapter without the consent of the affected county or
5794 municipality.

5795 **SECTION 59.** Section 69-2-5, Mississippi Code of 1972, is
5796 reenacted as follows:

5797 69-2-5. (1) The Mississippi Cooperative Extension Service
5798 shall act as a clearinghouse for the dissemination of information
5799 regarding programs and services which may be available to help
5800 those persons and businesses which have been adversely affected by
5801 the present emergency in the agricultural community. The
5802 Cooperative Extension Service shall develop a plan of assistance
5803 which shall identify all programs and services available within
5804 the state which can be of assistance to those affected by the
5805 present emergency. The Department of Agriculture and Commerce,
5806 Department of Finance and Administration, Department of Human
5807 Services, Department of Mental Health, State Department of Health,
5808 Board of Trustees of State Institutions of Higher Learning,
5809 Mississippi Community College Board, Research and Development
5810 Center, Mississippi Development Authority, Department of
5811 Employment Security, Office of the Governor, Board of Vocational
5812 and Technical Education, Mississippi Authority for Educational
5813 Television, and other agencies of the state which have programs
5814 and services that can be of assistance to those affected by the
5815 present emergency, shall provide information regarding their
5816 programs and services to the Cooperative Extension Service for use



5817 in the clearinghouse. The types of programs and services shall
5818 include, but not be limited to, financial counseling, farm and
5819 small business management, employment services, labor market
5820 information, job retraining, vocational and technical training,
5821 food stamp programs, personal counseling, health services, and
5822 free or low cost legal services. The clearinghouse shall provide
5823 a single contact point to provide program information and referral
5824 services to individuals interested or needing services from
5825 state-funded assistance programs affecting agriculture,
5826 horticulture, aquaculture and other agribusinesses or related
5827 industries. Such assistance information shall identify all monies
5828 available under the Small Business Financing Act, the Business
5829 Investment Act, the Emerging Crops Fund legislation and any other
5830 sources which may be used singularly or combined, to provide a
5831 comprehensive financing package. The provisions of this section
5832 in establishing a single contact point for information and
5833 referral services shall not be construed to authorize the hiring
5834 of additional personnel.

5835 (2) The Cooperative Extension Service may accept monetary or
5836 in-kind contributions, gifts and grants for the establishment or
5837 operation of the clearinghouse.

5838 (3) The Cooperative Extension Service shall establish a
5839 method for the dissemination of information to those who can be
5840 benefited by the existing programs and services of the state.



5841 (4) The Cooperative Extension Service shall file an annual
5842 report with the Governor, Lieutenant Governor and Speaker of the
5843 House of Representatives regarding the efforts which have been
5844 made in the clearinghouse operation. The report shall also
5845 recommend any additional measures, including legislation, which
5846 may be needed or desired in providing programs and benefits to
5847 those affected by the agricultural emergency.

5848 **SECTION 60.** Section 60, Chapter 572, Laws of 2004, as
5849 amended by Section 58, Chapter 30, Laws of the First Extraordinary
5850 Session of 2008, as amended by Section 58, Chapter 559, Laws of
5851 2010 Regular Session, as amended by Section 59, Chapter 471, Laws
5852 of 2011, as amended by Section 58, Chapter 515, Laws of 2012, as
5853 amended by Section 58, Chapter 451, Laws of 2019, as amended by
5854 Section 7, Chapter 476, Laws of 2020, is amended as follows:

5855 **SECTION 60.** Sections 8 through 59 of this act shall stand
5856 repealed on July 1, * * * 2026.

5857 **SECTION 61.** This act shall take effect and be in force from
5858 and after July 1, 2023.

