

By: Representative Lamar

To: Ways and Means

HOUSE BILL NO. 1156

1 AN ACT TO REENACT SECTIONS 71-5-5, 71-5-11 AND 71-5-19,
2 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE MISSISSIPPI
3 EMPLOYMENT SECURITY LAW; TO REENACT SECTIONS 71-5-101 AND 71-5-107
4 THROUGH 71-5-143, MISSISSIPPI CODE OF 1972, WHICH TRANSFER THE
5 POWERS AND RESPONSIBILITIES OF THE MISSISSIPPI EMPLOYMENT SECURITY
6 COMMISSION TO THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY IN
7 THE OFFICE OF THE GOVERNOR AND PRESCRIBE THE DEPARTMENT'S POWERS
8 AND DUTIES; TO REENACT SECTION 71-5-201, MISSISSIPPI CODE OF 1972,
9 WHICH ESTABLISHES THE MISSISSIPPI STATE EMPLOYMENT SERVICE WITHIN
10 THE DEPARTMENT OF EMPLOYMENT SECURITY; TO REENACT SECTIONS
11 71-5-357 AND 71-5-359, MISSISSIPPI CODE OF 1972, WHICH PRESCRIBE
12 REGULATIONS GOVERNING NONPROFIT ORGANIZATIONS, STATE AGENCIES AND
13 POLITICAL SUBDIVISIONS UNDER THE EMPLOYMENT SECURITY LAW; TO
14 REENACT SECTIONS 71-5-451 AND 71-5-457, MISSISSIPPI CODE OF 1972,
15 WHICH RELATE TO THE UNEMPLOYMENT COMPENSATION FUND AND THE
16 UNEMPLOYMENT TRUST FUND; TO REENACT SECTIONS 71-5-511, 71-5-513,
17 71-5-517, 71-5-519, 71-5-523, 71-5-525, 71-5-529, 71-5-531 AND
18 71-5-541, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE PAYMENT
19 OF UNEMPLOYMENT COMPENSATION BENEFITS; TO REENACT SECTION
20 73-30-25, MISSISSIPPI CODE OF 1972, WHICH EXCLUDES CERTAIN
21 PROFESSIONALS FROM REGULATION UNDER THE LAWS GOVERNING LICENSED
22 PROFESSIONAL COUNSELORS; TO REENACT SECTION 7-1-355, MISSISSIPPI
23 CODE OF 1972, WHICH REQUIRES THE DEPARTMENT OF EMPLOYMENT
24 SECURITY, OFFICE OF THE GOVERNOR, TO MAKE AN ANNUAL REPORT TO THE
25 LEGISLATURE ON WORKFORCE INVESTMENT ACTIVITIES; TO REENACT SECTION
26 43-1-30, MISSISSIPPI CODE OF 1972, WHICH CREATES THE MISSISSIPPI
27 TANF IMPLEMENTATION COUNCIL AND PRESCRIBES ITS POWERS AND DUTIES;
28 TO REENACT SECTION 43-17-5, MISSISSIPPI CODE OF 1972, WHICH
29 PRESCRIBES THE AMOUNT OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES
30 (TANF) BENEFITS WHICH MAY BE GRANTED TO RECIPIENTS; TO REENACT
31 SECTION 43-19-45, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE
32 CHILD SUPPORT UNIT ESTABLISHED BY THE DEPARTMENT OF HUMAN SERVICES
33 TO ESTABLISH A STATE PARENT LOCATOR SERVICE; TO REENACT SECTION
34 43-19-46, MISSISSIPPI CODE OF 1972, WHICH REQUIRES EMPLOYERS TO



35 SUBMIT CERTAIN INFORMATION RELATING TO NEWLY HIRED EMPLOYEES TO
36 THE DIRECTORY OF NEW HIRES WITHIN THE DEPARTMENT OF HUMAN
37 SERVICES; TO REENACT SECTIONS 57-62-5 AND 57-62-9, MISSISSIPPI
38 CODE OF 1972, WHICH RELATE TO THE MISSISSIPPI ADVANTAGE JOBS ACT;
39 TO REENACT SECTION 57-75-5, MISSISSIPPI CODE OF 1972, WHICH
40 DEFINES CERTAIN TERMS USED UNDER THE MISSISSIPPI MAJOR ECONOMIC
41 IMPACT ACT; TO REENACT SECTION 57-80-7, MISSISSIPPI CODE OF 1972,
42 WHICH RELATES TO THE GROWTH AND PROSPERITY ACT; TO REENACT SECTION
43 69-2-5, MISSISSIPPI CODE OF 1972, WHICH PRESCRIBES CERTAIN DUTIES
44 OF THE MISSISSIPPI COOPERATIVE EXTENSION SERVICE RELATING TO THE
45 DISSEMINATION OF INFORMATION TO THE AGRICULTURAL COMMUNITY; TO
46 AMEND SECTION 60, CHAPTER 572, LAWS OF 2004, AS LAST AMENDED BY
47 SECTION 7, CHAPTER 476, LAWS OF 2020, TO EXTEND THE DATE OF THE
48 REPEALER ON THE PRECEDING STATUTES, EXCLUDING SECTIONS 37-153-1
49 THROUGH 37-153-15, MISSISSIPPI CODE OF 1972, WHICH ARE REENACTED
50 BY THIS ACT; AND FOR RELATED PURPOSES.

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

52 **SECTION 1.** Section 71-5-5, Mississippi Code of 1972, is
53 reenacted as follows:

54 71-5-5. The Legislature finds and declares that the
55 existence and continued operation of a federal tax upon employers,
56 against which some portion of the contributions required under
57 this chapter may be credited, will protect Mississippi employers
58 from undue disadvantages in their competition with employers in
59 other states. If at any time, upon a formal complaint to the
60 Governor, he shall find that Title IX of the Social Security Act
61 has been amended or repealed by Congress or has been held
62 unconstitutional by the Supreme Court of the United States, and
63 that, as a result thereof, the provisions of this chapter
64 requiring Mississippi employers to pay contributions will subject
65 them to a serious competitive disadvantage in relation to
66 employers in other states, he shall publish such findings and
67 proclaim that the operation of the provisions of this chapter



68 requiring the payment of contributions and benefits shall be
69 suspended for a period of not more than six (6) months. The
70 Department of Employment Security shall thereupon requisition from
71 the Unemployment Trust Fund all monies therein standing to its
72 credit, and shall deposit such monies, together with any other
73 monies in the Unemployment Compensation Fund, as a special fund in
74 any banks or public depositories in this state in which general
75 funds of the state may be deposited.

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

78 If within the aforesaid six-month period the Governor shall
79 find that other federal legislation has been enacted which avoids
80 the competitive disadvantage herein described, he shall forthwith
81 publicly so proclaim, and upon the date of such proclamation, the
82 provisions of this chapter requiring the payment of contributions
83 and benefits shall again become fully operative as of the date of
84 such suspension with the same effect as if such suspension had not
85 occurred. If within such six-month period no such other federal
86 legislation is enacted or the Legislature of this state has not
87 otherwise prescribed, the Department of Employment Security shall,
88 under regulations prescribed by it, refund, without interest, to
89 each employer by whom contributions have been paid his pro rata
90 share of the total contributions paid under this chapter. Any
91 interest or earnings of the fund shall be available to the
92 Department of Employment Security to pay for the costs of making



93 such refunds. When the Department of Employment Security shall
94 have executed the duties herein prescribed and performed such
95 other acts as are incidental to the termination of its duties
96 under this chapter, the Governor shall, by public proclamation,
97 declare that the provisions of this chapter, in their entirety,
98 shall cease to be operative.

99 **SECTION 2.** Section 71-5-11, Mississippi Code of 1972, is
100 reenacted as follows:

101 71-5-11. As used in this chapter, unless the context clearly
102 requires otherwise:

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

106 B. "Benefit year" with respect to any individual means the
107 period beginning with the first day of the first week with respect
108 to which he or she first files a valid claim for benefits, and
109 ending with the day preceding the same day of the same month in
110 the next calendar year; and, thereafter, the period beginning with
111 the first day of the first week with respect to which he or she
112 next files his or her valid claim for benefits, and ending with
113 the day preceding the same day of the same month in the next
114 calendar year. Any claim for benefits made in accordance with
115 Section 71-5-515 shall be deemed to be a "valid claim" for
116 purposes of this subsection if the individual has been paid the
117 wages for insured work required under Section 71-5-511(e).



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

120 D. "Calendar quarter" means the period of three (3)
121 consecutive calendar months ending on March 31, June 30, September
122 30, or December 31.

123 E. "Department" or "commission" means the Mississippi
124 Department of Employment Security, Office of the Governor.

125 F. "Executive director" means the Executive Director of the
126 Mississippi Department of Employment Security, Office of the
127 Governor, appointed under Section 71-5-107.

128 G. "Employing unit" means this state or another state or any
129 instrumentalities or any political subdivisions thereof or any of
130 their instrumentalities or any instrumentality of more than one
131 (1) of the foregoing or any instrumentality of any of the
132 foregoing and one or more other states or political subdivisions,
133 any Indian tribe as defined in Section 3306(u) of the Federal
134 Unemployment Tax Act (FUTA), which includes any subdivision,
135 subsidiary or business enterprise wholly owned by such Indian
136 tribe, any individual or type of organization, including any
137 partnership, association, trust, estate, joint-stock company,
138 insurance company, or corporation, whether domestic or foreign, or
139 the receiver, trustee in bankruptcy, trustee or successor thereof,
140 or the legal representative of a deceased person, which has or had
141 in its employ one or more individuals performing services for it
142 within this state. All individuals performing services within



143 this state for any employing unit which maintains two (2) or more
144 separate establishments within this state shall be deemed to be
145 employed by a single employing unit for all the purposes of this
146 chapter. Each individual employed to perform or to assist in
147 performing the work of any agent or employee of an employing unit
148 shall be deemed to be employed by such employing unit for all
149 purposes of this chapter, whether such individual was hired or
150 paid directly by such employing unit or by such agent or employee,
151 provided the employing unit had actual or constructive knowledge
152 of the work. All individuals performing services in the employ of
153 an elected fee-paid county official, other than those related by
154 blood or marriage within the third degree computed by the rule of
155 the civil law to such fee-paid county official, shall be deemed to
156 be employed by such county as the employing unit for all the
157 purposes of this chapter. For purposes of defining an "employing
158 unit" which shall pay contributions on remuneration paid to
159 individuals, if two (2) or more related corporations concurrently
160 employ the same individual and compensate such individual through
161 a common paymaster which is one (1) of such corporations, then
162 each such corporation shall be considered to have paid as
163 remuneration to such individual only the amounts actually
164 disbursed by it to such individual and shall not be considered to
165 have paid as remuneration to such individual such amounts actually
166 disbursed to such individual by another of such corporations.

167 H. "Employer" means:



168 (1) Any employing unit which,
169 (a) In any calendar quarter in either the current
170 or preceding calendar year paid for service in employment wages of
171 One Thousand Five Hundred Dollars (\$1,500.00) or more, except as
172 provided in paragraph (9) of this subsection, or
173 (b) For some portion of a day in each of twenty
174 (20) different calendar weeks, whether or not such weeks were
175 consecutive, in either the current or the preceding calendar year
176 had in employment at least one (1) individual (irrespective of
177 whether the same individual was in employment in each such day),
178 except as provided in paragraph (9) of this subsection;
179 (2) Any employing unit for which service in employment,
180 as defined in subsection I(3) of this section, is performed;
181 (3) Any employing unit for which service in employment,
182 as defined in subsection I(4) of this section, is performed;
183 (4) (a) Any employing unit for which agricultural
184 labor, as defined in subsection I(6) of this section, is
185 performed;
186 (b) Any employing unit for which domestic service
187 in employment, as defined in subsection I(7) of this section, is
188 performed;
189 (5) Any individual or employing unit which acquired the
190 organization, trade, business, or substantially all the assets
191 thereof, of another which at the time of such acquisition was an
192 employer subject to this chapter;



193 (6) Any individual or employing unit which acquired its
194 organization, trade, business, or substantially all the assets
195 thereof, from another employing unit, if the employment record of
196 the acquiring individual or employing unit subsequent to such
197 acquisition, together with the employment record of the acquired
198 organization, trade, or business prior to such acquisition, both
199 within the same calendar year, would be sufficient to constitute
200 an employing unit as an employer subject to this chapter under
201 paragraph (1) or (3) of this subsection;

202 (7) Any employing unit which, having become an employer
203 under paragraph (1), (3), (5) or (6) of this subsection or under
204 any other provisions of this chapter, has not, under Section
205 71-5-361, ceased to be an employer subject to this chapter;

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

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

214 (b) In determining whether or not an employing
215 unit for which service other than agricultural labor is also
216 performed is an employer under paragraph (1) or (4)(b) of this
217 subsection, the wages earned or the employment of an employee



218 performing services in agricultural labor, shall not be taken into
219 account. If an employing unit is determined an employer of
220 agricultural labor, such employing unit shall be determined an
221 employer for purposes of paragraph (1) of this subsection;

222 (10) All entities utilizing the services of any
223 employee leasing firm shall be considered the employer of the
224 individuals leased from the employee leasing firm. Temporary help
225 firms shall be considered the employer of the individuals they
226 provide to perform services for other individuals or
227 organizations.

228 I. "Employment" means and includes:

229 (1) Any service performed, which was employment as
230 defined in this section and, subject to the other provisions of
231 this subsection, including service in interstate commerce,
232 performed for wages or under any contract of hire, written or
233 oral, express or implied.

234 (2) Services performed for remuneration for a
235 principal:

236 (a) As an agent-driver or commission-driver
237 engaged in distributing meat products, vegetable products, fruit
238 products, bakery products, beverages (other than milk), or laundry
239 or dry-cleaning services;

240 (b) As a traveling or city salesman, other than as
241 an agent-driver or commission-driver, engaged upon a full-time
242 basis in the solicitation on behalf of, and the transmission to, a



243 principal (except for sideline sales activities on behalf of some
244 other person) of orders from wholesalers, retailers, contractors,
245 or operator of hotels, restaurants, or other similar
246 establishments for merchandise for resale or supplies for use in
247 their business operations.

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

251 (i) The contract of service contemplates that
252 substantially all of the services are to be performed personally
253 by such individual;

254 (ii) The individual does not have a
255 substantial investment in facilities used in connection with the
256 performance of the services (other than in facilities for
257 transportation); and

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

261 (3) Service performed in the employ of this state or
262 any of its instrumentalities or any political subdivision thereof
263 or any of its instrumentalities or any instrumentality of more
264 than one (1) of the foregoing or any instrumentality of any of the
265 foregoing and one or more other states or political subdivisions
266 or any Indian tribe as defined in Section 3306(u) of the Federal
267 Unemployment Tax Act (FUTA), which includes any subdivision,



268 subsidiary or business enterprise wholly owned by such Indian
269 tribe; however, such service is excluded from "employment" as
270 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)
271 of that act and is not excluded from "employment" under paragraph
272 (5) of this subsection.

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

277 (b) The organization had four (4) or more
278 individuals in employment for some portion of a day in each of
279 twenty (20) different weeks, whether or not such weeks were
280 consecutive, within the current or preceding calendar year,
281 regardless of whether they were employed at the same moment of
282 time.

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

286 (a) In the employ of:

287 (i) A church or convention or association of
288 churches; or

289 (ii) An organization which is operated
290 primarily for religious purposes and which is operated,
291 supervised, controlled, or principally supported by a church or
292 convention or association of churches; or



293 (b) By a duly ordained, commissioned, or licensed
294 minister of a church in the exercise of his or her ministry, or by
295 a member of a religious order in the exercise of duties required
296 by such order; or

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

300 (i) As an elected official;

301 (ii) As a member of a legislative body, or a
302 member of the judiciary, of a state or political subdivision or a
303 member of an Indian tribal council;

304 (iii) As a member of the State National Guard
305 or Air National Guard;

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

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

312 1. A major nontenured policy-making or
313 advisory position, or

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



317 (d) In a facility conducted for the purpose of
318 carrying out a program of rehabilitation for individuals whose
319 earning capacity is impaired by age or physical or mental
320 deficiency or injury, or providing remunerative work for
321 individuals who because of their impaired physical or mental
322 capacity cannot be readily absorbed in the competitive labor
323 market, by an individual receiving such rehabilitation or
324 remunerative work; or

325 (e) By an inmate of a custodial or penal
326 institution; or

327 (f) As part of an unemployment work-relief or
328 work-training program assisted or financed, in whole or in part,
329 by any federal agency or agency of a state or political
330 subdivision thereof or of an Indian tribe, by an individual
331 receiving such work relief or work training, unless coverage of
332 such service is required by federal law or regulation.

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

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

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

340 (ii) For some portion of a day in each of
341 twenty (20) different calendar weeks, whether or not such weeks



342 were consecutive, in either the current or the preceding calendar
343 year, employed in agricultural labor ten (10) or more individuals,
344 regardless of whether they were employed at the same moment of
345 time.

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

350 (i) If such crew leader holds a valid
351 certificate of registration under the Farm Labor Contractor
352 Registration Act of 1963; or substantially all the members of such
353 crew operate or maintain tractors, mechanized harvesting or crop
354 dusting equipment, or any other mechanized equipment, which is
355 provided by such crew leader; and

356 (ii) If such individual is not an employee of
357 such other person within the meaning of paragraph (1) of this
358 subsection.

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

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



366 (ii) Such other person shall be treated as
367 having paid cash remuneration to such individual in an amount
368 equal to the amount of cash remuneration paid to such individual
369 by the crew leader (either on his or her own behalf or on behalf
370 of such other person) for the service in agricultural labor
371 performed for such other person.

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

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

376 (ii) Pays (either on his or her own behalf or
377 on behalf of such other person) the individuals so furnished by
378 him or her for the service in agricultural labor performed by
379 them; and

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

383 (7) The term "employment" shall include domestic
384 service in a private home, local college club or local chapter of
385 a college fraternity or sorority performed for an employing unit
386 which paid cash remuneration of One Thousand Dollars (\$1,000.00)
387 or more in any calendar quarter in the current or the preceding
388 calendar year to individuals employed in such domestic service.
389 For the purpose of this subsection, the term "employment" does not



390 apply to service performed as a "sitter" at a hospital in the
391 employ of an individual.

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

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

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

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

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

404 (9) Services not covered under paragraph (8) of this
405 subsection and performed entirely without this state, with respect
406 to no part of which contributions are required and paid under an
407 unemployment compensation law of any other state or of the federal
408 government, shall be deemed to be employment subject to this
409 chapter if the individual performing such services is a resident
410 of this state and the department approves the election of the
411 employing unit for whom such services are performed that the
412 entire service of such individual shall be deemed to be employment
413 subject to this chapter.



414 (10) Service shall be deemed to be localized within a
415 state if:

416 (a) The service is performed entirely within such
417 state; or

418 (b) The service is performed both within and
419 without such state, but the service performed without such state
420 is incidental to the individual's service within the state; for
421 example, is temporary or transitory in nature or consists of
422 isolated transactions.

423 (11) The services of an individual who is a citizen of
424 the United States, performed outside the United States (except in
425 Canada), in the employ of an American employer (other than service
426 which is deemed "employment" under the provisions of paragraph
427 (8), (9) or (10) of this subsection or the parallel provisions of
428 another state's law), if:

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

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

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

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

437 (iii) The employer is a partnership or a
438 trust and the number of the partners or trustees who are residents



439 of this state is greater than the number who are residents of any
440 one (1) other state; or

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

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

448 (i) An individual who is a resident of the
449 United States; or

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

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

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

456 (12) All services performed by an officer or member of
457 the crew of an American vessel on or in connection with such
458 vessel, if the operating office from which the operations of such
459 vessel operating on navigable waters within, or within and
460 without, the United States are ordinarily and regularly
461 supervised, managed, directed and controlled, is within this
462 state, notwithstanding the provisions of paragraph (8) of this
463 subsection.



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

471 (14) Services performed by an individual for wages
472 shall be deemed to be employment subject to this chapter unless
473 and until it is shown to the satisfaction of the department that
474 such individual has been and will continue to be free from control
475 and direction over the performance of such services both under his
476 or her contract of service and in fact; and the relationship of
477 employer and employee shall be determined in accordance with the
478 principles of the common law governing the relation of master and
479 servant.

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

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

484 (i) On a farm or in a forest in the employ of
485 any employing unit in connection with cultivating the soil, in
486 connection with cutting, planting, deadening, marking or otherwise
487 improving timber, or in connection with raising or harvesting any
488 agricultural or horticultural commodity, including the raising,



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

491 (ii) In the employ of the owner or tenant or
492 other operator of a farm, in connection with the operation,
493 management, conservation, improvement or maintenance of such farm
494 and its tools and equipment, or in salvaging timber or clearing
495 land of brush and other debris left by a hurricane, if the major
496 part of such service is performed on a farm;

497 (iii) In connection with the production or
498 harvesting of naval stores products or any commodity defined in
499 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(f),
500 or in connection with the raising or harvesting of mushrooms, or
501 in connection with the ginning of cotton, or in connection with
502 the operation or maintenance of ditches, canals, reservoirs, or
503 waterways not owned or operated for profit, used exclusively for
504 supplying and storing water for farming purposes;

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

512 (B) In the employ of a group of
513 operators of farms (or a cooperative organization of which such



514 operators are members) in the performance of service described in
515 subitem (A), but only if such operators produced more than
516 one-half (1/2) of the commodity with respect to which such service
517 is performed;

518 (C) The provisions of subitems (A) and
519 (B) shall not be deemed to be applicable with respect to service
520 performed in connection with commercial canning or commercial
521 freezing or in connection with any agricultural or horticultural
522 commodity after its delivery to a terminal market for distribution
523 for consumption;

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

526 (vi) As used in paragraph (15) (a) of this
527 subsection, the term "farm" includes stock, dairy, poultry, fruit,
528 fur-bearing animals, and truck farms, plantations, ranches,
529 nurseries, ranges, greenhouses, or other similar structures used
530 primarily for the raising of agricultural or horticultural
531 commodities, and orchards.

532 (b) Domestic service in a private home, local
533 college club, or local chapter of a college fraternity or
534 sorority, except as provided in paragraph (7) of this subsection,
535 or service performed as a "sitter" at a hospital in the employ of
536 an individual.

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



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

543 (e) Service performed in the employ of the United
544 States government or of an instrumentality wholly owned by the
545 United States; except that if the Congress of the United States
546 shall permit states to require any instrumentalities of the United
547 States to make payments into an unemployment fund under a state
548 unemployment compensation act, then to the extent permitted by
549 Congress and from and after the date as of which such permission
550 becomes effective, all of the provisions of this chapter shall be
551 applicable to such instrumentalities and to services performed by
552 employees for such instrumentalities in the same manner, to the
553 same extent, and on the same terms as to all other employers and
554 employing units. If this state should not be certified under the
555 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any
556 year, then the payment required by such instrumentality with
557 respect to such year shall be deemed to have been erroneously
558 collected and shall be refunded by the department from the fund in
559 accordance with the provisions of Section 71-5-383.

560 (f) Service performed in the employ of an
561 "employer" as defined by the Railroad Unemployment Insurance Act,
562 45 USCS Section 351(a), or as an "employee representative" as
563 defined by the Railroad Unemployment Insurance Act, 45 USCS



564 Section 351(f), and service with respect to which unemployment
565 compensation is payable under an unemployment compensation system
566 for maritime employees, or under any other unemployment
567 compensation system established by an act of Congress; however,
568 the department is authorized and directed to enter into agreements
569 with the proper agencies under such act or acts of Congress, which
570 agreements shall become effective ten (10) days after publication
571 thereof in the manner provided in Section 71-5-117 for general
572 rules, to provide reciprocal treatment to individuals who have,
573 after acquiring potential rights to benefits under this chapter,
574 acquired rights to unemployment compensation under such act or
575 acts of Congress or who have, after acquiring potential rights to
576 unemployment compensation under such act or acts of Congress,
577 acquired rights to benefits under this chapter.

578 (g) Service performed in any calendar quarter in
579 the employ of any organization exempt from income tax under the
580 Internal Revenue Code, 26 USCS Section 501(a) (other than an
581 organization described in 26 USCS Section 401(a)), or exempt from
582 income tax under 26 USCS Section 521 if the remuneration for such
583 service is less than Fifty Dollars (\$50.00).

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

586 (i) By a student who is enrolled and is
587 regularly attending classes at such school, college or university,
588 or



589 (ii) By the spouse of such a student if such
590 spouse is advised, at the time such spouse commences to perform
591 such service, that

592 (A) The employment of such spouse to
593 perform such service is provided under a program to provide
594 financial assistance to such student by such school, college, or
595 university, and

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

598 (i) Service performed by an individual under the
599 age of twenty-two (22) who is enrolled at a nonprofit or public
600 educational institution which normally maintains a regular faculty
601 and curriculum and normally has a regularly organized body of
602 students in attendance at the place where its educational
603 activities are carried on, as a student in a full-time program
604 taken for credit at such institution, which combines academic
605 instruction with work experience, if such service is an integral
606 part of such program and such institution has so certified to the
607 employer, except that this subparagraph shall not apply to service
608 performed in a program established for or on behalf of an employer
609 or group of employers.

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



613 (k) Service performed as a student nurse in the
614 employ of a hospital or a nurses' training school by an individual
615 who is enrolled and is regularly attending classes in a nurses'
616 training school chartered or approved pursuant to state law; and
617 services performed as an intern in the employ of a hospital by an
618 individual who has completed a four-year course in a medical
619 school chartered or approved pursuant to state law.

620 (l) Service performed by an individual as an
621 insurance agent or as an insurance solicitor, if all such service
622 performed by such individual is performed for remuneration solely
623 by way of commission.

624 (m) Service performed by an individual in the
625 delivery or distribution of newspapers or shopping news, not
626 including delivery or distribution to any point for subsequent
627 delivery or distribution, except those employed by political
628 subdivisions, state and local governments, nonprofit organizations
629 and Indian tribes, as defined by this chapter, or any other
630 entities for which coverage is required by federal statute and
631 regulation.

632 (n) If the services performed during one-half
633 (1/2) or more of any pay period by an employee for the employing
634 unit employing him or her constitute employment, all the services
635 of such employee for such period shall be deemed to be employment;
636 but if the services performed during more than one-half (1/2) of
637 any such pay period by an employee for the employing unit



638 employing him or her do not constitute employment, then none of
639 the services of such employee for such period shall be deemed to
640 be employment. As used in this subsection, the term "pay period"
641 means a period (of not more than thirty-one (31) consecutive days)
642 for which a payment of remuneration is ordinarily made to the
643 employee by the employing unit employing him or her.

644 (o) Service performed by a barber or beautician
645 whose work station is leased to him or her by the owner of the
646 shop in which he or she works and who is compensated directly by
647 the patrons he or she serves and who is free from direction and
648 control by the lessor.

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

650 (i) Such person is engaged in the trade or
651 business of selling (or soliciting the sale of) consumer products
652 to any buyer on a buy-sell basis, a deposit-commission basis, or
653 any similar basis which the department prescribes by regulations,
654 for resale (by the buyer or any other person) in the home or
655 otherwise than in a permanent retail establishment; or such person
656 is engaged in the trade or business of selling (or soliciting the
657 sale of) consumer products in the home or otherwise than in a
658 permanent retail establishment;

659 (ii) Substantially all the remuneration
660 (whether or not paid in cash) for the performance of the services
661 described in item (i) of this subparagraph is directly related to



662 sales or other output (including the performance of services)
663 rather than to the number of hours worked; and

664 (iii) The services performed by the person
665 are performed pursuant to a written contract between such person
666 and the person for whom the services are performed and such
667 contract provides that the person will not be treated as an
668 employee with respect to such services for federal tax purposes.

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

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

675 L. "Fund" means the Unemployment Compensation Fund
676 established by this chapter, to which all contributions required
677 and from which all benefits provided under this chapter shall be
678 paid.

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

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

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



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

689 (3) Provides an educational program for which it awards
690 a bachelor's or higher degree, or provides a program which is
691 acceptable for full credit toward such a degree, a program of
692 postgraduate or postdoctoral studies, or a program of training to
693 prepare students for gainful employment in a recognized
694 occupation;

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

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

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

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

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



712 (3) The provisions of paragraphs (1) and (2) of this
713 subsection P, as including the Virgin Islands, shall become
714 effective on the day after the day on which the United States
715 Secretary of Labor approves for the first time under Section
716 3304(a) of the Internal Revenue Code of 1954 an unemployment
717 compensation law submitted to the secretary by the Virgin Islands
718 for such approval.

719 Q. "Unemployment."

720 (1) An individual shall be deemed "unemployed" in any
721 week during which he or she performs no services and with respect
722 to which no wages are payable to him or her, or in any week of
723 less than full-time work if the wages payable to him or her with
724 respect to such week are less than his or her weekly benefit
725 amount as computed and adjusted in Section 71-5-505. This
726 definition shall exclude individuals receiving voluntary payments
727 from employers, from any source, that are in lieu of the worker's
728 regular wages. However, individuals receiving voluntary payments
729 of less than their set full weekly wage, as well as individuals
730 who do not work a specified number of hours each week resulting in
731 inconsistent weekly wages, and who are receiving voluntary
732 payments for partial wage substitution, may be considered
733 "unemployed," but would be required to report the gross amount of
734 the voluntary payments to be treated as wages so the appropriate
735 deductions to the weekly benefit amount can be made. The
736 department shall prescribe regulations applicable to unemployed



737 individuals, making such distinctions in the procedure as to total
738 unemployment, part-total unemployment, partial unemployment of
739 individuals attached to their regular jobs, and other forms of
740 short-time work, as the department deems necessary.

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

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

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

749 (b) The administrative leave is for a specified
750 period of time;

751 (c) There is no apparent permanent job separation;
752 and

753 (d) The employee has received compensation equal
754 to his or her standard compensation.

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

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



762 R. (1) "Wages" means all remuneration for personal
763 services, including commissions and bonuses and the cash value of
764 all remuneration in any medium other than cash, except that
765 "wages," for purposes of determining employer's coverage and
766 payment of contributions for agricultural and domestic service
767 means cash remuneration only. Wages shall include payments from
768 employers, from any source, and for any reason, that are in lieu
769 of the employee's regular wages. The reasonable cash value of
770 remuneration in any medium other than cash shall be estimated and
771 determined in accordance with rules prescribed by the department;
772 however, that the term "wages" shall not include:

773 (a) The amount of any payment made to, or on
774 behalf of, an employee under a plan or system established by an
775 employer which makes provision for his or her employees generally
776 or for a class or classes of his or her employees (including any
777 amount paid by an employer for insurance or annuities, or into a
778 fund, to provide for any such payment), on account of:

779 (i) Retirement, or
780 (ii) Sickness or accident disability, or
781 (iii) Medical or hospitalization expenses in
782 connection with sickness or actual disability, or

783 (iv) Death, provided the employee:

784 (A) Has not the option to receive,
785 instead of provision for such death benefit, any part of such
786 payment or, if such death benefit is insured, any part of the



787 premiums (or contributions to premiums) paid by his or her
788 employer, and

789 (B) Has not the right, under the
790 provisions of the plan or system or policy of insurance providing
791 for such death benefit, to assign such benefit or to receive a
792 cash consideration in lieu of such benefit, either upon his or her
793 withdrawal from the plan or system providing for such benefit or
794 upon termination of such plan or system or policy of insurance or
795 of his or her employment with such employer;

796 (b) Dismissal payments which the employer is not
797 legally required to make;

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

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

804 (i) Qualifies under Section 125 of the
805 Internal Revenue Code;

806 (ii) Covers only employees;

807 (iii) Covers only noncash benefits;

808 (iv) Does not include deferred compensation
809 plans.

810 (2) [Not enacted].



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

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

817 U. The term "includes" and "including," when used in a
818 definition contained in this chapter, shall not be deemed to
819 exclude other things otherwise within the meaning of the term
820 defined.

821 V. "Employee leasing arrangement" means any agreement
822 between an employee leasing firm and a client, whereby specified
823 client responsibilities such as payment of wages, reporting of
824 wages for unemployment insurance purposes, payment of unemployment
825 insurance contributions and other such administrative duties are
826 to be performed by an employee leasing firm, on an ongoing basis.

827 W. "Employee leasing firm" means any entity which provides
828 specified duties for a client company such as payment of wages,
829 reporting of wages for unemployment insurance purposes, payment of
830 unemployment insurance contributions and other administrative
831 duties, in connection with the client's employees, that are
832 directed and controlled by the client and that are providing
833 ongoing services for the client.

834 X. (1) "Temporary help firm" means an entity which hires
835 its own employees and provides those employees to other



836 individuals or organizations to perform some service, to support
837 or supplement the existing workforce in special situations such as
838 employee absences, temporary skill shortages, seasonal workloads
839 and special assignments and projects, with the expectation that
840 the worker's position will be terminated upon the completion of
841 the specified task or function.

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

844 Y. For the purposes of this chapter, the term "notice" shall
845 include any official communication, statement or other
846 correspondence required under the administration of this chapter,
847 and sent by the department through the United States Postal
848 Service or electronic or digital transfer, via modem or the
849 Internet.

850 **SECTION 3.** Section 71-5-19, Mississippi Code of 1972, is
851 reenacted as follows:

852 71-5-19. (1) Whoever makes a false statement or
853 representation knowing it to be false, or knowingly fails to
854 disclose a material fact, to obtain or increase any benefit or
855 other payment under this chapter or under an employment security
856 law of any other state, of the federal government or of a foreign
857 government, either for himself or for any other person, shall be
858 punished by a fine of not less than One Hundred Dollars (\$100.00)
859 nor more than Five Hundred Dollars (\$500.00), or by imprisonment
860 for not longer than thirty (30) days, or by both such fine and



861 imprisonment; and each such false statement or representation or
862 failure to disclose a material fact shall constitute a separate
863 offense.

864 (2) Any employing unit, any officer or agent of an employing
865 unit or any other person who makes a false statement or
866 representation knowing it to be false, or who knowingly fails to
867 disclose a material fact, to prevent or reduce the payment of
868 benefits to any individual entitled thereto, or to avoid becoming
869 or remaining subject hereto, or to avoid or reduce any
870 contribution or other payment required from any employing unit
871 under this chapter, or who willfully fails or refuses to make any
872 such contribution or other payment, or to furnish any reports
873 required hereunder or to produce or permit the inspection or
874 copying of records as required hereunder, shall be punished by a
875 fine of not less than One Hundred Dollars (\$100.00) nor more than
876 One Thousand Dollars (\$1,000.00), or by imprisonment for not
877 longer than sixty (60) days, or by both such fine and
878 imprisonment; and each such false statement, or representation, or
879 failure to disclose a material fact, and each day of such failure
880 or refusal shall constitute a separate offense. In lieu of such
881 fine and imprisonment, the employing unit or representative, or
882 both employing unit and representative, if such representative is
883 an employing unit in this state and is found to be a party to such
884 violation, shall not be eligible for a contributions rate of less
885 than five and four-tenths percent (5.4%) for the tax year in which



886 such violation is discovered by the department and for the next
887 two (2) succeeding tax years.

888 (3) Any person who shall willfully violate any provision of
889 this chapter or any other rule or regulation thereunder, the
890 violation of which is made unlawful or the observance of which is
891 required under the terms of this chapter and for which a penalty
892 is neither prescribed herein nor provided by any other applicable
893 statute, shall be punished by a fine of not less than One Hundred
894 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),
895 or by imprisonment for not longer than sixty (60) days, or by both
896 such fine and imprisonment; and each day such violation continues
897 shall be deemed to be a separate offense. In lieu of such fine
898 and imprisonment, the employing unit or representative, or both
899 employing unit and representative, if such representative is an
900 employing unit in this state and is found to be a party to such
901 violation, shall not be eligible for a contributions rate of less
902 than five and four-tenths percent (5.4%) for the tax year in which
903 the violation is discovered by the department and for the next two
904 (2) succeeding tax years.

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

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

909 (ii) While he was disqualified from receiving
910 benefits; or



911 (iii) When such person receives benefits and is
912 later found to be disqualified or ineligible for any reason,
913 including, but not limited to, a redetermination or reversal by
914 the department or the courts of a previous decision to award such
915 person benefits.

916 (b) Any person receiving an overpayment shall, in the
917 discretion of the department, be liable to have such sum deducted
918 from any future benefits payable to him under this chapter and
919 shall be liable to repay to the department for the Unemployment
920 Compensation Fund a sum equal to the overpayment amount so
921 received by him; and such sum shall be collectible in the manner
922 provided in Sections 71-5-363 through 71-5-383 for the collection
923 of past-due contributions. In addition to Sections 71-5-363
924 through 71-5-383, the following shall apply to cases involving
925 damages for overpaid unemployment benefits which have been
926 obtained and/or received through fraud as defined by department
927 regulations and laws governing the department. By definition,
928 fraud can include failure to report earnings while filing for
929 unemployment benefits. In the event of fraud, a penalty of twenty
930 percent (20%) of the amount of the overpayment shall be assessed.
931 Three-fourths (3/4) of that twenty percent (20%) penalty shall be
932 deposited into the unemployment trust fund and shall be used only
933 for the purpose of payment of unemployment benefits. The
934 remainder of that twenty percent (20%) penalty shall be deposited
935 into the Special Employment Security Administrative Fund.



936 Interest on the overpayment balance shall accrue at a rate of one
937 percent (1%) per month on the unpaid balance until repaid and
938 shall be deposited into the Special Employment Security
939 Administration Fund. All interest, penalties and damages
940 deposited into the Special Employment Security Administration Fund
941 shall be used by the department for administration of the
942 Mississippi Department of Employment Security.

943 (c) Any such judgment against such person for
944 collection of such overpayment shall be in the form of a
945 seven-year renewable lien. Unless action be brought thereon prior
946 to expiration of the lien, the department must refile the notice
947 of the lien prior to its expiration at the end of seven (7) years.
948 There shall be no limit upon the number of times the department
949 may refile notices of liens for collection of overpayments.

950 (d) All warrants issued by the department for the
951 collection of any unemployment tax or for an overpayment of
952 benefits imposed by statute and collected by the department shall
953 be used to levy on salaries, compensation or other monies due the
954 delinquent employer or claimant. No such warrant shall be issued
955 until after the delinquent employer or claimant has exhausted all
956 appeal rights associated with the debt. The warrants shall be
957 served by mail or by delivery by an agent of the department on the
958 person or entity responsible or liable for the payment of the
959 monies due the delinquent employer or claimant. Once served, the
960 employer or other person owing compensation due the delinquent



961 employer or claimant shall pay the monies over to the department
962 in complete or partial satisfaction of the liability. An answer
963 shall be made within thirty (30) days after service of the warrant
964 in the form and manner determined satisfactory by the department.
965 Failure to pay the money over to the department as required by
966 this section shall result in the served party being personally
967 liable for the full amount of the monies owed and the levy and
968 collection process may be issued against the party in the same
969 manner as other debts owed to the department. Except as otherwise
970 provided by this section, the answer, the amount payable under the
971 warrant and the obligation of the payor to continue payment shall
972 be governed by the garnishment laws of this state but shall be
973 payable to the department.

974 (5) The department, by agreement with another state or the
975 United States, as provided under Section 303(g) of the Social
976 Security Act, may recover any overpayment of benefits paid to any
977 individual under the laws of this state or of another state or
978 under an unemployment benefit program of the United States. Any
979 overpayments subject to this subsection may be deducted from any
980 future benefits payable to the individual under the laws of this
981 state or of another state or under an unemployment program of the
982 United States.

983 **SECTION 4.** Section 71-5-101, Mississippi Code of 1972, is
984 reenacted as follows:



985 71-5-101. There is established the Mississippi Department of
986 Employment Security, Office of the Governor. The Department of
987 Employment Security shall be the Mississippi Employment Security
988 Commission and shall retain all powers and duties as granted to
989 the Mississippi Employment Security Commission. Wherever the term
990 "Employment Security Commission" appears in any law, the same
991 shall mean the Mississippi Department of Employment Security,
992 Office of the Governor. The Executive Director of the Department
993 of Employment Security may assign to the appropriate offices such
994 powers and duties deemed appropriate to carry out the lawful
995 functions of the department.

996 **SECTION 5.** Section 71-5-107, Mississippi Code of 1972, is
997 reenacted as follows:

998 71-5-107. The department shall administer this chapter
999 through a full-time salaried executive director, to be appointed
1000 by the Governor, with the advice and consent of the Senate. He
1001 shall be responsible for the administration of this chapter under
1002 authority delegated to him by the Governor.

1003 **SECTION 6.** Section 71-5-109, Mississippi Code of 1972, is
1004 reenacted as follows:

1005 71-5-109. There is created a Board of Review consisting of
1006 three (3) members to be appointed by the executive director. The
1007 executive director shall designate one (1) member of the Board of
1008 Review as chairman. Each member shall be paid a salary or per
1009 diem at a rate to be determined by the executive director, and



1010 such expenses as may be allowed by the executive director. All
1011 salaries, per diem and expenses of the Board of Review shall be
1012 paid from the Employment Security Administration Fund.

1013 **SECTION 7.** Section 71-5-111, Mississippi Code of 1972, is
1014 reenacted as follows:

1015 71-5-111. There is created in the State Treasury a special
1016 fund to be known as the Employment Security Administration Fund.
1017 All monies which are deposited or paid into this fund are
1018 appropriated and made available to the department. All monies in
1019 this fund shall be expended solely for the purpose of defraying
1020 the cost of administration of this chapter, and for no other
1021 purpose whatsoever. The fund shall consist of all monies
1022 appropriated by this state and all monies received from the United
1023 States of America, or any agency thereof, or from any other source
1024 for such purpose. Notwithstanding any provision of this section,
1025 all monies requisitioned and deposited in this fund pursuant to
1026 Section 71-5-457 shall remain part of the Employment Security
1027 Administration Fund and shall be used only in accordance with the
1028 conditions specified in that section. All monies in this fund
1029 shall be deposited, administered and disbursed in the same manner
1030 and under the same conditions and requirements as is provided by
1031 law for other special funds in the State Treasury. The State
1032 Treasurer shall be liable on his official bond for the faithful
1033 performance of his duties in connection with the Employment
1034 Security Administration Fund under this chapter.



1035 **SECTION 8.** Section 71-5-112, Mississippi Code of 1972, is
1036 reenacted as follows:

1037 71-5-112. All funds received by the Mississippi Department
1038 of Employment Security shall clear through the State Treasury as
1039 provided and required by Sections 71-5-111 and 71-5-453. All
1040 expenditures from the administration fund of the department
1041 authorized by Section 71-5-111 shall be expended only pursuant to
1042 appropriation approved by the Legislature and as provided by law.

1043 **SECTION 9.** Section 71-5-113, Mississippi Code of 1972, is
1044 reenacted as follows:

1045 71-5-113. All monies received from the Social Security Board
1046 or its successors for the administration of this chapter shall be
1047 expended solely for the purposes and in the amounts found
1048 necessary by the Social Security Board or its successors for the
1049 proper and efficient administration of this chapter.

1050 It shall be the duty of the department to take appropriate
1051 action with respect to the replacement, within a reasonable time,
1052 of any monies received from the Social Security Board, or its
1053 successors, for the administration of this chapter, and monies
1054 used to match grants pursuant to the provisions of the
1055 Wagner-Peyser Act, which the board, or its successors, find,
1056 because of any action or contingency, have been lost or have been
1057 expended for purposes other than, or in amounts in excess of those
1058 found necessary by the Social Security Board, or its successors,
1059 for the proper administration of this chapter. Funds which have



1060 been expended by the department or its agents in accordance with
1061 the budget approved by the Social Security Board, or its
1062 successors, or in accordance with the general standards and
1063 limitations promulgated by the Social Security Board, or its
1064 successors, prior to such expenditure (where proposed expenditures
1065 have not been specifically disapproved by the Social Security
1066 Board, or its successors), shall not be deemed to require
1067 replacement. To effectuate the purposes of this paragraph, it
1068 shall be the duty of the department to take such action to
1069 safeguard the expenditure of the funds referred to herein as it
1070 deems necessary. In the event of a loss of such funds or an
1071 improper expenditure thereof as herein defined, it shall be the
1072 duty of the department to notify the Governor of any such loss or
1073 improper expenditure and submit to him a request for an
1074 appropriation in the amount thereof. The Governor shall transmit
1075 to the next regular session of the Legislature following such
1076 notification, the department's request for an appropriation in an
1077 amount necessary to replace funds which have been lost or
1078 improperly expended as defined above. Such request of the
1079 department for an appropriation shall not be subject to the
1080 provisions of Sections 27-103-101 through 27-103-139. The
1081 Legislature recognizes its obligation to replace such funds as may
1082 be necessary and shall make necessary appropriations in accordance
1083 with such requests.



1084 **SECTION 10.** Section 71-5-114, Mississippi Code of 1972, is
1085 reenacted as follows:

1086 71-5-114. There is created in the State Treasury a special
1087 fund, to be known as the "Special Employment Security
1088 Administration Fund," into which shall be deposited or transferred
1089 all interest, penalties and damages collected on and after July 1,
1090 1982, pursuant to Sections 71-5-363 through 71-5-379 and all
1091 interest and penalties required to be deposited into the fund
1092 pursuant to Section 71-5-19(4)(b). Interest, penalties and
1093 damages collected on delinquent payments deposited during any
1094 calendar quarter in the clearing account in the Unemployment Trust
1095 Fund shall, as soon as practicable after the close of such
1096 calendar quarter, be transferred to the Special Employment
1097 Security Administration Fund. All monies in this fund shall be
1098 deposited, administered and disbursed in the same manner and under
1099 the same conditions and requirements as is provided by law for
1100 other special funds in the State Treasury. The State Treasurer
1101 shall be liable on his official bond for the faithful performance
1102 of his duties in connection with the Special Employment Security
1103 Administration Fund under this chapter. Those monies may be
1104 expended for any programs for which the department has
1105 administrative responsibility but shall not be expended or made
1106 available for expenditure in any manner which would permit their
1107 substitution for (or permit a corresponding reduction in) federal
1108 funds which would, in the absence of those monies, be available to



1109 finance expenditures for the administration of the state
1110 unemployment compensation and employment service laws or any other
1111 laws directing the administration of any programs for which the
1112 department has the administrative responsibility. Nothing in this
1113 section shall prevent those monies in this fund from being used as
1114 a revolving fund to cover expenditures necessary and proper under
1115 the law for which federal funds have been duly requested but not
1116 yet received, subject to the charging of such expenditures against
1117 such funds when necessary. The monies in this fund may be used by
1118 the department for the payment of costs of administration of the
1119 employment security laws of this state which are found not to be
1120 or not to have been properly and validly chargeable against funds
1121 obtained from federal sources. All monies in this Special
1122 Employment Security Administration Fund shall be continuously
1123 available to the department for expenditure in accordance with the
1124 provisions of this chapter, and shall not lapse at any time. The
1125 monies in this fund are specifically made available to replace, as
1126 contemplated by Section 71-5-113, expenditures from the Employment
1127 Security Administration Fund established by Section 71-5-111,
1128 which have been found, because of any action or contingency, to
1129 have been lost or improperly expended.

1130 The department, whenever it is of the opinion that the money
1131 in the Special Employment Security Administration Fund is more
1132 than ample to pay for all foreseeable needs for which such special
1133 fund is set up, may, by written order, order the transfer



1134 therefrom to the Unemployment Compensation Fund of such amount of
1135 money in the Special Employment Security Administration Fund as it
1136 deems proper, and the same shall thereupon be immediately
1137 transferred to the Unemployment Compensation Fund.

1138 **SECTION 11.** Section 71-5-115, Mississippi Code of 1972, is
1139 reenacted as follows:

1140 71-5-115. It shall be the duty of the executive director to
1141 administer this chapter; and the executive director shall have the
1142 power and authority to adopt, amend or rescind such rules and
1143 regulations, to employ such persons, make such expenditures,
1144 require such reports, make such investigations, and take such
1145 other action as he deems necessary or suitable to that end. Such
1146 rules and regulations shall be effective upon publication in the
1147 manner, not inconsistent with the provisions of this chapter,
1148 which the executive director shall prescribe. The executive
1149 director shall determine the department's own organization and
1150 methods of procedure in accordance with the provisions of this
1151 chapter, and shall have an official seal which shall be judicially
1152 noticed. Not later than the first day of February in each year,
1153 the executive director shall submit to the Governor a report
1154 covering the administration and operation of this chapter during
1155 the preceding fiscal year and shall make such recommendations for
1156 amendments to this chapter as the executive director deems proper.
1157 Whenever the executive director believes that a change in
1158 contribution or benefit rates will become necessary to protect the



1159 solvency of the fund, he shall promptly so inform the Governor and
1160 the Legislature, and make recommendations with respect thereto.

1161 **SECTION 12.** Section 71-5-117, Mississippi Code of 1972, is
1162 reenacted as follows:

1163 71-5-117. General rules may be adopted, amended or rescinded
1164 by the executive director only after public hearing or opportunity
1165 to be heard thereon, of which proper notice has been given.
1166 General rules shall become effective ten (10) days after filing
1167 with the Secretary of State and publication in one or more
1168 newspapers of general circulation in this state. Regulations may
1169 be adopted, amended or rescinded by the executive director and
1170 shall become effective in the manner and at the time prescribed by
1171 the executive director.

1172 **SECTION 13.** Section 71-5-119, Mississippi Code of 1972, is
1173 reenacted as follows:

1174 71-5-119. The department shall cause to be available for
1175 distribution to the public the text of this chapter, its
1176 regulations and general rules, its reports to the Governor, and
1177 any other material it deems relevant and suitable, and shall
1178 furnish the same to any person upon application therefor.

1179 **SECTION 14.** Section 71-5-121, Mississippi Code of 1972, is
1180 reenacted as follows:

1181 71-5-121. Subject to other provisions of this chapter, the
1182 executive director is authorized to appoint, fix the compensation,
1183 and prescribe the duties and powers of such officers, accountants,



1184 attorneys, experts and other persons as may be necessary in the
1185 performance of department duties; however, all personnel who were
1186 former members of the Armed Forces of the United States of America
1187 shall be given credit regardless of rate, rank or commission. All
1188 positions shall be filled by persons selected and appointed on a
1189 nonpartisan merit basis, in accordance with Section 25-9-101 et
1190 seq., that provides for a state service personnel system. The
1191 executive director shall not employ any person who is an officer
1192 or committee member of any political party organization. The
1193 executive director may delegate to any such person so appointed
1194 such power and authority as he deems reasonable and proper for the
1195 effective administration of this chapter, and may in his
1196 discretion bond any person handling monies or signing checks
1197 hereunder. The veteran status of an individual shall be
1198 considered and preference given in accordance with the provisions
1199 of the State Personnel Board.

1200 The department and its employees are exempt from Sections
1201 25-15-101 and 25-15-103.

1202 The department may use federal granted funds to provide such
1203 group health, life, accident and hospitalization insurance for its
1204 employees as may be agreed upon by the department and the federal
1205 granting authorities.

1206 The department shall adopt a "layoff formula" to be used
1207 wherever it is determined that, because of reduced workload,



1208 budget reductions or in order to effect a more economical
1209 operation, a reduction in force shall occur in any group.

1210 In establishing this formula, the department shall give
1211 effect to the principle of seniority and shall provide that
1212 seniority points may be added for disabled veterans and veterans,
1213 with due regard to the efficiency of the service. Any such layoff
1214 formula shall be implemented according to the policies, rules and
1215 regulations of the State Personnel Board.

1216 **SECTION 15.** Section 71-5-123, Mississippi Code of 1972, is
1217 reenacted as follows:

1218 71-5-123. The executive director shall retain all powers and
1219 duties as granted to the state advisory council appointed by the
1220 former Employment Security Commission. The executive director may
1221 appoint local advisory councils, composed in each case of an equal
1222 number of employer representatives and employee representatives
1223 who may fairly be regarded as representative because of their
1224 vocation, employment or affiliations, and of such members
1225 representing the general public as the executive director may
1226 designate. Such councils shall aid the department in formulating
1227 policies and discussing problems related to the administration of
1228 this chapter and in assuring impartiality and freedom from
1229 political influence in the solution of such problems. Members of
1230 the advisory councils shall receive a per diem in accordance with
1231 Section 25-3-69 for attendance upon meetings of the council, and
1232 shall be reimbursed for actual and necessary traveling expenses.



1233 The per diem and expenses herein authorized shall be paid from the
1234 Employment Security Administration Fund.

1235 **SECTION 16.** Section 71-5-125, Mississippi Code of 1972, is
1236 reenacted as follows:

1237 71-5-125. The department shall take all appropriate steps to
1238 reduce and prevent unemployment; to encourage and assist in the
1239 adoption of practical methods of vocational training, retraining
1240 and vocational guidance; to investigate, recommend, advise and
1241 assist in the establishment and operation, by municipalities,
1242 counties, school districts and the state, of reserves for public
1243 works to be used in times of business depression and unemployment;
1244 to promote the reemployment of unemployed workers throughout the
1245 state in every other way that may be feasible; and to these ends
1246 to carry on and publish the results of investigation and research
1247 studies.

1248 **SECTION 17.** Section 71-5-127, Mississippi Code of 1972, is
1249 reenacted as follows:

1250 71-5-127. (1) Any information or records concerning an
1251 individual or employing unit obtained by the department pursuant
1252 to the administration of this chapter or any other federally
1253 funded programs for which the department has responsibility shall
1254 be private and confidential, except as otherwise provided in this
1255 article or by regulation. Information or records may be released
1256 by the department when the release is required by the federal



1257 government in connection with, or as a condition of funding for, a
1258 program being administered by the department.

1259 (2) Each employing unit shall keep true and accurate work
1260 records, containing such information as the department may
1261 prescribe. Such records shall be open to inspection and be
1262 subject to being copied by the department or its authorized
1263 representatives at any reasonable time and as often as may be
1264 necessary. The department, Board of Review and any referee may
1265 require from any employing unit any sworn or unsworn reports with
1266 respect to persons employed by it which they or any of them deem
1267 necessary for the effective administration of this chapter.
1268 Information, statements, transcriptions of proceedings,
1269 transcriptions of recordings, electronic recordings, letters,
1270 memoranda, and other documents and reports thus obtained or
1271 obtained from any individual pursuant to the administration of
1272 this chapter shall, except to the extent necessary for the proper
1273 administration of this chapter, be held confidential and shall not
1274 be published or be opened to public inspection (other than to
1275 public employees in the performance of their public duties) in any
1276 manner revealing the individual's or employing unit's identity.

1277 (3) Any claimant or his legal representative at a hearing
1278 before an appeal tribunal or the Board of Review shall be supplied
1279 with information from such records to the extent necessary for the
1280 proper presentation of his claim in any proceeding pursuant to
1281 this chapter.



1282 (4) Any employee or member of the Board of Review or any
1283 employee of the department who violates any provisions of this
1284 section shall be fined not less than Twenty Dollars (\$20.00) nor
1285 more than Two Hundred Dollars (\$200.00), or imprisoned for not
1286 longer than ninety (90) days, or both.

1287 (5) The department may make the state's records relating to
1288 the administration of this chapter available to the Railroad
1289 Retirement Board, and may furnish the Railroad Retirement Board,
1290 at the expense of such board, such copies thereof as the Railroad
1291 Retirement Board deems necessary for its purposes. The department
1292 may afford reasonable cooperation with every agency of the United
1293 States charged with the administration of any unemployment
1294 insurance law.

1295 **SECTION 18.** Section 71-5-129, Mississippi Code of 1972, is
1296 reenacted as follows:

1297 71-5-129. Records hereinafter designated, which are found by
1298 the department to be useless, may be disposed of in accordance
1299 with approved records control schedules.

1300 (a) Records which have been preserved by it for not
1301 less than three (3) years:

- 1302 (1) Initial claims for benefits,
1303 (2) Continued claims for benefits,
1304 (3) Correspondence and master index cards in
1305 connection with such claims for benefits, and



1306 (4) Individual wage slips filed by employers
1307 subject to the provisions of the Unemployment Compensation Law.

1308 (b) Records which have been preserved by it for not
1309 less than six (6) months after becoming inactive:

- 1310 (1) Work applications,
- 1311 (2) Cross-index cards for work applications,
- 1312 (3) Test records,
- 1313 (4) Employer records,
- 1314 (5) Work orders,
- 1315 (6) Clearance records,
- 1316 (7) Counseling records,
- 1317 (8) Farm placement records, and
- 1318 (9) Correspondence relating to all such records.

1319 Nothing herein contained shall be construed as authorizing
1320 the destruction or disposal of basic fiscal records reflecting the
1321 financial operations of the department and no records may be
1322 destroyed without the approval of the Director of the Department
1323 of Archives and History.

1324 **SECTION 19.** Section 71-5-131, Mississippi Code of 1972, is
1325 reenacted as follows:

1326 71-5-131. All letters, reports, communications, or any other
1327 matters, either oral or written, from the employer or employee to
1328 each other or to the department or any of its agents,
1329 representatives or employees, which shall have been written, sent,
1330 delivered or made in connection with the requirements and



1331 administration of this chapter shall be absolutely privileged and
1332 shall not be made the subject matter or basis of any suit for
1333 slander or libel in any court of the State of Mississippi unless
1334 the same be false in fact and maliciously written, sent, delivered
1335 or made for the purpose of causing a denial of benefits under this
1336 chapter.

1337 **SECTION 20.** Section 71-5-133, Mississippi Code of 1972, is
1338 reenacted as follows:

1339 71-5-133. In any case where an employing unit or any
1340 officer, member or agent thereof, or any other person having
1341 possession of the records thereof, shall fail or refuse upon
1342 demand by the department or its duly appointed agents to produce
1343 or permit the examination or copying of any book, paper, account,
1344 record or other data pertaining to payrolls or employment or
1345 ownership of interests or stock in any employing unit, or bearing
1346 upon the correctness of any report, or for the purpose of making a
1347 report as required by this chapter where none has been made, then
1348 and in that event the department or its duly authorized agents
1349 may, by the issuance of a subpoena, require the attendance of such
1350 employing unit or any officer, member or agent thereof, or any
1351 other person having possession of the records thereof, and take
1352 testimony with respect to any such matter and may require any such
1353 person to produce any books or records specified in such subpoena.
1354 The department or its authorized agents at any such hearing shall
1355 have power to administer oaths to any such person or persons.



1356 When any person called as a witness by a subpoena signed by the
1357 department or its agents and served upon him by the sheriff of a
1358 county of which such person is a resident, or wherein is located
1359 the principal office of such employing unit or wherein such
1360 records are located or kept, shall fail to obey such subpoena to
1361 appear before the department or its authorized agent, or shall
1362 refuse to testify or to answer any questions or to produce any
1363 book, record, paper or other data when required to do so, such
1364 failure or refusal shall be reported to the Attorney General, who
1365 shall thereupon institute proceedings by the filing of a petition
1366 in the name of the State of Mississippi, on the relation of the
1367 department, in the circuit court or other court of competent
1368 jurisdiction of the county where such witness resides, or wherein
1369 such records are located or kept, to compel the obedience of such
1370 witness. Such petition shall set forth the facts and
1371 circumstances of the demand for and refusal or failure to permit
1372 the examination or copying of such records, or the failure or
1373 refusal of such witness to testify in answer to such subpoena or
1374 to produce the records so required by such subpoena. Such court,
1375 upon the filing and docketing of such petition, shall thereupon
1376 promptly issue an order to the defendants named in the petition to
1377 produce forthwith in such court, or at a place in such county
1378 designated in such order for the examination or copying by the
1379 department or its duly appointed agents, the records, books or
1380 documents so described, and to testify concerning matters



1381 described in such petition. Unless such defendants to such
1382 petition shall appear in the court upon a day specified in such
1383 order, which day shall be not more than ten (10) days after the
1384 date of issuance of such order, and offer, under oath, good and
1385 sufficient reasons why such examination or copying should not be
1386 permitted, or why such subpoena should not be obeyed, such court
1387 shall thereupon deliver to the department or its agents, for
1388 examination or copying, the records, books and documents so
1389 described in the petition and so produced in such court, and shall
1390 order the defendants to appear in answer to the subpoena of the
1391 department or its agents, and to testify concerning matters
1392 inquired about by the department. Any employing unit or any
1393 officer, member or agent thereof, or any other person having
1394 possession of the records thereof, who shall willfully disobey
1395 such order of the court after the same shall have been served upon
1396 him shall be guilty of indirect contempt of such court from which
1397 such order shall have issued, and may be adjudged in contempt of
1398 the court and punished therefor as provided by law.

1399 **SECTION 21.** Section 71-5-135, Mississippi Code of 1972, is
1400 reenacted as follows:

1401 71-5-135. If any employing unit fails to make any report
1402 required by this chapter, the department or its authorized agents
1403 shall give notice to such employing unit to make and file such
1404 report within fifteen (15) days from the date of such notice. If
1405 such employing unit, by its proper members, officers or agents,



1406 shall fail or refuse to make and file such reports within such
1407 time, then and in that event such report shall be made by the
1408 department or its authorized agents from the best information
1409 available, and the amount of contributions due shall be computed
1410 thereon; and such report shall be prima facie correct for the
1411 purposes of this chapter.

1412 **SECTION 22.** Section 71-5-137, Mississippi Code of 1972, is
1413 reenacted as follows:

1414 71-5-137. In the discharge of the duties imposed by this
1415 chapter, the department, any referee, the members of the Board of
1416 Review, and any duly authorized representative of any of them
1417 shall have power to administer oaths and affirmations, to take
1418 depositions, certify to official acts, and issue subpoenas to
1419 compel the attendance of witnesses and the production of books,
1420 papers, correspondence, memoranda and other records deemed
1421 necessary as evidence in connection with a disputed claim or the
1422 administration of this chapter.

1423 **SECTION 23.** Section 71-5-139, Mississippi Code of 1972, is
1424 reenacted as follows:

1425 71-5-139. In case of contumacy or refusal to obey a subpoena
1426 issued to any person, any court in this state within the
1427 jurisdiction of which the inquiry is carried on, or within the
1428 jurisdiction of which the person guilty of contumacy or refusal to
1429 obey is found or resides or transacts business, upon application
1430 by the department, the Board of Review, any referee, or any duly



1431 authorized representative of any of them, shall have jurisdiction
1432 to issue to such person an order requiring such person to appear
1433 before the department, the Board of Review, any referee, or any
1434 duly authorized representative of any of them, there to produce
1435 evidence if so ordered or there to give testimony touching the
1436 matter under investigation or in question. Any failure to obey
1437 such order of the court may be punished by the court as a contempt
1438 thereof. Any person who shall, without just cause, fail or refuse
1439 to attend and testify or to answer any lawful inquiry or to
1440 produce books, papers, correspondence, memoranda and other records
1441 if it is in his power so to do, in obedience to a subpoena of the
1442 department, the Board of Review, any referee, or any duly
1443 authorized representative of any of them, shall be punished by a
1444 fine of not more than Two Hundred Dollars (\$200.00), or by
1445 imprisonment for not longer than sixty (60) days, or by both such
1446 fine and imprisonment; and each day such violation continues shall
1447 be deemed to be a separate offense.

1448 **SECTION 24.** Section 71-5-141, Mississippi Code of 1972, is
1449 reenacted as follows:

1450 71-5-141. No person shall be excused from attending and
1451 testifying or from producing books, papers, correspondence,
1452 memoranda and other records before the department, the Board of
1453 Review, any referee, or any duly authorized representative of any
1454 of them, or in obedience to the subpoena of any of them in any
1455 cause or proceeding before the department, the Board of Review or



1456 an appeal tribunal, on the ground that the testimony or evidence,
1457 documentary or otherwise, required of him may tend to incriminate
1458 him or subject him to a penalty or forfeiture; but no individual
1459 shall be prosecuted or subjected to any penalty or forfeiture for
1460 or on account of any transaction, matter or thing concerning which
1461 he is compelled, after having claimed his privilege against
1462 self-incrimination, to testify or produce evidence, documentary or
1463 otherwise, except that such individual so testifying shall not be
1464 exempt from prosecution and punishment for perjury committed in so
1465 testifying.

1466 **SECTION 25.** Section 71-5-143, Mississippi Code of 1972, is
1467 reenacted as follows:

1468 71-5-143. In the administration of this chapter, the
1469 department shall cooperate, to the fullest extent consistent with
1470 the provisions of this chapter, with the Social Security Board
1471 created by the Social Security Act, approved August 14, 1935, as
1472 amended; shall make such reports in such form and containing such
1473 information as the Social Security Board may from time to time
1474 require, and shall comply with such provisions as the Social
1475 Security Board may from time to time find necessary to assure the
1476 correctness and verification of such reports; and shall comply
1477 with the reasonable, valid and lawful regulations prescribed by
1478 the Social Security Board pursuant to and under the authority of
1479 the Social Security Act, governing the expenditures of such sums
1480 as may be allotted and paid to this state under Title III of the



1481 Social Security Act, as amended, for the purpose of assisting in
1482 the administration of this chapter.

1483 Upon request therefor, the department shall furnish to any
1484 agency of the United States charged with the administration of
1485 public works, or assistance through public employment, the name,
1486 address, ordinary occupation and employment status of each
1487 recipient of benefits, and such recipient's rights to further
1488 benefits under this chapter.

1489 **SECTION 26.** Section 71-5-201, Mississippi Code of 1972, is
1490 reenacted as follows:

1491 71-5-201. The Mississippi State Employment Service is
1492 established in the Mississippi Department of Employment Security,
1493 Office of the Governor. The department, in the conduct of such
1494 service, shall establish and maintain free public employment
1495 offices in such number and in such places as may be necessary for
1496 the proper administration of this article and for the purpose of
1497 performing such functions as are within the purview of the act of
1498 Congress entitled "An act to provide for the establishment of a
1499 national employment system and for cooperation with the states in
1500 the promotion of such system, and for other purposes" (29 USCS
1501 Section 49 et seq.). Any existing free public employment offices
1502 maintained by the state but not heretofore under the jurisdiction
1503 of the department shall be transferred to the jurisdiction of the
1504 department, and upon such transfer all duties and powers conferred
1505 upon any other department, agency or officers of this state



1506 relating to the establishment, maintenance and operation of free
1507 public employment offices shall be vested in the department. The
1508 Mississippi State Employment Service shall be administered by the
1509 department, which is charged with the duty to cooperate with any
1510 official or agency of the United States having powers or duties
1511 under the provisions of the act of Congress, as amended, and to do
1512 and perform all things necessary to secure to this state the
1513 benefits of that act of Congress, as amended, in the promotion and
1514 maintenance of a system of public employment offices. The
1515 provisions of that act of Congress, as amended, are accepted by
1516 this state, in conformity with 29 USCS Section 49c, and this state
1517 will observe and comply with the requirements thereof. The
1518 department is designated and constituted the agency of this state
1519 for the purposes of that act. The department may cooperate with
1520 or enter into agreements with the Railroad Retirement Board or
1521 veteran's organization with respect to the establishment,
1522 maintenance and use of free employment service facilities.

1523 **SECTION 27.** Section 71-5-357, Mississippi Code of 1972, is
1524 reenacted as follows:

1525 71-5-357. Benefits paid to employees of nonprofit
1526 organizations shall be financed in accordance with the provisions
1527 of this section. For the purpose of this section, a nonprofit
1528 organization is an organization (or group of organizations)
1529 described in Section 501(c)(3) of the Internal Revenue Code of



1530 1954 which is exempt from income tax under Section 501(a) of such
1531 code (26 USCS Section 501).

1532 (a) Any nonprofit organization which, under Section
1533 71-5-11, subsection H(3), is or becomes subject to this chapter
1534 shall pay contributions under the provisions of Sections 71-5-351
1535 through 71-5-355 unless it elects, in accordance with this
1536 paragraph, to pay to the department for the unemployment fund an
1537 amount equal to the amount of regular benefits and one-half (1/2)
1538 of the extended benefits paid, that is attributable to service in
1539 the employ of such nonprofit organization, to individuals for
1540 weeks of unemployment which begin during the effective period of
1541 such election.

1542 (i) Any nonprofit organization which becomes
1543 subject to this chapter may elect to become liable for payments in
1544 lieu of contributions for a period of not less than twelve (12)
1545 months, beginning with the date on which such subjectivity begins,
1546 by filing a written notice of its election with the department not
1547 later than thirty (30) days immediately following the date of the
1548 determination of such subjectivity.

1549 (ii) Any nonprofit organization which makes an
1550 election in accordance with subparagraph (i) of this paragraph
1551 will continue to be liable for payments in lieu of contributions
1552 unless it files with the department a written termination notice
1553 not later than thirty (30) days prior to the beginning of the tax
1554 year for which such termination shall first be effective.



1555 (iii) Any nonprofit organization which has been
1556 paying contributions under this chapter may change to a
1557 reimbursable basis by filing with the department, not later than
1558 thirty (30) days prior to the beginning of any tax year, a written
1559 notice of election to become liable for payments in lieu of
1560 contributions. Such election shall not be terminable by the
1561 organization for that and the next tax year.

1562 (iv) The department may for good cause extend the
1563 period within which a notice of election or a notice of
1564 termination must be filed, and may permit an election to be
1565 retroactive.

1566 (v) The department, in accordance with such
1567 regulations as it may prescribe, shall notify each nonprofit
1568 organization of any determination which it may make of its status
1569 as an employer, of the effective date of any election which it
1570 makes and of any termination of such election. Such
1571 determinations shall be subject to reconsideration, appeal and
1572 review in accordance with the provisions of Sections 71-5-351
1573 through 71-5-355.

1574 (b) Payments in lieu of contributions shall be made in
1575 accordance with the provisions of subparagraph (i) of this
1576 paragraph.

1577 (i) At the end of each calendar quarter, or at the
1578 end of any other period as determined by the department, the
1579 department shall bill each nonprofit organization (or group of



1580 such organizations) which has elected to make payments in lieu of
1581 contributions, for an amount equal to the full amount of regular
1582 benefits plus one-half (1/2) of the amount of extended benefits
1583 paid during such quarter or other prescribed period that is
1584 attributable to service in the employ of such organization.

1585 (ii) Payment of any bill rendered under
1586 subparagraph (i) of this paragraph shall be made not later than
1587 forty-five (45) days after such bill was delivered to the
1588 nonprofit organization, unless there has been an application for
1589 review and redetermination in accordance with subparagraph (v) of
1590 this paragraph.

1591 1. All of the enforcement procedures for the
1592 collection of delinquent contributions contained in Sections
1593 71-5-363 through 71-5-383 shall be applicable in all respects for
1594 the collection of delinquent payments due by nonprofit
1595 organizations who have elected to become liable for payments in
1596 lieu of contributions.

1597 2. If any nonprofit organization is
1598 delinquent in making payments in lieu of contributions, the
1599 department may terminate such organization's election to make
1600 payments in lieu of contributions as of the beginning of the next
1601 tax year, and such termination shall be effective for the balance
1602 of such tax year.

1603 (iii) Payments made by any nonprofit organization
1604 under the provisions of this paragraph shall not be deducted or



1605 deductible, in whole or in part, from the remuneration of
1606 individuals in the employ of the organization.

1607 (iv) Payments due by employers who elect to
1608 reimburse the fund in lieu of contributions as provided in this
1609 paragraph may not be noncharged under any condition. The
1610 reimbursement must be on a dollar-for-dollar basis (One Dollar
1611 (\$1.00) reimbursement for each dollar paid in benefits) in every
1612 case, so that the trust fund shall be reimbursed in full, such
1613 reimbursement to include, but not be limited to, benefits or
1614 payments erroneously or incorrectly paid, or paid as a result of a
1615 determination of eligibility which is subsequently reversed, or
1616 paid as a result of claimant fraud. However, political
1617 subdivisions who are reimbursing employers may elect to pay to the
1618 fund an amount equal to five-tenths percent (.5%) through December
1619 31, 2010, and shall pay twenty-five one-hundredths percent (.25%)
1620 thereafter of the taxable wages paid during the calendar year with
1621 respect to employment, and those employers who so elect shall be
1622 relieved of liability for reimbursement of benefits paid under the
1623 same conditions that benefits are not charged to the
1624 experience-rating record of a contributing employer as provided in
1625 Section 71-5-355(2) (b) (ii) other than Clause 5 thereof. Benefits
1626 paid in such circumstances for which reimbursing employers are
1627 relieved of liability for reimbursement shall not be considered
1628 attributable to service in the employment of such reimbursing
1629 employer.



1630 (v) The amount due specified in any bill from the
1631 department shall be conclusive on the organization unless, not
1632 later than fifteen (15) days after the bill was delivered to it,
1633 the organization files an application for redetermination by the
1634 department, setting forth the grounds for such application or
1635 appeal. The department shall promptly review and reconsider the
1636 amount due specified in the bill and shall thereafter issue a
1637 redetermination in any case in which such application for
1638 redetermination has been filed. Any such redetermination shall be
1639 conclusive on the organization unless, not later than fifteen (15)
1640 days after the redetermination was delivered to it, the
1641 organization files an appeal to the Circuit Court of the First
1642 Judicial District of Hinds County, Mississippi, in accordance with
1643 the provisions of law with respect to review of civil causes by
1644 certiorari.

1645 (vi) Past-due payments of amounts in lieu of
1646 contributions shall be subject to the same interest and penalties
1647 that, pursuant to Section 71-5-363, apply to past-due
1648 contributions.

1649 (c) Each employer that is liable for payments in lieu
1650 of contributions shall pay to the department for the fund the
1651 amount of regular benefits plus the amount of one-half (1/2) of
1652 extended benefits paid are attributable to service in the employ
1653 of such employer. If benefits paid to an individual are based on
1654 wages paid by more than one (1) employer and one or more of such



1655 employers are liable for payments in lieu of contributions, the
1656 amount payable to the fund by each employer that is liable for
1657 such payments shall be determined in accordance with the
1658 provisions of subparagraph (i) or subparagraph (ii) of this
1659 paragraph.

1660 (i) If benefits paid to an individual are based on
1661 wages paid by one or more employers that are liable for payment in
1662 lieu of contributions and on wages paid by one or more employers
1663 who are liable for contributions, the amount of benefits payable
1664 by each employer that is liable for payments in lieu of
1665 contributions shall be an amount which bears the same ratio to the
1666 total benefits paid to the individual as the total base period
1667 wages paid to the individual by such employer bear to the total
1668 base period wages paid to the individual by all of his base period
1669 employers.

1670 (ii) If benefits paid to an individual are based
1671 on wages paid by two (2) or more employers that are liable for
1672 payments in lieu of contributions, the amount of benefits payable
1673 by each such employer shall be an amount which bears the same
1674 ratio to the total benefits paid to the individual as the total
1675 base period wages paid to the individual by such employer bear to
1676 the total base period wages paid to the individual by all of his
1677 base period employers.

1678 (d) In the discretion of the department, any nonprofit
1679 organization that elects to become liable for payments in lieu of



1680 contributions shall be required to execute and file with the
1681 department a surety bond approved by the department, or it may
1682 elect instead to deposit with the department money or securities.
1683 The amount of such bond or deposit shall be determined in
1684 accordance with the provisions of this paragraph.

1685 (i) The amount of the bond or deposit required by
1686 paragraph (d) shall be equal to two and seven-tenths percent
1687 (2.7%) thereafter to December 31, 2010, and one and thirty-five
1688 one-hundredths percent (1.35%) thereafter, of the organization's
1689 taxable wages paid for employment as defined in Section 71-5-11,
1690 subsection I(4), for the four (4) calendar quarters immediately
1691 preceding the effective date of the election, the renewal date in
1692 the case of a bond, or the biennial anniversary of the effective
1693 date of election in the case of a deposit of money or securities,
1694 whichever date shall be most recent and applicable. If the
1695 nonprofit organization did not pay wages in each of such four (4)
1696 calendar quarters, the amount of the bond or deposit shall be as
1697 determined by the department.

1698 (ii) Any bond deposited under paragraph (d) shall
1699 be in force for a period of not less than two (2) tax years and
1700 shall be renewed with the approval of the department at such times
1701 as the department may prescribe, but not less frequently than at
1702 intervals of two (2) years as long as the organization continues
1703 to be liable for payments in lieu of contributions. The
1704 department shall require adjustments to be made in a previously



1705 filed bond as it deems appropriate. If the bond is to be
1706 increased, the adjusted bond shall be filed by the organization
1707 within thirty (30) days of the date notice of the required
1708 adjustment was delivered to it. Failure by any organization
1709 covered by such bond to pay the full amount of payments in lieu of
1710 contributions when due, together with any applicable interest and
1711 penalties provided in paragraph (b) (v) of this section, shall
1712 render the surety liable on the bond to the extent of the bond, as
1713 though the surety was such organization.

1714 (iii) Any deposit of money or securities in
1715 accordance with paragraph (d) shall be retained by the department
1716 in an escrow account until liability under the election is
1717 terminated, at which time it shall be returned to the
1718 organization, less any deductions as hereinafter provided. The
1719 department may deduct from the money deposited under paragraph (d)
1720 by a nonprofit organization, or sell the securities it has so
1721 deposited, to the extent necessary to satisfy any due and unpaid
1722 payments in lieu of contributions and any applicable interest and
1723 penalties provided for in paragraph (b) (v) of this section. The
1724 department shall require the organization, within thirty (30) days
1725 following any deduction from a money deposit or sale of deposited
1726 securities under the provisions hereof, to deposit sufficient
1727 additional money or securities to make whole the organization's
1728 deposit at the prior level. Any cash remaining from the sale of
1729 such securities shall be a part of the organization's escrow



1730 account. The department may, at any time, review the adequacy of
1731 the deposit made by any organization. If, as a result of such
1732 review, it determines that an adjustment is necessary, it shall
1733 require the organization to make additional deposit within thirty
1734 (30) days of notice of its determination or shall return to it
1735 such portion of the deposit as it no longer considers necessary,
1736 whichever action is appropriate. Disposition of income from
1737 securities held in escrow shall be governed by the applicable
1738 provisions of the state law.

1739 (iv) If any nonprofit organization fails to file a
1740 bond or make a deposit, or to file a bond in an increased amount,
1741 or to increase or make whole the amount of a previously made
1742 deposit as provided under this subparagraph, the department may
1743 terminate such organization's election to make payments in lieu of
1744 contributions, and such termination shall continue for not less
1745 than the four (4) consecutive calendar-quarter periods beginning
1746 with the quarter in which such termination becomes effective;
1747 however, the department may extend for good cause the applicable
1748 filing, deposit or adjustment period by not more than thirty (30)
1749 days.

1750 (v) Group account shall be established according
1751 to regulations prescribed by the department.

1752 (e) Any employer which elects to make payments in lieu
1753 of contributions into the Unemployment Compensation Fund as
1754 provided in this paragraph shall not be liable to make such



1755 payments with respect to the benefits paid to any individual whose
1756 base period wages include wages for previously uncovered services
1757 as defined in Section 71-5-511(e) to the extent that the
1758 Unemployment Compensation Fund is reimbursed for such benefits
1759 pursuant to Section 121 of Public Law 94-566.

1760 **SECTION 28.** Section 71-5-359, Mississippi Code of 1972, is
1761 reenacted as follows:

1762 71-5-359. (1) The Department of Finance and Administration
1763 shall, in the manner provided in subsection (3) of this section,
1764 pay, upon notice issued by the department, to the department for
1765 the Unemployment Compensation Fund an amount equal to the regular
1766 benefits and one-half (1/2) of the extended benefits paid that are
1767 attributable to service in the employ of a state agency. The
1768 amount required to be reimbursed by a certain agency shall be
1769 billed to the Department of Finance and Administration and shall
1770 be paid from the Employment Compensation Revolving Fund pursuant
1771 to subsection (3) of this section not later than thirty (30) days
1772 after such bill was sent, unless there has been an application for
1773 review and redetermination in accordance with Section
1774 71-5-357(b) (v) .

1775 (2) The Department of Finance and Administration shall, in
1776 the manner provided in subsection (3) of this section, pay, upon a
1777 notice issued by the department, to the department for the
1778 Unemployment Compensation Fund an amount equal to the regular
1779 benefits and the extended benefits paid that are attributable to



1780 service in the employ of a state agency. The amount required to
1781 be reimbursed by a certain agency shall be billed to the
1782 Department of Finance and Administration and shall be paid from
1783 the Employment Compensation Revolving Fund pursuant to subsection
1784 (3) of this section not later than thirty (30) days after such
1785 bill was sent, unless there has been an application for review and
1786 redetermination in accordance with Section 71-5-357(b) (v).

1787 (3) Each agency of state government shall deposit monthly
1788 for a period of twenty-four (24) months an amount equal to
1789 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand
1790 Dollars (\$6,000.00) paid to each employee thereof during the next
1791 preceding year into the Employment Compensation Revolving Fund
1792 that is created in the State Treasury. The Department of Finance
1793 and Administration shall determine the percentage to be applied to
1794 the amount of covered wages paid in order to maintain a balance in
1795 the revolving fund of not less than the amount determined by an
1796 actuary through an annual actuarial evaluation. The State
1797 Treasurer shall invest all funds in the Employment Compensation
1798 Revolving Fund and all interest earned shall be credited to the
1799 Employment Compensation Revolving Fund.

1800 The reimbursement of benefits paid by the Mississippi
1801 Department of Employment Security shall be paid by the Department
1802 of Finance and Administration from the Employment Compensation
1803 Revolving Fund upon notice from the department; and the Department
1804 of Finance and Administration shall issue warrants or may contract



1805 for the performance of the duties prescribed by subsections (2)
1806 and (3) of this section, and other duties necessarily related
1807 thereto.

1808 (4) Any political subdivision of this state shall pay to the
1809 department for the unemployment compensation fund an amount equal
1810 to the regular benefits and the extended benefits paid that are
1811 attributable to service in the employ of such political
1812 subdivision unless it elects to make contributions to the
1813 unemployment fund as provided in subsection (9) of this section.
1814 The amount required to be reimbursed shall be billed and shall be
1815 paid as provided in Section 71-5-357, with respect to similar
1816 payments for nonprofit organizations.

1817 (5) Each political subdivision, unless it elects to make
1818 contributions to the unemployment compensation fund as provided in
1819 subsection (9) of this section, shall establish a revolving fund
1820 and deposit an amount equal to two percent (2%) of the first Six
1821 Thousand Dollars (\$6,000.00) paid to each employee thereof during
1822 the next preceding year. However, the department shall by
1823 regulation establish a procedure to allow reimbursing political
1824 subdivisions to elect to maintain the balance in the revolving
1825 fund as required under this subsection or to annually execute a
1826 surety bond to be approved by the department in an amount not less
1827 than two percent (2%) of the covered wages paid during the next
1828 preceding year.



1829 (6) In the event any political subdivision becomes
1830 delinquent in payments due under this chapter, upon due notice,
1831 and upon certification of the delinquency by the department to the
1832 Department of Finance and Administration, the Department of
1833 Revenue, the Department of Environmental Quality and the
1834 Department of Insurance, or any of them, or any other agencies of
1835 the State of Mississippi that may be indebted to such delinquent
1836 political subdivision, such agencies shall direct the issuance of
1837 warrants which in the aggregate shall be the amount of such
1838 delinquency payable to the department and drawn upon any funds in
1839 the State Treasury which may be available to such political
1840 subdivision in satisfaction of any such delinquency. This remedy
1841 shall be in addition to any other collection remedies in this
1842 chapter or otherwise provided by law.

1843 (7) Payments made by any political subdivision under the
1844 provisions of this section shall not be deducted or deductible, in
1845 whole or in part, from the remuneration of individuals in the
1846 employ of the organization.

1847 (8) Any governmental entity shall not be liable to make
1848 payments to the unemployment fund with respect to the benefits
1849 paid to any individual whose base period wages include wages for
1850 previously uncovered services as defined in Section 71-5-511,
1851 subsection (e), to the extent that the Unemployment Compensation
1852 Fund is reimbursed for such benefits pursuant to Section 121 of
1853 Public Law 94-566.



1854 (9) Any political subdivision of this state may elect to
1855 make contributions to the unemployment fund instead of making
1856 reimbursement for benefits paid as provided in subsections (4) and
1857 (5) of this section. A political subdivision which makes this
1858 election shall so notify the department, not later than three (3)
1859 months after it is officially organized or is otherwise
1860 established, and shall be subject to the provisions of Section
1861 71-5-351, with regard to the payment of contributions. A
1862 political subdivision which makes this election shall pay
1863 contributions equal to two percent (2%) of taxable wages through
1864 calendar year 2010, and one percent (1%) of taxable wages
1865 thereafter paid by it during each calendar quarter it is subject
1866 to this chapter. The department shall by regulation establish a
1867 procedure to allow political subdivisions the option periodically
1868 to elect either the reimbursement or the contribution method of
1869 financing unemployment compensation coverage.

1870 **SECTION 29.** Section 71-5-451, Mississippi Code of 1972, is
1871 reenacted as follows:

1872 71-5-451. There is established as a special fund, separate
1873 and apart from all public monies or funds of this state, an
1874 Unemployment Compensation Fund, which shall be administered by the
1875 department exclusively for:

- 1876 (a) All contributions collected under this chapter;
1877 (b) Interest earned upon any monies in the fund;



1878 (c) Any property or securities acquired through the use
1879 of monies belonging to the fund;

1880 (d) All earnings of such property or securities;

1881 (e) All monies credited to this state's account in the
1882 Unemployment Trust Fund pursuant to the Social Security Act, 42
1883 USCS, Section 1104; and

1884 (f) By way of reimbursement in accordance with Section
1885 204 of the Federal-State Extended Unemployment Compensation Act of
1886 1970 (84 Stat. 711). All monies in the fund shall be mingled and
1887 undivided.

1888 **SECTION 30.** Section 71-5-457, Mississippi Code of 1972, is
1889 reenacted as follows:

1890 71-5-457. (1) Except as otherwise provided in subsection
1891 (5), money credited to the account of this state in the
1892 Unemployment Trust Fund by the Secretary of the Treasury of the
1893 United States of America pursuant to the Social Security Act, 42
1894 USCS Section 1103, may be requisitioned and used for the payment
1895 of expenses incurred for the administration of this law pursuant
1896 to a specific appropriation by the Legislature, provided that the
1897 expenses are incurred and the money is requisitioned after the
1898 enactment of an appropriation law which:

1899 (a) Specifies the purposes for which such money is
1900 appropriated and the amounts appropriated therefor;



1901 (b) Limits the period within which such money may be
1902 obligated to a period ending not more than two (2) years after the
1903 date of the enactment of the appropriation law; and

1904 (c) Limits the amount which may be obligated during a
1905 twelve-month period beginning on July 1 and ending on the next
1906 June 30 to an amount which does not exceed the amount by which:

1907 (i) The aggregate of the amounts credited to the
1908 account of this state pursuant to the Social Security Act, 42 USCS
1909 Section 1103, during the same twelve-month period and the
1910 thirty-four (34) preceding twelve-month periods exceeds.

1911 (ii) The aggregate of the amounts obligated
1912 pursuant to this section and charged against the amounts credited
1913 to the account of this state during such thirty-five (35)
1914 twelve-month periods.

1915 For the purposes of this section, amounts obligated during
1916 any such twelve-month period shall be charged against equivalent
1917 amounts which were first credited and which are not already so
1918 charged; except that no amount obligated for administration during
1919 any such twelve-month period may be charged against any amount
1920 credited during such a twelve-month period earlier than the
1921 thirty-fourth preceding such period.

1922 (2) Money credited to the account of this state pursuant to
1923 the Social Security Act, 42 USCS Section 1103, may not be
1924 withdrawn or used except for the payment of benefits and for the



1925 payment of expenses for the administration of this law and of
1926 public employment offices pursuant to this section.

1927 (3) Money appropriated as provided herein for the payment of
1928 expenses of administration shall be requisitioned as needed for
1929 the payment of obligations incurred under such appropriation and,
1930 upon requisition, shall be deposited in the Employment Security
1931 Administration Fund, from which such payments shall be made.
1932 Money so deposited shall, until expended, remain a part of the
1933 Unemployment Compensation Fund and, if it will not be expended,
1934 shall be returned promptly to the account of this state in the
1935 Unemployment Trust Fund.

1936 (4) The thirty-five-year limitation provided in this section
1937 is no longer in force, effective October 1, 1991.

1938 (5) Notwithstanding subsection (1), monies credited with
1939 respect to federal fiscal years 1999, 2000 and 2001 shall be used
1940 by the department solely for the administration of the
1941 unemployment compensation program.

1942 **SECTION 31.** Section 71-5-511, Mississippi Code of 1972, is
1943 reenacted as follows:

1944 71-5-511. An unemployed individual shall be eligible to
1945 receive benefits with respect to any week only if the department
1946 finds that:

1947 (a) (i) He has registered for work at and thereafter
1948 has continued to report to the department in accordance with such
1949 regulations as the department may prescribe; except that the



1950 department may, by regulation, waive or alter either or both of
1951 the requirements of this subparagraph as to such types of cases or
1952 situations with respect to which it finds that compliance with
1953 such requirements would be oppressive or would be inconsistent
1954 with the purposes of this chapter; and

1955 (ii) He participates in reemployment services,
1956 such as job search assistance services, if, in accordance with a
1957 profiling system established by the department, it has been
1958 determined that he is likely to exhaust regular benefits and needs
1959 reemployment services, unless the department determines that:

1960 1. The individual has completed such
1961 services; or

1962 2. There is justifiable cause for the
1963 claimant's failure to participate in such services.

1964 (b) He has made a claim for benefits in accordance with
1965 the provisions of Section 71-5-515 and in accordance with such
1966 regulations as the department may prescribe thereunder.

1967 (c) He is able to work, available for work and actively
1968 seeking work.

1969 (d) He has been unemployed for a waiting period of one
1970 (1) week. No week shall be counted as a week of unemployment for
1971 the purposes of this paragraph:

1972 (i) Unless it occurs within the benefit year which
1973 includes the week with respect to which he claims payment of
1974 benefits;



1975 (ii) If benefits have been paid with respect
1976 thereto;

1977 (iii) Unless the individual was eligible for
1978 benefits with respect thereto, as provided in Sections 71-5-511
1979 and 71-5-513, except for the requirements of this paragraph.

1980 (e) For weeks beginning on or before July 1, 1982, he
1981 has, during his base period, been paid wages for insured work
1982 equal to not less than thirty-six (36) times his weekly benefit
1983 amount; he has been paid wages for insured work during at least
1984 two (2) quarters of his base period; and he has, during that
1985 quarter of his base period in which his total wages were highest,
1986 been paid wages for insured work equal to not less than sixteen
1987 (16) times the minimum weekly benefit amount. For benefit years
1988 beginning after July 1, 1982, he has, during his base period, been
1989 paid wages for insured work equal to not less than forty (40)
1990 times his weekly benefit amount; he has been paid wages for
1991 insured work during at least two (2) quarters of his base period,
1992 and he has, during that quarter of his base period in which his
1993 total wages were highest, been paid wages for insured work equal
1994 to not less than twenty-six (26) times the minimum weekly benefit
1995 amount. For purposes of this paragraph, wages shall be counted as
1996 "wages for insured work" for benefit purposes with respect to any
1997 benefit year only if such benefit year begins subsequent to the
1998 date on which the employing unit by which such wages were paid has
1999 satisfied the conditions of Section 71-5-11, subsection H, or



2000 Section 71-5-361, subsection (3), with respect to becoming an
2001 employer.

2002 (f) No individual may receive benefits in a benefit
2003 year unless, subsequent to the beginning of the next preceding
2004 benefit year during which he received benefits, he performed
2005 service in "employment" as defined in Section 71-5-11, subsection
2006 I, and earned remuneration for such service in an amount equal to
2007 not less than eight (8) times his weekly benefit amount applicable
2008 to his next preceding benefit year.

2009 (g) Benefits based on service in employment defined in
2010 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,
2011 subsection (4) shall be payable in the same amount, on the same
2012 terms, and subject to the same conditions as compensation payable
2013 on the basis of other service subject to this chapter, except that
2014 benefits based on service in an instructional, research or
2015 principal administrative capacity in an institution of higher
2016 learning (as defined in Section 71-5-11, subsection N) with
2017 respect to service performed prior to January 1, 1978, shall not
2018 be paid to an individual for any week of unemployment which begins
2019 during the period between two (2) successive academic years, or
2020 during a similar period between two (2) regular terms, whether or
2021 not successive, or during a period of paid sabbatical leave
2022 provided for in the individual's contract, if the individual has a
2023 contract or contracts to perform services in any such capacity for



2024 any institution or institutions of higher learning for both such
2025 academic years or both such terms.

2026 (h) Benefits based on service in employment defined in
2027 Section 71-5-11, subsection I(3) and I(4), shall be payable in the
2028 same amount, on the same terms and subject to the same conditions
2029 as compensation payable on the basis of other service subject to
2030 this chapter, except that:

2031 (i) With respect to service performed in an
2032 instructional, research or principal administrative capacity for
2033 an educational institution, benefits shall not be paid based on
2034 such services for any week of unemployment commencing during the
2035 period between two (2) successive academic years, or during a
2036 similar period between two (2) regular but not successive terms,
2037 or during a period of paid sabbatical leave provided for in the
2038 individual's contract, to any individual, if such individual
2039 performs such services in the first of such academic years or
2040 terms and if there is a contract or a reasonable assurance that
2041 such individual will perform services in any such capacity for any
2042 educational institution in the second of such academic years or
2043 terms, and provided that paragraph (g) of this section shall apply
2044 with respect to such services prior to January 1, 1978. In no
2045 event shall benefits be paid unless the individual employee was
2046 terminated by the employer.

2047 (ii) With respect to services performed in any
2048 other capacity for an educational institution, benefits shall not



2049 be paid on the basis of such services to any individual for any
2050 week which commences during a period between two (2) successive
2051 academic years or terms, if such individual performs such services
2052 in the first of such academic years or terms and there is a
2053 reasonable assurance that such individual will perform such
2054 services in the second of such academic years or terms, except
2055 that if compensation is denied to any individual under this
2056 subparagraph and such individual was not offered an opportunity to
2057 perform such services for the educational institution for the
2058 second of such academic years or terms, such individual shall be
2059 entitled to a retroactive payment of compensation for each week
2060 for which the individual filed a timely claim for compensation and
2061 for which compensation was denied solely by reason of this clause.
2062 In no event shall benefits be paid unless the individual employee
2063 was terminated by the employer.

2064 (iii) With respect to services described in
2065 subparagraphs (i) and (ii) of this paragraph (h), benefits shall
2066 not be payable on the basis of services in any such capacities to
2067 any individual for any week which commences during an established
2068 and customary vacation period or holiday recess if such individual
2069 performs such services in the first of such academic years or
2070 terms, or in the period immediately before such vacation period or
2071 holiday recess, and there is a reasonable assurance that such
2072 individual will perform such services in the period immediately
2073 following such vacation period or holiday recess.



2074 (iv) With respect to any services described in
2075 subparagraphs (i) and (ii) of this paragraph (h), benefits shall
2076 not be payable on the basis of services in any such capacities as
2077 specified in subparagraphs (i), (ii) and (iii) of this paragraph
2078 (h) to any individual who performed such services in an
2079 educational institution while in the employ of an educational
2080 service agency. For purposes of this paragraph, the term
2081 "educational service agency" means a governmental agency or
2082 governmental entity which is established and operated exclusively
2083 for the purpose of providing such services to one or more
2084 educational institutions.

2085 (v) With respect to services to which Sections
2086 71-5-357 and 71-5-359 apply, if such services are provided to or
2087 on behalf of an educational institution, benefits shall not be
2088 payable under the same circumstances and subject to the same terms
2089 and conditions as described in subparagraphs (i), (ii), (iii) and
2090 (iv) of this paragraph (h).

2091 (i) Subsequent to December 31, 1977, benefits shall not
2092 be paid to any individual on the basis of any services
2093 substantially all of which consist of participating in sports or
2094 athletic events or training or preparing to so participate, for
2095 any week which commences during the period between two (2)
2096 successive sports seasons (or similar periods) if such individual
2097 performs such services in the first of such seasons (or similar
2098 periods) and there is a reasonable assurance that such individual



2099 will perform such services in the later of such seasons (or
2100 similar periods).

2101 (j) (i) Subsequent to December 31, 1977, benefits
2102 shall not be payable on the basis of services performed by an
2103 alien, unless such alien is an individual who was lawfully
2104 admitted for permanent residence at the time such services were
2105 performed, was lawfully present for purposes of performing such
2106 services, or was permanently residing in the United States under
2107 color of law at the time such services were performed (including
2108 an alien who was lawfully present in the United States as a result
2109 of the application of the provisions of Section 203(a)(7) or
2110 Section 212(d)(5) of the Immigration and Nationality Act).

2111 (ii) Any data or information required of
2112 individuals applying for benefits to determine whether benefits
2113 are not payable to them because of their alien status shall be
2114 uniformly required from all applicants for benefits.

2115 (iii) In the case of an individual whose
2116 application for benefits would otherwise be approved, no
2117 determination that benefits to such individual are not payable
2118 because of his alien status shall be made, except upon a
2119 preponderance of the evidence.

2120 (k) An individual shall be deemed prima facie
2121 unavailable for work, and therefore ineligible to receive
2122 benefits, during any period which, with respect to his employment



2123 status, is found by the department to be a holiday or vacation
2124 period.

2125 (1) A temporary employee of a temporary help firm is
2126 considered to have left the employee's last work voluntarily
2127 without good cause connected with the work if the temporary
2128 employee does not contact the temporary help firm for reassignment
2129 on completion of an assignment. A temporary employee is not
2130 considered to have left work voluntarily without good cause
2131 connected with the work under this paragraph unless the temporary
2132 employee has been advised in writing:

2133 (i) That the temporary employee is obligated to
2134 contact the temporary help firm on completion of assignments; and

2135 (ii) That unemployment benefits may be denied if
2136 the temporary employee fails to do so.

2137 **SECTION 32.** Section 71-5-513, Mississippi Code of 1972, is
2138 reenacted as follows:

2139 71-5-513. A. An individual shall be disqualified for
2140 benefits:

2141 (1) (a) For the week, or fraction thereof, which
2142 immediately follows the day on which he left work voluntarily
2143 without good cause, if so found by the department, and for each
2144 week thereafter until he has earned remuneration for personal
2145 services performed for an employer, as in this chapter defined,
2146 equal to not less than eight (8) times his weekly benefit amount,
2147 as determined in each case; however, marital, filial and domestic



2148 circumstances and obligations shall not be deemed good cause
2149 within the meaning of this subsection. Pregnancy shall not be
2150 deemed to be a marital, filial or domestic circumstance for the
2151 purpose of this subsection.

2152 (b) For the week, or fraction thereof, which
2153 immediately follows the day on which he was discharged for
2154 misconduct connected with his work, if so found by the department,
2155 and for each week thereafter until he has earned remuneration for
2156 personal services performed for an employer, as in this chapter
2157 defined, equal to not less than eight (8) times his weekly benefit
2158 amount, as determined in each case.

2159 (c) The burden of proof of good cause for leaving
2160 work shall be on the claimant, and the burden of proof of
2161 misconduct shall be on the employer.

2162 (2) For the week, or fraction thereof, with respect to
2163 which he willfully makes a false statement, a false representation
2164 of fact, or willfully fails to disclose a material fact for the
2165 purpose of obtaining or increasing benefits under the provisions
2166 of this law, if so found by the department, and such individual's
2167 maximum benefit allowance shall be reduced by the amount of
2168 benefits so paid to him during any such week of disqualification;
2169 and additional disqualification shall be imposed for a period not
2170 exceeding fifty-two (52) weeks, the length of such period of
2171 disqualification and the time when such period begins to be



2172 determined by the department, in its discretion, according to the
2173 circumstances in each case.

2174 (3) If the department finds that he has failed, without
2175 good cause, either to apply for available suitable work when so
2176 directed by the employment office or the department, to accept
2177 suitable work when offered him, or to return to his customary
2178 self-employment (if any) when so directed by the department, such
2179 disqualification shall continue for the week in which such failure
2180 occurred and for not more than the twelve (12) weeks which
2181 immediately follow such week, as determined by the department
2182 according to the circumstances in each case.

2183 (a) In determining whether or not any work is
2184 suitable for an individual, the department shall consider among
2185 other factors the degree of risk involved to his health, safety
2186 and morals, his physical fitness and prior training, his
2187 experience and prior earnings, his length of unemployment and
2188 prospects for securing local work in his customary occupation, and
2189 the distance of the available work from his residence; however,
2190 offered employment paying the minimum wage or higher, if such
2191 minimum or higher wage is that prevailing for his customary
2192 occupation or similar work in the locality, shall be deemed to be
2193 suitable employment after benefits have been paid to the
2194 individual for a period of eight (8) weeks.

2195 (b) Notwithstanding any other provisions of this
2196 chapter, no work shall be deemed suitable and benefits shall not



2197 be denied under this chapter to any otherwise eligible individual
2198 for refusing to accept new work under any of the following
2199 conditions:

2200 (i) If the position offered is vacant due
2201 directly to a strike, lockout or other labor dispute;

2202 (ii) If the wages, hours or other conditions
2203 of the work offered are substantially unfavorable or unreasonable
2204 to the individual's work. The department shall have the sole
2205 discretion to determine whether or not there has been an
2206 unfavorable or unreasonable condition placed on the individual's
2207 work. Moreover, the department may consider, but shall not be
2208 limited to a consideration of, whether or not the unfavorable
2209 condition was applied by the employer to all workers in the same
2210 or similar class or merely to this individual;

2211 (iii) If as a condition of being employed the
2212 individual would be required to join a company union or to resign
2213 from or refrain from joining any bona fide labor organization;

2214 (iv) If unsatisfactory or hazardous working
2215 conditions exist that could result in a danger to the physical or
2216 mental well-being of the worker. In any such determination the
2217 department shall consider, but shall not be limited to a
2218 consideration of, the following: the safety measures used or the
2219 lack thereof and the condition of equipment or lack of proper
2220 equipment. No work shall be considered hazardous if the working
2221 conditions surrounding a worker's employment are the same or



2222 substantially the same as the working conditions generally
2223 prevailing among workers performing the same or similar work for
2224 other employers engaged in the same or similar type of activity.

2225 (c) Pursuant to Section 303(1) of the Social
2226 Security Act (42 USCS 503), the department may conduct drug tests
2227 of applicants for unemployment compensation for the unlawful use
2228 of controlled substances as a condition for receiving such
2229 compensation, if such applicant:

2230 (i) Was terminated from employment with the
2231 claimant's most recent employer, as defined by Mississippi law,
2232 because of the unlawful use of controlled substances; or

2233 (ii) Is an individual for whom suitable work,
2234 as defined by Mississippi law, is only available in an occupation
2235 (as determined under regulations issued by the U.S. Secretary of
2236 Labor) that requires drug testing.

2237 The department may deny unemployment compensation to any
2238 applicant based on the result of a drug test conducted by the
2239 department in accordance with this subsection. A positive drug
2240 test result shall be deemed by the department to be a failure to
2241 accept suitable work, and shall subject the applicant to the
2242 disqualification provisions set forth in this subsection A(3).
2243 During the disqualification period imposed by the department under
2244 this subsection, the individual may provide information to end the
2245 disqualification period early by submitting acceptable proof to



2246 the department of a negative test result from a testing facility
2247 approved by the department.

2248 (iii) Pursuant to the provisions set forth in
2249 this subsection A(3)(c), the department shall have the authority
2250 to institute a random drug testing program for all individuals who
2251 meet the requirements set forth in this section. Moreover, the
2252 department shall have the authority to create the necessary
2253 regulations, policies rules, guidelines and procedures to
2254 implement such a program.

2255 Any term or provision set forth in this subsection A(3)(c)
2256 that otherwise conflicts with federal or state law shall be
2257 disregarded but shall not, in any way, affect the remaining
2258 provisions.

2259 (4) For any week with respect to which the department
2260 finds that his total unemployment is due to a stoppage of work
2261 which exists because of a labor dispute at a factory,
2262 establishment or other premises at which he is or was last
2263 employed; however, this subsection shall not apply if it is shown
2264 to the satisfaction of the department:

2265 (a) He is unemployed due to a stoppage of work
2266 occasioned by an unjustified lockout, if such lockout was not
2267 occasioned or brought about by such individual acting alone or
2268 with other workers in concert; or



2269 (b) He is not participating in or directly
2270 interested in the labor dispute which caused the stoppage of work;
2271 and

2272 (c) He does not belong to a grade or class of
2273 workers of which, immediately before the commencement of stoppage,
2274 there were members employed at the premises at which the stoppage
2275 occurs, any of whom are participating in or directly interested in
2276 the dispute.

2277 If in any case separate branches of work which are commonly
2278 conducted as separate businesses in separate premises are
2279 conducted in separate departments of the same premises, each such
2280 department shall, for the purposes of this subsection, be deemed
2281 to be a separate factory, establishment or other premises.

2282 (5) For any week with respect to which he has received
2283 or is seeking unemployment compensation under an unemployment
2284 compensation law of another state or of the United States.
2285 However, if the appropriate agency of such other state or of the
2286 United States finally determines that he is not entitled to such
2287 unemployment compensation benefits, this disqualification shall
2288 not apply. Nothing in this subsection contained shall be
2289 construed to include within its terms any law of the United States
2290 providing unemployment compensation or allowances for honorably
2291 discharged members of the Armed Forces.

2292 (6) For any week with respect to which he is receiving
2293 or has received remuneration in the form of payments under any



2294 governmental or private retirement or pension plan, system or
2295 policy which a base-period employer is maintaining or contributing
2296 to or has maintained or contributed to on behalf of the
2297 individual; however, if the amount payable with respect to any
2298 week is less than the benefits which would otherwise be due under
2299 Section 71-5-501, he shall be entitled to receive for such week,
2300 if otherwise eligible, benefits reduced by the amount of such
2301 remuneration. However, on or after the first Sunday immediately
2302 following July 1, 2001, no social security payments, to which the
2303 employee has made contributions, shall be deducted from
2304 unemployment benefits paid for any period of unemployment
2305 beginning on or after the first Sunday following July 1, 2001.
2306 This one hundred percent (100%) exclusion shall not apply to any
2307 other governmental or private retirement or pension plan, system
2308 or policy. If benefits payable under this section, after being
2309 reduced by the amount of such remuneration, are not a multiple of
2310 One Dollar (\$1.00), they shall be adjusted to the next lower
2311 multiple of One Dollar (\$1.00).

2312 (7) For any week with respect to which he is receiving
2313 or has received remuneration in the form of a back pay award, or
2314 other compensation allocable to any week, whether by settlement or
2315 otherwise. Any benefits previously paid for weeks of unemployment
2316 with respect to which back pay awards, or other such compensation,
2317 are made shall constitute an overpayment and such amounts shall be
2318 deducted from the award by the employer prior to payment to the



2319 employee, and shall be transmitted promptly to the department by
2320 the employer for application against the overpayment and credit to
2321 the claimant's maximum benefit amount and prompt deposit into the
2322 fund; however, the removal of any charges made against the
2323 employer as a result of such previously paid benefits shall be
2324 applied to the calendar year and the calendar quarter in which the
2325 overpayment is transmitted to the department, and no attempt shall
2326 be made to relate such a credit to the period to which the award
2327 applies. Any amount of overpayment so deducted by the employer
2328 and not transmitted to the department shall be subject to the same
2329 procedures for collection as is provided for contributions by
2330 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
2331 deducted by the employer shall be established as an overpayment
2332 against the claimant and collected as provided above. It is the
2333 purpose of this paragraph to assure equity in the situations to
2334 which it applies, and it shall be construed accordingly.

2335 B. Notwithstanding any other provision in this chapter, no
2336 otherwise eligible individual shall be denied benefits for any
2337 week because he is in training with the approval of the
2338 department; nor shall such individual be denied benefits with
2339 respect to any week in which he is in training with the approval
2340 of the department by reason of the application of provisions in
2341 Section 71-5-511, subsection (c), relating to availability for
2342 work, or the provisions of subsection A(3) of this section,



2343 relating to failure to apply for, or a refusal to accept, suitable
2344 work.

2345 C. Notwithstanding any other provisions of this chapter, no
2346 otherwise eligible individual shall be denied benefits for any
2347 week because he or she is in training approved under Section
2348 236(a)(1) of the Trade Act of 1974, nor shall such individual be
2349 denied benefits by reason of leaving work to enter such training,
2350 provided the work left is not suitable employment, or because of
2351 the application to any such week in training of provisions in this
2352 law (or any applicable federal unemployment compensation law),
2353 relating to availability for work, active search for work or
2354 refusal to accept work.

2355 For purposes of this section, the term "suitable employment"
2356 means with respect to an individual, work of a substantially equal
2357 or higher skill level than the individual's past adversely
2358 affected employment (as defined for purposes of the Trade Act of
2359 1974), and wages for such work at not less than eighty percent
2360 (80%) of the individual's average weekly wage as determined for
2361 the purposes of the Trade Act of 1974.

2362 D. Notwithstanding any other provisions of this chapter, no
2363 otherwise eligible individual shall be denied benefits for any
2364 week in which they are engaged in the Self-Employment Assistance
2365 Program established in Section 71-5-545 by reason of the
2366 application of Section 71-5-511(c), relating to availability for
2367 work, or the provisions of subsection A(3) of this section,



2368 relating to failure to apply for, or a refusal to accept, suitable
2369 work.

2370 E. Any individual who is receiving benefits may participate
2371 in an approved training program under the Mississippi Employment
2372 Security Law to gain skills that may lead to employment while
2373 continuing to receive benefits. Authorization for participation
2374 of a recipient of unemployment benefits in such a program must be
2375 granted by the department and continuation of participation must
2376 be certified weekly by the participant recipient. While
2377 participating in such program approved by the department,
2378 availability and work search requirements will be waived. No
2379 individual will be allowed to participate in this program for more
2380 than twelve (12) weeks in any benefit year. Such participation
2381 shall not be considered employment for any purposes and shall not
2382 accrue benefits or wage credits. Participation in this training
2383 program shall meet the definition set forth in the U.S. Fair Labor
2384 Standards Act.

2385 **SECTION 33.** Section 71-5-517, Mississippi Code of 1972, is
2386 reenacted as follows:

2387 71-5-517. Upon the taking of a claim by the department, an
2388 initial determination thereon shall be made promptly and shall
2389 include a determination with respect to whether or not benefits
2390 are payable, the week with respect to which benefits shall
2391 commence, the weekly benefit amount payable and the maximum
2392 duration of benefits. In any case in which the payment or denial



2393 of benefits will be determined by the provisions of subsection
2394 A(4) of Section 71-5-513, the examiner shall promptly transmit all
2395 the evidence with respect to that subsection to the department,
2396 which, on the basis of evidence so submitted and such additional
2397 evidence as it may require, shall make an initial determination
2398 with respect thereto. An initial determination may for good cause
2399 be reconsidered. The claimant, his most recent employing unit and
2400 all employers whose experience-rating record would be charged with
2401 benefits pursuant to such determination shall be promptly notified
2402 of such initial determination or any amended initial determination
2403 and the reason therefor. Benefits shall be denied or, if the
2404 claimant is otherwise eligible, promptly paid in accordance with
2405 the initial determination or amended initial determination. The
2406 jurisdiction of the department over benefit claims which have not
2407 been appealed shall be continuous. The claimant or any party to
2408 the initial determination or amended initial determination may
2409 file an appeal from such initial determination or amended initial
2410 determination within fourteen (14) days after notification
2411 thereof, or after the date such notification was sent to his last
2412 known address.

2413 Notwithstanding any other provision of this section, benefits
2414 shall be paid promptly in accordance with a determination or
2415 redetermination, or the decision of an appeal tribunal, the Board
2416 of Review or a reviewing court upon the issuance of such
2417 determination, redetermination or decision in favor of the



2418 claimant (regardless of the pendency of the period to apply for
2419 reconsideration, file an appeal, or petition for judicial review,
2420 as the case may be, or the pendency of any such application,
2421 filing or petition), unless and until such determination,
2422 redetermination or decision has been modified or reversed by a
2423 subsequent redetermination or decision, in which event benefits
2424 shall be paid or denied in accordance with such modifying or
2425 reversing redetermination or decision. Any benefits finally
2426 determined to have been erroneously paid may be set up as an
2427 overpayment to the claimant and must be liquidated before any
2428 future benefits can be paid to the claimant. If, subsequent to
2429 such initial determination or amended initial determination,
2430 benefits with respect to any week for which a claim has been filed
2431 are denied for reasons other than matters included in the initial
2432 determination or amended initial determination, the claimant shall
2433 be promptly notified of the denial and the reason therefor and may
2434 appeal therefrom in accordance with the procedure herein described
2435 for appeals from initial determination or amended initial
2436 determination.

2437 **SECTION 34.** Section 71-5-519, Mississippi Code of 1972, is
2438 reenacted as follows:

2439 71-5-519. Unless such appeal is withdrawn, an appeal
2440 tribunal appointed by the executive director, after affording the
2441 parties reasonable opportunity for fair hearing, shall affirm,
2442 modify or reverse the findings of fact and initial determination



2443 or amended initial determination. The parties shall be duly
2444 notified of such tribunal's decision, together with its reasons
2445 therefor, which shall be deemed to be the final decision of the
2446 executive director unless, within fourteen (14) days after the
2447 date of notification of such decision, further appeal is initiated
2448 pursuant to Section 71-5-523.

2449 **SECTION 35.** Section 71-5-523, Mississippi Code of 1972, is
2450 reenacted as follows:

2451 71-5-523. The Board of Review may on its own motion affirm,
2452 modify, or set aside any decision of an appeal tribunal on the
2453 basis of the evidence previously submitted in such case, or direct
2454 the taking of additional evidence, or may permit any of the
2455 parties to such decision to initiate further appeals before it.
2456 The Board of Review shall permit such further appeal by any of the
2457 parties to a decision of an appeal tribunal which is not
2458 unanimous, and by the examiner whose decision has been overruled
2459 or modified by an appeal tribunal. The Board of Review may remove
2460 to itself or transfer to another appeal tribunal the proceedings
2461 on any claim pending before an appeal tribunal. Any proceedings
2462 so removed to the Board of Review shall be heard by a quorum
2463 thereof in accordance with the requirements of Section 71-5-519
2464 and within fifteen (15) days after notice of appeal has been
2465 received by the executive director. No notice of appeal shall be
2466 deemed to be received by the executive director, within the
2467 meaning of this section, until all prior appeals pending before



2468 the Board of Review have been heard. The Board of Review shall,
2469 within four (4) days after its decision, so notify the parties to
2470 any proceeding of its findings and decision.

2471 **SECTION 36.** Section 71-5-525, Mississippi Code of 1972, is
2472 reenacted as follows:

2473 71-5-525. The manner in which appealed claims shall be
2474 presented and the conduct of hearings and appeals shall be in
2475 accordance with regulations prescribed by the Board of Review for
2476 determining the rights of the parties, whether or not such
2477 regulations conform to common law or statutory rules of evidence
2478 and other technical rules of procedure. A full and complete
2479 record shall be kept of all proceedings in connection with an
2480 appealed claim. The department's entire file relative to the
2481 appealed claim shall be a part of such record and shall be
2482 considered as evidence. All testimony at any hearing upon an
2483 appealed claim shall be recorded, but need not be transcribed
2484 unless the claim is further appealed.

2485 **SECTION 37.** Section 71-5-529, Mississippi Code of 1972, is
2486 reenacted as follows:

2487 71-5-529. Any decision of the Board of Review, in the
2488 absence of an appeal therefrom as herein provided, shall become
2489 final ten (10) days after the date of notification; and judicial
2490 review thereof shall be permitted only after any party claiming to
2491 be aggrieved thereby has exhausted his administrative remedies as
2492 provided by this chapter. The department shall be deemed to be a



2493 party to any judicial action involving any such decision, and may
2494 be represented in any such judicial action by any qualified
2495 attorney employed by the department and designated by it for that
2496 purpose or, at the department's request, by the Attorney General.

2497 **SECTION 38.** Section 71-5-531, Mississippi Code of 1972, is
2498 reenacted as follows:

2499 71-5-531. Within ten (10) days after the decision of the
2500 Board of Review has become final, any party aggrieved thereby may
2501 secure judicial review thereof by commencing an action, in the
2502 circuit court of the county in which the plaintiff resides,
2503 against the department for the review of such decision, in which
2504 action any other party to the proceeding before the Board of
2505 Review shall be made a defendant. In cases wherein the plaintiff
2506 is not a resident of the State of Mississippi, such action may be
2507 filed in the circuit court of the county in which the employer
2508 resides, the county in which the cause of action arose, or in the
2509 county of employment. In such action, a petition which need not
2510 be verified, but which shall state the grounds upon which a review
2511 is sought, shall be served upon the department or upon such person
2512 as the department may designate, and such service shall be deemed
2513 completed service on all parties; but there shall be left with the
2514 party so served as many copies of the petition as there are
2515 defendants, and the department shall forthwith mail one (1) such
2516 copy to each such defendant. With its answer, the department
2517 shall certify and file with said court all documents and papers



2518 and a transcript of all testimony taken in the matter, together
2519 with the Board of Review's findings of fact and decision therein.
2520 The department may also, in its discretion, certify to such court
2521 questions of law involved in any decision. In any judicial
2522 proceedings under this section, the findings of the Board of
2523 Review as to the facts, if supported by evidence and in the
2524 absence of fraud, shall be conclusive, and the jurisdiction of the
2525 court shall be confined to questions of law. Such actions, and
2526 the questions so certified, shall be heard in a summary manner and
2527 shall be given precedence over all other civil cases. An appeal
2528 may be taken from the decision of the circuit court of the county
2529 in which the plaintiff resides to the Supreme Court of
2530 Mississippi, in the same manner, but not inconsistent with the
2531 provisions of this chapter, as is provided in civil cases. It
2532 shall not be necessary, in any judicial proceeding under this
2533 section, to enter exceptions to the rulings of the Board of
2534 Review, and no bond shall be required for entering such appeal.
2535 Upon the final determination of such judicial proceeding, the
2536 Board of Review shall enter an order in accordance with such
2537 determination. A petition for judicial review shall not act as a
2538 supersedeas or stay unless the Board of Review shall so order.

2539 **SECTION 39.** Section 71-5-541, Mississippi Code of 1972, is
2540 reenacted as follows:

2541 71-5-541. A. (1) In the administration of this chapter,
2542 the department shall cooperate with the Department of Labor to the



2543 fullest extent consistent with the provisions of this chapter and
2544 shall take such action, through the adoption of appropriate rules,
2545 regulations, administrative methods and standards, as may be
2546 necessary to secure to this state and its citizens all advantages
2547 available under the provisions of the Social Security Act that
2548 relate to unemployment compensation, the Federal Unemployment Tax
2549 Act, the Wagner-Peyser Act and the Federal-State Extended
2550 Unemployment Compensation Act of 1970, all as amended.

2551 (2) In the administration of the provisions of this
2552 section, which are enacted to conform with the requirements of the
2553 Federal-State Extended Unemployment Compensation Act of 1970, as
2554 amended, the department shall take such actions as may be
2555 necessary:

2556 (a) To ensure that the provisions are so
2557 interpreted and applied as to meet the requirements of such
2558 federal act as interpreted by the United States Department of
2559 Labor; and

2560 (b) To secure to this state the full reimbursement
2561 of the federal share of extended benefits paid under this chapter
2562 that are reimbursable under the federal act; and also

2563 (c) To limit the amount of extended benefits paid
2564 as may be necessary so that the reimbursement of the federal share
2565 of extended benefits paid shall remain at one-half (1/2) of the
2566 total extended benefits paid.



2567 B. As used in this section, unless the context clearly
2568 requires otherwise:

2569 (1) "Extended benefit period" means a period which:

2570 (a) Begins with the third week after a week for
2571 which there is a state "on" indicator; and

2572 (b) Ends with either of the following weeks,
2573 whichever occurs later:

2574 (i) The third week after the first week for
2575 which there is a state "off" indicator; or

2576 (ii) The thirteenth consecutive week of such
2577 period.

2578 No extended benefit period may begin by reason of a state
2579 "on" indicator before the fourteenth week following the end of a
2580 prior extended benefit period which was in effect with respect to
2581 this state.

2582 (2) For weeks beginning after September 25, 1982, there
2583 is a "state 'on' indicator" for a week if the rate of insured
2584 unemployment under this chapter for the period consisting of such
2585 week and the immediately preceding twelve (12) weeks:

2586 (a) Equaled or exceeded one hundred twenty percent
2587 (120%) of the average of such rates for the corresponding period
2588 of thirteen (13) weeks ending in each of the preceding two (2)
2589 calendar years; and

2590 (b) Equaled or exceeded five percent (5%).



2591 The determination of whether there has been a state "on" or
2592 "off" indicator beginning or ending any extended benefit period
2593 shall be made under this subsection as if (i) paragraph (2) did
2594 not contain subparagraph (a) thereof, and (ii) the figure "5"
2595 contained in subparagraph (b) thereof were "6"; except that,
2596 notwithstanding any such provision of this subsection, any week
2597 for which there would otherwise be a "state 'on' indicator" shall
2598 continue to be such week and shall not be determined to be a week
2599 for which there is a "state 'off' indicator."

2600 (3) There is a "state 'off' indicator" for a week if,
2601 for the period consisting of such week and the immediately
2602 preceding twelve (12) weeks, either subparagraph (a) or (b) of
2603 paragraph (2) was not satisfied.

2604 (4) "Rate of insured unemployment," for purposes of
2605 paragraphs (2) and (3) of this subsection, means the percentage
2606 derived by dividing:

2607 (a) The average number of continued weeks claimed
2608 for regular state compensation in this state for weeks of
2609 unemployment with respect to the most recent period of thirteen
2610 (13) consecutive weeks, as determined by the department on the
2611 basis of its reports to the United States Secretary of Labor; by

2612 (b) The average monthly employment covered under
2613 this chapter for the first four (4) of the most recent six (6)
2614 completed calendar quarters ending before the end of such period
2615 of thirteen (13) weeks.



2616 (5) "Regular benefits" means benefits payable to an
2617 individual under this chapter or under any other state law
2618 (including benefits payable to federal civilian employees and to
2619 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than
2620 extended benefits.

2621 (6) "Extended benefits" means benefits (including
2622 benefits payable to federal civilian employees and to
2623 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an
2624 individual under the provisions of this section for weeks of
2625 unemployment in his eligibility period.

2626 (7) "Eligibility period" of an individual means the
2627 period consisting of the weeks in his benefit year which begin in
2628 an extended benefit period and, if his benefit year ends within
2629 such extended benefit period, any weeks thereafter which begin in
2630 such period.

2631 (8) "Exhaustee" means an individual who, with respect
2632 to any week of unemployment in his eligibility period:

2633 (a) Has received, prior to such week, all of the
2634 regular benefits that were available to him under this chapter or
2635 any other state law (including dependents' allowances and benefits
2636 payable to federal civilian employees and ex-servicemen under 5
2637 USCS Section 8501-8525) in his current benefit year that includes
2638 such week.

2639 For the purposes of this subparagraph, an individual shall be
2640 deemed to have received all of the regular benefits that were



2641 available to him although, as a result of a pending appeal with
2642 respect to wages that were not considered in the original monetary
2643 determination in his benefit year, he may subsequently be
2644 determined to be entitled to added regular benefits; or

2645 (b) Has no, or insufficient, wages on the basis of
2646 which he could establish a new benefit year that would include
2647 such week, his benefit year having expired prior to such week; and

2648 (c) (i) Has no right to unemployment benefits or
2649 allowances, as the case may be, under the Railroad Unemployment
2650 Insurance Act, the Trade Expansion Act of 1962, the Automotive
2651 Products Trade Act of 1965, and such other federal laws as are
2652 specified in regulations issued by the United States Secretary of
2653 Labor; and

2654 (ii) Has not received and is not seeking
2655 unemployment benefits under the Unemployment Compensation Law of
2656 the Virgin Islands or of Canada; but if he is seeking such
2657 benefits and the appropriate agency finally determines that he is
2658 not entitled to benefits under such law, he is considered an
2659 exhaustee; however, the reference in this subsection to the Virgin
2660 Islands shall be inapplicable effective on the day on which the
2661 United States Secretary of Labor approves under Section 3304(a) of
2662 the Internal Revenue Code of 1954, an unemployment compensation
2663 law submitted to the Secretary by the Virgin Islands for approval.

2664 (9) "State law" means the unemployment insurance law of
2665 any state, approved by the United States Secretary of Labor under



2666 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section
2667 3304).

2668 C. Except when the result would be inconsistent with the
2669 other provisions of this section, as provided in the regulations
2670 of the department, the provisions of this chapter which apply to
2671 claims for, or the payment of, regular benefits shall apply to
2672 claims for, and the payment of, extended benefits.

2673 D. An individual shall be eligible to receive extended
2674 benefits with respect to any week of unemployment in his
2675 eligibility period only if the department finds that with respect
2676 to such week:

2677 (1) He is an "exhaustee" as defined in subsection B(8)
2678 of this section.

2679 (2) He has satisfied the requirements of this chapter
2680 for the receipt of regular benefits that are applicable to
2681 individuals claiming extended benefits, including not being
2682 subject to a disqualification for the receipt of benefits.

2683 (3) For a week beginning after September 25, 1982, he
2684 has, during his base period, been paid wages for insured work
2685 equal to not less than forty (40) times his weekly benefit amount;
2686 he has been paid wages for insured work during at least two (2)
2687 quarters of his base period, and he has, during that quarter of
2688 his base period in which his total wages were highest, been paid
2689 wages for insured work equal to not less than twenty-six (26)
2690 times the minimum weekly benefit amount.



2691 E. The weekly extended benefit amount payable to an
2692 individual for a week of total unemployment in his eligibility
2693 period shall be an amount equal to the weekly benefit amount
2694 payable to him during his applicable benefit year; however,
2695 benefits paid to individuals during eligibility periods beginning
2696 before October 1, 1983, shall be computed to the next higher
2697 multiple of One Dollar (\$1.00), if not a multiple of One Dollar
2698 (\$1.00); and benefits paid to individuals during eligibility
2699 periods beginning on or after October 1, 1983, shall be computed
2700 to the next lower multiple of One Dollar (\$1.00), if not a
2701 multiple of One Dollar (\$1.00). In no event shall the weekly
2702 extended benefit amount payable to an individual be more than two
2703 (2) times the amount of the reimbursement of the federal share of
2704 extended benefits paid.

2705 F. (1) The total extended benefit amount payable to any
2706 eligible individual with respect to his applicable benefit year
2707 shall be the least of the following amounts:

2708 (a) Fifty percent (50%) of the total amount of
2709 regular benefits which were payable to him under this chapter in
2710 his applicable benefit year; however, benefits paid to individuals
2711 during eligibility periods beginning before October 1, 1983, shall
2712 be computed to the next higher multiple of One Dollar (\$1.00), if
2713 not a multiple of One Dollar (\$1.00), and benefits paid to
2714 individuals during eligibility periods beginning on or after



2715 October 1, 1983, shall be computed to the next lower multiple of
2716 One Dollar (\$1.00), if not a multiple of One Dollar (\$1.00); or

2717 (b) Thirteen (13) times his weekly benefit amount
2718 which was payable to him under this chapter for a week of total
2719 unemployment in the applicable benefit year.

2720 (2) The total extended benefits otherwise payable to an
2721 individual who is filing an interstate claim under the interstate
2722 benefit payment plan shall not exceed two (2) weeks whenever an
2723 extended benefit period is not in effect for such week in the
2724 state where the claim is filed.

2725 (3) In no event shall the total extended benefit amount
2726 payable to any eligible individual with respect to his applicable
2727 benefit year be more than two (2) times the amount of the
2728 reimbursement of the federal share of extended benefits paid.

2729 G. (1) Whenever an extended benefit period is to become
2730 effective in this state as a result of a state "on" indicator, or
2731 an extended benefit period is to be terminated in this state as a
2732 result of state "off" indicators, the department shall make an
2733 appropriate public announcement.

2734 (2) Computations required by the provisions of
2735 subsection B(4) shall be made by the department, in accordance
2736 with regulations prescribed by the United States Secretary of
2737 Labor.



2738 H. Extended benefits paid under the provisions of this
2739 section which are not reimbursable from federal funds shall be
2740 charged to the experience-rating record of base period employers.

2741 I. (1) Notwithstanding the provisions of subsections C and
2742 D of this section, an individual shall be disqualified for receipt
2743 of extended benefits if the department finds that during any week
2744 of his eligibility period:

2745 (a) He has failed either to apply for or to accept
2746 an offer of suitable work (as defined under paragraph (3)) to
2747 which he was referred by the department; or

2748 (b) He has failed to furnish tangible evidence
2749 that he has actively engaged in a systematic and sustained effort
2750 to find work, unless such individual is not actively engaged in
2751 seeking work because such individual is:

2752 (i) Before any court of the United States or
2753 any state pursuant to a lawfully issued summons to appear for jury
2754 duty;

2755 (ii) Hospitalized for treatment of an
2756 emergency or a life-threatening condition.

2757 The entitlement to benefits of any individual who is
2758 determined not to be actively engaged in seeking work in any week
2759 for the foregoing reasons shall be decided pursuant to the able
2760 and available requirements in Section 71-5-511 without regard to
2761 the disqualification provisions otherwise applicable under Section
2762 71-5-541. The conditions prescribed in clauses (i) and (ii) of



2763 this subparagraph (b) must be applied in the same manner to
2764 individuals filing claims for regular benefits.

2765 (2) Such disqualification shall begin with the week in
2766 which such failure occurred and shall continue until he has been
2767 employed in each of eight (8) subsequent weeks (whether or not
2768 consecutive) and has earned remuneration for personal services
2769 performed for an employer, as in this chapter defined, equal to
2770 not less than eight (8) times his weekly extended benefit amount.

2771 (3) For the purpose of subparagraph (a) of paragraph
2772 (1) the term "suitable work" means any work which is within the
2773 individual's capabilities to perform, if:

2774 (a) The gross average weekly remuneration payable
2775 for the work exceeds the sum of the individual's weekly extended
2776 benefit amount plus the amount, if any, of supplemental
2777 unemployment benefits (as defined in Section 501(c)(17)(D) of the
2778 Internal Revenue Code of 1954) payable to such individual for such
2779 week;

2780 (b) The wages payable for the work equal the
2781 higher of the minimum wages provided by Section 6(a)(1) of the
2782 Fair Labor Standards Act of 1938 (without regard to any
2783 exemption), or the state or local minimum wage; and

2784 (c) The position was offered to the individual in
2785 writing or was listed with the state employment service; and

2786 (d) Such work otherwise meets the definition of
2787 "suitable work" for regular benefits contained in Section



2788 71-5-513A(4) to the extent that such criteria of suitability are
2789 not inconsistent with the provisions of this paragraph (3); and

2790 (e) The individual cannot furnish satisfactory
2791 evidence to the department that his prospects for obtaining work
2792 in his customary occupation within a reasonably short period are
2793 good. If such evidence is deemed satisfactory for this purpose,
2794 the determination of whether any work is suitable with respect to
2795 such individual shall be made in accordance with the definition of
2796 suitable work contained in Section 71-5-513A(4) without regard to
2797 the definition specified by this paragraph (3).

2798 (4) Notwithstanding any provisions of subsection I to
2799 the contrary, no work shall be deemed to be suitable work for an
2800 individual which does not accord with the labor standard
2801 provisions set forth herein under Section 71-5-513A(4).

2802 (5) The employment service shall refer any claimant
2803 entitled to extended benefits under this section to any suitable
2804 work which meets the criteria prescribed in paragraph (3).

2805 (6) An individual shall be disqualified for extended
2806 benefits for the week, or fraction thereof, which immediately
2807 follows the day on which he left work voluntarily without good
2808 cause (as defined in Section 71-5-513A(1)), was discharged for
2809 misconduct connected with his work, or refused suitable work
2810 (except as provided in subsection I of this section), and for each
2811 week thereafter until he has earned remuneration for personal
2812 services performed for an employer, as in this chapter defined,



2813 equal to not less than eight (8) times his weekly benefit amount,
2814 as determined in each case.

2815 (7) The provisions of paragraphs I(1) through (6) of
2816 this section shall not apply to claims for weeks of unemployment
2817 beginning after March 6, 1993, and before January 1, 1995, and
2818 during that period the provisions of this chapter applicable to
2819 claims for regular compensation shall apply.

2820 J. Notwithstanding any other provisions of this chapter, if
2821 the benefit year of any individual ends within an extended benefit
2822 period, the remaining balance of extended benefits that such
2823 individual would, but for this section, be entitled to receive in
2824 that extended benefit period, with respect to weeks of
2825 unemployment beginning after the end of the benefit year, shall be
2826 reduced (but not below zero) by the product of the number of weeks
2827 for which the individual received any amounts as trade
2828 readjustment allowances within that benefit year, multiplied by
2829 the individual's weekly benefit amount for extended benefits.

2830 **SECTION 40.** Section 73-30-25, Mississippi Code of 1972, is
2831 reenacted as follows:

2832 73-30-25. It is not the intent of this article to regulate
2833 against members of other duly regulated professions in this state
2834 who do counseling in the normal course of the practice of their
2835 own profession. This article does not apply to:

2836 (a) Any person registered, certified or licensed by the
2837 state to practice any other occupation or profession while



2838 rendering counseling services in the performance of the occupation
2839 or profession for which he or she is registered, certified or
2840 licensed;

2841 (b) Certified school counselors when they are
2842 practicing counseling within the scope of their employment;

2843 (c) Certified vocational counselors when they are
2844 practicing vocational counseling within the scope of their
2845 employment;

2846 (d) [Deleted]

2847 (e) Student interns or trainees in counseling pursuing
2848 a course of study in counseling in a regionally or nationally
2849 accredited institution of higher learning or training institution
2850 if activities and services constitute a part of the supervised
2851 course of study, provided that such persons be designated a
2852 counselor intern;

2853 (f) [Deleted]

2854 (g) [Deleted]

2855 (h) Duly ordained ministers or clergy while functioning
2856 in their ministerial capacity and duly accredited Christian
2857 Science practitioners;

2858 (i) Professional employees of regional mental health
2859 centers, state mental hospitals, vocational rehabilitation
2860 institutions, youth court counselors and employees of the
2861 Mississippi Department of Employment Security or other



2862 governmental agency so long as they practice within the scope of
2863 their employment;

2864 (j) Professional employees of alcohol or drug abuse
2865 centers or treatment facilities, whether privately or publicly
2866 funded, so long as they practice within the scope of their
2867 employment;

2868 (k) Private employment counselors;

2869 (l) Any nonresident temporarily employed in this state
2870 to render counseling services for not more than thirty (30) days
2871 in any year, if in the opinion of the board the person would
2872 qualify for a license under this article and if the person holds
2873 any license required for counselors in his or her home state or
2874 country; and

2875 (m) [Deleted]

2876 **SECTION 41.** Section 7-1-355, Mississippi Code of 1972, is
2877 reenacted as follows:

2878 7-1-355. (1) The Mississippi Department of Employment
2879 Security, Office of the Governor, is designated as the sole
2880 administrator of all programs for which the state is the prime
2881 sponsor under Title 1(B) of Public Law 105-220, Workforce
2882 Investment Act of 1998, and the regulations promulgated
2883 thereunder, and may take all necessary action to secure to this
2884 state the benefits of that legislation. The Mississippi
2885 Department of Employment Security, Office of the Governor, may



2886 receive and disburse funds for those programs that become
2887 available to it from any source.

2888 (2) The Mississippi Department of Employment Security,
2889 Office of the Governor, shall establish guidelines on the amount
2890 and/or percentage of indirect and/or administrative expenses by
2891 the local fiscal agent or the Workforce Development Center
2892 operator. The Mississippi Department of Employment Security,
2893 Office of the Governor, shall develop an accountability system and
2894 make an annual report to the Legislature before December 31 of
2895 each year on Workforce Investment Act activities. The report
2896 shall include, but is not limited to, the following:

2897 (a) The total number of individuals served through the
2898 Workforce Development Centers and the percentage and number of
2899 individuals for which a quarterly follow-up is provided;

2900 (b) The number of individuals who receive core services
2901 by each center;

2902 (c) The number of individuals who receive intensive
2903 services by each center;

2904 (d) The number of Workforce Investment Act vouchers
2905 issued by the Workforce Development Centers including:

2906 (i) A list of schools and colleges to which these
2907 vouchers were issued and the average cost per school of the
2908 vouchers; and

2909 (ii) A list of the types of programs for which
2910 these vouchers were issued;



2911 (e) The number of individuals placed in a job through
2912 Workforce Development Centers;

2913 (f) The monies and the amount retained for
2914 administrative and other costs received from Workforce Investment
2915 Act funds for each agency or organization that Workforce
2916 Investment Act funds flow through as a percentage and actual
2917 dollar amount of all Workforce Investment Act funds received.

2918 **SECTION 42.** Section 43-1-30, Mississippi Code of 1972, is
2919 reenacted as follows:

2920 43-1-30. (1) There is created the Mississippi TANF
2921 Implementation Council. It shall serve as the independent, single
2922 state advisory and review council for assuring Mississippi's
2923 compliance with the federal Personal Responsibility and Work
2924 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as
2925 amended. The council shall further cooperation between
2926 government, education and the private sector in meeting the needs
2927 of the TANF program. It shall also further cooperation between
2928 the business and labor communities, education and training
2929 delivery systems, and between businesses in developing highly
2930 skilled workers for high skill, high paying jobs in Mississippi.

2931 (2) The council shall be comprised of thirteen (13) public
2932 members and certain ex officio nonvoting members. All public
2933 members of the council shall be appointed as follows by the
2934 Governor:



2935 Ten (10) members shall be representatives from business and
2936 industry, provided that no fewer than five (5) members are from
2937 the manufacturing and industry sector who are also serving as
2938 members of private industry councils established within the state,
2939 and one (1) member may be a representative of a nonprofit
2940 organization. Three (3) members shall be recipients or former
2941 recipients of TANF assistance appointed from the state at large.

2942 The ex officio nonvoting members of the council shall consist
2943 of the following, or their designees:

2944 (a) The Executive Director of the Mississippi
2945 Department of Human Services;

2946 (b) The Executive Director of the Mississippi
2947 Department of Employment Security;

2948 (c) The Executive Director of the Mississippi
2949 Development Authority;

2950 (d) The State Superintendent of Public Education;

2951 (e) The Director of the Mississippi Community College
2952 Board;

2953 (f) The Executive Director of the Division of Medicaid;

2954 (g) The Commissioner of the Mississippi Department of
2955 Corrections; and

2956 (h) The Director of the Mississippi Cooperative
2957 Extension Service.



2958 (3) The Governor shall designate one (1) public member to
2959 serve as chairman of the council for a term of two (2) years and
2960 until a successor as chairman is appointed and qualified.

2961 (4) The term of office for public members appointed by the
2962 Governor shall be four (4) years and until their successors are
2963 appointed and qualified.

2964 (5) Any vacancy shall be filled for the unexpired term by
2965 the Governor in the manner of the original appointment, unless
2966 otherwise specified in this section.

2967 (6) Public members shall receive a per diem as authorized in
2968 Section 25-3-69, for each day actually engaged in meetings of the
2969 council, and shall be reimbursed for mileage and necessary
2970 expenses incurred in the performance of their duties, as provided
2971 in Section 25-3-41.

2972 (7) The council shall:

2973 (a) Annually review and recommend policies and programs
2974 to the Governor and the Legislature that will implement and meet
2975 federal requirements under the TANF program.

2976 (b) Annually review and recommend policies and programs
2977 to the Governor and to the Legislature that will enable citizens
2978 of Mississippi to acquire the skills necessary to maximize their
2979 economic self-sufficiency.

2980 (c) Review the provision of services and the use of
2981 funds and resources under the TANF program, and under all
2982 state-financed job training and job retraining programs, and



2983 advise the Governor and the Legislature on methods of coordinating
2984 such provision of services and use of funds and resources
2985 consistent with the laws and regulations governing such programs.

2986 (d) Assist in developing outcome and output measures to
2987 measure the success of the Department of Human Services' efforts
2988 in implementing the TANF program. These recommendations shall be
2989 made to the Department of Human Services at such times as required
2990 in the event that the department implements new programs to comply
2991 with the TANF program requirements.

2992 (e) Collaborate with the Mississippi Development
2993 Authority, local planning and development districts and local
2994 industrial development boards, and shall develop an economic
2995 development plan for the creation of manufacturing jobs in each of
2996 the counties in the state that has an unemployment rate of ten
2997 percent (10%) or more, which shall include, but not be limited to,
2998 procedures for business development, entrepreneurship and
2999 financial and technical assistance.

3000 (8) A majority of the members of the council shall
3001 constitute a quorum for the conduct of meetings and all actions of
3002 the council shall be by a majority of the members present at a
3003 meeting.

3004 (9) The council shall adopt rules and regulations as it
3005 deems necessary to carry out its responsibilities under this
3006 section and under applicable federal human resources programs.



3007 (10) The council may make and enter into contracts and
3008 interagency agreements as may be necessary and proper.

3009 (11) The council is authorized to commit and expend monies
3010 appropriated to it by the Legislature for its authorized purposes.
3011 The council is authorized to solicit, accept and expend public and
3012 private gifts, grants, awards and contributions related to
3013 furtherance of its statutory duties.

3014 (12) Funds for the operations of the council shall be
3015 derived from federal funds for the operation of state councils
3016 pursuant to applicable federal human resources programs and from
3017 such other monies appropriated to it by the Legislature.

3018 **SECTION 43.** Section 43-17-5, Mississippi Code of 1972, is
3019 reenacted as follows:

3020 43-17-5. (1) The amount of Temporary Assistance for Needy
3021 Families (TANF) benefits which may be granted for any dependent
3022 child and a needy caretaker relative shall be determined by the
3023 county department with due regard to the resources and necessary
3024 expenditures of the family and the conditions existing in each
3025 case, and in accordance with the rules and regulations made by the
3026 Department of Human Services which shall not be less than the
3027 Standard of Need in effect for 1988, and shall be sufficient when
3028 added to all other income (except that any income specified in the
3029 federal Social Security Act, as amended, may be disregarded) and
3030 support available to the child to provide such child with a
3031 reasonable subsistence compatible with decency and health. The



3032 first family member in the dependent child's budget may receive an
3033 amount not to exceed Two Hundred Dollars (\$200.00) per month; the
3034 second family member in the dependent child's budget may receive
3035 an amount not to exceed Thirty-six Dollars (\$36.00) per month; and
3036 each additional family member in the dependent child's budget an
3037 amount not to exceed Twenty-four Dollars (\$24.00) per month. The
3038 maximum for any individual family member in the dependent child's
3039 budget may be exceeded for foster or medical care or in cases of
3040 children with an intellectual disability or a physical disability.
3041 TANF benefits granted shall be specifically limited only (a) to
3042 children existing or conceived at the time the caretaker relative
3043 initially applies and qualifies for such assistance, unless this
3044 limitation is specifically waived by the department, or (b) to a
3045 child born following a twelve-consecutive-month period of
3046 discontinued benefits by the caretaker relative.

3047 (2) TANF benefits in Mississippi shall be provided to the
3048 recipient family by an online electronic benefits transfer system.

3049 (3) The Department of Human Services shall deny TANF
3050 benefits to the following categories of individuals, except for
3051 individuals and families specifically exempt or excluded for good
3052 cause as allowed by federal statute or regulation:

3053 (a) Families without a minor child residing with the
3054 custodial parent or other adult caretaker relative of the child;

3055 (b) Families which include an adult who has received
3056 TANF assistance for sixty (60) months after the commencement of



3057 the Mississippi TANF program, whether or not such period of time
3058 is consecutive;

3059 (c) Families not assigning to the state any rights a
3060 family member may have, on behalf of the family member or of any
3061 other person for whom the family member has applied for or is
3062 receiving such assistance, to support from any other person, as
3063 required by law;

3064 (d) Families who fail to cooperate in establishing
3065 paternity or obtaining child support, as required by law;

3066 (e) Any individual who has not attained eighteen (18)
3067 years of age, is not married to the head of household, has a minor
3068 child at least twelve (12) weeks of age in his or her care, and
3069 has not successfully completed a high school education or its
3070 equivalent, if such individual does not participate in educational
3071 activities directed toward the attainment of a high school diploma
3072 or its equivalent, or an alternative educational or training
3073 program approved by the department;

3074 (f) Any individual who has not attained eighteen (18)
3075 years of age, is not married, has a minor child in his or her
3076 care, and does not reside in a place or residence maintained by a
3077 parent, legal guardian or other adult relative or the individual
3078 as such parent's, guardian's or adult relative's own home;

3079 (g) Any minor child who has been, or is expected by a
3080 parent or other caretaker relative of the child to be, absent from
3081 the home for a period of more than thirty (30) days;



3082 (h) Any individual who is a parent or other caretaker
3083 relative of a minor child who fails to notify the department of
3084 the absence of the minor child from the home for the thirty-day
3085 period specified in paragraph (g), by the end of the five-day
3086 period that begins with the date that it becomes clear to the
3087 individual that the minor child will be absent for the thirty-day
3088 period;

3089 (i) Any individual who fails to comply with the
3090 provisions of the Employability Development Plan signed by the
3091 individual which prescribe those activities designed to help the
3092 individual become and remain employed, or to participate
3093 satisfactorily in the assigned work activity, as authorized under
3094 subsection (6) (c) and (d), or who does not engage in applicant job
3095 search activities within the thirty-day period for TANF
3096 application approval after receiving the advice and consultation
3097 of eligibility workers and/or caseworkers of the department
3098 providing a detailed description of available job search venues in
3099 the individual's county of residence or the surrounding counties;

3100 (j) A parent or caretaker relative who has not engaged
3101 in an allowable work activity once the department determines the
3102 parent or caretaker relative is ready to engage in work, or once
3103 the parent or caretaker relative has received TANF assistance
3104 under the program for twenty-four (24) months, whether or not
3105 consecutive, whichever is earlier;



3106 (k) Any individual who is fleeing to avoid prosecution,
3107 or custody or confinement after conviction, under the laws of the
3108 jurisdiction from which the individual flees, for a crime, or an
3109 attempt to commit a crime, which is a felony under the laws of the
3110 place from which the individual flees, or who is violating a
3111 condition of probation or parole imposed under federal or state
3112 law;

3113 (l) Aliens who are not qualified under federal law;

3114 (m) For a period of ten (10) years following
3115 conviction, individuals convicted in federal or state court of
3116 having made a fraudulent statement or representation with respect
3117 to the individual's place of residence in order to receive TANF,
3118 food stamps or Supplemental Security Income (SSI) assistance under
3119 Title XVI or Title XIX simultaneously from two (2) or more states;

3120 (n) Individuals who are recipients of federal
3121 Supplemental Security Income (SSI) assistance; and

3122 (o) Individuals who are eighteen (18) years of age or
3123 older who are not in compliance with the drug testing and
3124 substance use disorder treatment requirements of Section 43-17-6.

3125 (4) (a) Any person who is otherwise eligible for TANF
3126 benefits, including custodial and noncustodial parents, shall be
3127 required to attend school and meet the monthly attendance
3128 requirement as provided in this subsection if all of the following
3129 apply:

3130 (i) The person is under age twenty (20);



3131 (ii) The person has not graduated from a public or
3132 private high school or obtained a High School Equivalency Diploma
3133 equivalent;

3134 (iii) The person is physically able to attend
3135 school and is not excused from attending school; and

3136 (iv) If the person is a parent or caretaker
3137 relative with whom a dependent child is living, child care is
3138 available for the child.

3139 The monthly attendance requirement under this subsection
3140 shall be attendance at the school in which the person is enrolled
3141 for each day during a month that the school conducts classes in
3142 which the person is enrolled, with not more than two (2) absences
3143 during the month for reasons other than the reasons listed in
3144 paragraph (e)(iv) of this subsection. Persons who fail to meet
3145 participation requirements in this subsection shall be subject to
3146 sanctions as provided in paragraph (f) of this subsection.

3147 (b) As used in this subsection, "school" means any one
3148 (1) of the following:

3149 (i) A school as defined in Section 37-13-91(2);

3150 (ii) A vocational, technical and adult education
3151 program; or

3152 (iii) A course of study meeting the standards
3153 established by the State Department of Education for the granting
3154 of a declaration of equivalency of high school graduation.



3155 (c) If any compulsory-school-age child, as defined in
3156 Section 37-13-91(2), to which TANF eligibility requirements apply
3157 is not in compliance with the compulsory school attendance
3158 requirements of Section 37-13-91(6), the superintendent of schools
3159 of the school district in which the child is enrolled or eligible
3160 to attend shall notify the county department of human services of
3161 the child's noncompliance. The Department of Human Services shall
3162 review school attendance information as provided under this
3163 paragraph at all initial eligibility determinations and upon
3164 subsequent report of unsatisfactory attendance.

3165 (d) The signature of a person on an application for
3166 TANF benefits constitutes permission for the release of school
3167 attendance records for that person or for any child residing with
3168 that person. The department shall request information from the
3169 child's school district about the child's attendance in the school
3170 district's most recently completed semester of attendance. If
3171 information about the child's previous school attendance is not
3172 available or cannot be verified, the department shall require the
3173 child to meet the monthly attendance requirement for one (1)
3174 semester or until the information is obtained. The department
3175 shall use the attendance information provided by a school district
3176 to verify attendance for a child. The department shall review
3177 with the parent or caretaker relative a child's claim that he or
3178 she has a good cause for not attending school.



3179 A school district shall provide information to the department
3180 about the attendance of a child who is enrolled in a public school
3181 in the district within five (5) working days of the receipt of a
3182 written request for that information from the department. The
3183 school district shall define how many hours of attendance count as
3184 a full day and shall provide that information, upon request, to
3185 the department. In reporting attendance, the school district may
3186 add partial days' absence together to constitute a full day's
3187 absence.

3188 If a school district fails to provide to the department the
3189 information about the school attendance of any child within
3190 fifteen (15) working days after a written request, the department
3191 shall notify the Department of Audit within three (3) working days
3192 of the school district's failure to comply with that requirement.
3193 The Department of Audit shall begin audit proceedings within five
3194 (5) working days of notification by the Department of Human
3195 Services to determine the school district's compliance with the
3196 requirements of this subsection (4). If the Department of Audit
3197 finds that the school district is not in compliance with the
3198 requirements of this subsection, the school district shall be
3199 penalized as follows: The Department of Audit shall notify the
3200 State Department of Education of the school district's
3201 noncompliance, and the Department of Education shall reduce the
3202 calculation of the school district's average daily attendance
3203 (ADA) that is used to determine the allocation of Mississippi



3204 Adequate Education Program funds by the number of children for
3205 which the district has failed to provide to the Department of
3206 Human Services the required information about the school
3207 attendance of those children. The reduction in the calculation of
3208 the school district's ADA under this paragraph shall be effective
3209 for a period of one (1) year.

3210 (e) A child who is required to attend school to meet
3211 the requirements under this subsection shall comply except when
3212 there is good cause, which shall be demonstrated by any of the
3213 following circumstances:

3214 (i) The minor parent is the caretaker of a child
3215 less than twelve (12) weeks old; or

3216 (ii) The department determines that child care
3217 services are necessary for the minor parent to attend school and
3218 there is no child care available; or

3219 (iii) The child is prohibited by the school
3220 district from attending school and an expulsion is pending. This
3221 exemption no longer applies once the teenager has been expelled;
3222 however, a teenager who has been expelled and is making
3223 satisfactory progress towards obtaining a High School Equivalency
3224 Diploma equivalent shall be eligible for TANF benefits; or

3225 (iv) The child failed to attend school for one or
3226 more of the following reasons:

3227 1. Illness, injury or incapacity of the child
3228 or the minor parent's child;



- 3229 2. Court-required appearances or temporary
3230 incarceration;
- 3231 3. Medical or dental appointments for the
3232 child or minor parent's child;
- 3233 4. Death of a close relative;
- 3234 5. Observance of a religious holiday;
- 3235 6. Family emergency;
- 3236 7. Breakdown in transportation;
- 3237 8. Suspension; or
- 3238 9. Any other circumstance beyond the control
3239 of the child, as defined in regulations of the department.

3240 (f) Upon determination that a child has failed without
3241 good cause to attend school as required, the department shall
3242 provide written notice to the parent or caretaker relative
3243 (whoever is the primary recipient of the TANF benefits) that
3244 specifies:

3245 (i) That the family will be sanctioned in the next
3246 possible payment month because the child who is required to attend
3247 school has failed to meet the attendance requirement of this
3248 subsection;

3249 (ii) The beginning date of the sanction, and the
3250 child to whom the sanction applies;

3251 (iii) The right of the child's parents or
3252 caretaker relative (whoever is the primary recipient of the TANF
3253 benefits) to request a fair hearing under this subsection.



3254 The child's parent or caretaker relative (whoever is the
3255 primary recipient of the TANF benefits) may request a fair hearing
3256 on the department's determination that the child has not been
3257 attending school. If the child's parents or caretaker relative
3258 does not request a fair hearing under this subsection, or if,
3259 after a fair hearing has been held, the hearing officer finds that
3260 the child without good cause has failed to meet the monthly
3261 attendance requirement, the department shall discontinue or deny
3262 TANF benefits to the child thirteen (13) years old, or older, in
3263 the next possible payment month. The department shall discontinue
3264 or deny twenty-five percent (25%) of the family grant when a child
3265 six (6) through twelve (12) years of age without good cause has
3266 failed to meet the monthly attendance requirement. Both the child
3267 and family sanction may apply when children in both age groups
3268 fail to meet the attendance requirement without good cause. A
3269 sanction applied under this subsection shall be effective for one
3270 (1) month for each month that the child failed to meet the monthly
3271 attendance requirement. In the case of a dropout, the sanction
3272 shall remain in force until the parent or caretaker relative
3273 provides written proof from the school district that the child has
3274 reenrolled and met the monthly attendance requirement for one (1)
3275 calendar month. Any month in which school is in session for at
3276 least ten (10) days during the month may be used to meet the
3277 attendance requirement under this subsection. This includes



3278 attendance at summer school. The sanction shall be removed the
3279 next possible payment month.

3280 (5) All parents or caretaker relatives shall have their
3281 dependent children receive vaccinations and booster vaccinations
3282 against those diseases specified by the State Health Officer under
3283 Section 41-23-37 in accordance with the vaccination and booster
3284 vaccination schedule prescribed by the State Health Officer for
3285 children of that age, in order for the parents or caretaker
3286 relatives to be eligible or remain eligible to receive TANF
3287 benefits. Proof of having received such vaccinations and booster
3288 vaccinations shall be given by presenting the certificates of
3289 vaccination issued by any health care provider licensed to
3290 administer vaccinations, and submitted on forms specified by the
3291 State Board of Health. If the parents without good cause do not
3292 have their dependent children receive the vaccinations and booster
3293 vaccinations as required by this subsection and they fail to
3294 comply after thirty (30) days' notice, the department shall
3295 sanction the family's TANF benefits by twenty-five percent (25%)
3296 for the next payment month and each subsequent payment month until
3297 the requirements of this subsection are met.

3298 (6) (a) If the parent or caretaker relative applying for
3299 TANF assistance is work eligible, as determined by the Department
3300 of Human Services, the person shall be required to engage in an
3301 allowable work activity once the department determines the parent
3302 or caretaker relative is determined work eligible, or once the



3303 parent or caretaker relative has received TANF assistance under
3304 the program for twenty-four (24) months, whether or not
3305 consecutive, whichever is earlier. No TANF benefits shall be
3306 given to any person to whom this section applies who fails without
3307 good cause to comply with the Employability Development Plan
3308 prepared by the department for the person, or who has refused to
3309 accept a referral or offer of employment, training or education in
3310 which he or she is able to engage, subject to the penalties
3311 prescribed in paragraph (e) of this subsection. A person shall be
3312 deemed to have refused to accept a referral or offer of
3313 employment, training or education if he or she:

3314 (i) Willfully fails to report for an interview
3315 with respect to employment when requested to do so by the
3316 department; or

3317 (ii) Willfully fails to report to the department
3318 the result of a referral to employment; or

3319 (iii) Willfully fails to report for allowable work
3320 activities as prescribed in paragraphs (c) and (d) of this
3321 subsection.

3322 (b) The Department of Human Services shall operate a
3323 statewide work program for TANF recipients to provide work
3324 activities and supportive services to enable families to become
3325 self-sufficient and improve their competitive position in the
3326 workforce in accordance with the requirements of the federal
3327 Personal Responsibility and Work Opportunity Reconciliation Act of



3328 1996 (Public Law 104-193), as amended, and the regulations
3329 promulgated thereunder, and the Deficit Reduction Act of 2005
3330 (Public Law 109-171), as amended. Within sixty (60) days after
3331 the initial application for TANF benefits, the TANF recipient must
3332 participate in a job search skills training workshop or a job
3333 readiness program, which shall include resume writing, job search
3334 skills, employability skills and, if available at no charge, the
3335 General Aptitude Test Battery or its equivalent. All adults who
3336 are not specifically exempt shall be referred by the department
3337 for allowable work activities. An adult may be exempt from the
3338 mandatory work activity requirement for the following reasons:

3339 (i) Incapacity;

3340 (ii) Temporary illness or injury, verified by
3341 physician's certificate;

3342 (iii) Is in the third trimester of pregnancy, and
3343 there are complications verified by the certificate of a
3344 physician, nurse practitioner, physician assistant, or any other
3345 licensed health care professional practicing under a protocol with
3346 a licensed physician;

3347 (iv) Caretaker of a child under twelve (12)
3348 months, for not more than twelve (12) months of the sixty-month
3349 maximum benefit period;

3350 (v) Caretaker of an ill or incapacitated person,
3351 as verified by physician's certificate;



3352 (vi) Age, if over sixty (60) or under eighteen
3353 (18) years of age;

3354 (vii) Receiving treatment for substance abuse, if
3355 the person is in compliance with the substance abuse treatment
3356 plan;

3357 (viii) In a two-parent family, the caretaker of a
3358 severely disabled child, as verified by a physician's certificate;
3359 or

3360 (ix) History of having been a victim of domestic
3361 violence, which has been reported as required by state law and is
3362 substantiated by police reports or court records, and being at
3363 risk of further domestic violence, shall be exempt for a period as
3364 deemed necessary by the department but not to exceed a total of
3365 twelve (12) months, which need not be consecutive, in the
3366 sixty-month maximum benefit period. For the purposes of this
3367 subparagraph (ix), "domestic violence" means that an individual
3368 has been subjected to:

3369 1. Physical acts that resulted in, or
3370 threatened to result in, physical injury to the individual;

3371 2. Sexual abuse;

3372 3. Sexual activity involving a dependent
3373 child;

3374 4. Being forced as the caretaker relative of
3375 a dependent child to engage in nonconsensual sexual acts or
3376 activities;



3377 5. Threats of, or attempts at, physical or
3378 sexual abuse;

3379 6. Mental abuse; or

3380 7. Neglect or deprivation of medical care.

3381 (c) For all families, all adults who are not
3382 specifically exempt shall be required to participate in work
3383 activities for at least the minimum average number of hours per
3384 week specified by federal law or regulation, not fewer than twenty
3385 (20) hours per week (thirty-five (35) hours per week for
3386 two-parent families) of which are attributable to the following
3387 allowable work activities:

3388 (i) Unsubsidized employment;

3389 (ii) Subsidized private employment;

3390 (iii) Subsidized public employment;

3391 (iv) Work experience (including work associated
3392 with the refurbishing of publicly assisted housing), if sufficient
3393 private employment is not available;

3394 (v) On-the-job training;

3395 (vi) Job search and job readiness assistance
3396 consistent with federal TANF regulations;

3397 (vii) Community service programs;

3398 (viii) Vocational educational training (not to
3399 exceed twelve (12) months with respect to any individual);

3400 (ix) The provision of child care services to an
3401 individual who is participating in a community service program;



3402 (x) Satisfactory attendance at high school or in a
3403 course of study leading to a high school equivalency certificate,
3404 for heads of household under age twenty (20) who have not
3405 completed high school or received such certificate;

3406 (xi) Education directly related to employment, for
3407 heads of household under age twenty (20) who have not completed
3408 high school or received such equivalency certificate.

3409 (d) The following are allowable work activities which
3410 may be attributable to hours in excess of the minimum specified in
3411 paragraph (c) of this subsection:

3412 (i) Job skills training directly related to
3413 employment;

3414 (ii) Education directly related to employment for
3415 individuals who have not completed high school or received a high
3416 school equivalency certificate;

3417 (iii) Satisfactory attendance at high school or in
3418 a course of study leading to a high school equivalency, for
3419 individuals who have not completed high school or received such
3420 equivalency certificate;

3421 (iv) Job search and job readiness assistance
3422 consistent with federal TANF regulations.

3423 (e) If any adult or caretaker relative refuses to
3424 participate in allowable work activity as required under this
3425 subsection (6), the following full family TANF benefit penalty



3426 will apply, subject to due process to include notification,
3427 conciliation and a hearing if requested by the recipient:

3428 (i) For the first violation, the department shall
3429 terminate the TANF assistance otherwise payable to the family for
3430 a two-month period or until the person has complied with the
3431 required work activity, whichever is longer;

3432 (ii) For the second violation, the department
3433 shall terminate the TANF assistance otherwise payable to the
3434 family for a six-month period or until the person has complied
3435 with the required work activity, whichever is longer;

3436 (iii) For the third violation, the department
3437 shall terminate the TANF assistance otherwise payable to the
3438 family for a twelve-month period or until the person has complied
3439 with the required work activity, whichever is longer;

3440 (iv) For the fourth violation, the person shall be
3441 permanently disqualified.

3442 For a two-parent family, unless prohibited by state or
3443 federal law, Medicaid assistance shall be terminated only for the
3444 person whose failure to participate in allowable work activity
3445 caused the family's TANF assistance to be sanctioned under this
3446 paragraph (e), unless an individual is pregnant, but shall not be
3447 terminated for any other person in the family who is meeting that
3448 person's applicable work requirement or who is not required to
3449 work. Minor children shall continue to be eligible for Medicaid
3450 benefits regardless of the disqualification of their parent or



3451 caretaker relative for TANF assistance under this subsection (6),
3452 unless prohibited by state or federal law.

3453 (f) Any person enrolled in a two-year or four-year
3454 college program who meets the eligibility requirements to receive
3455 TANF benefits, and who is meeting the applicable work requirements
3456 and all other applicable requirements of the TANF program, shall
3457 continue to be eligible for TANF benefits while enrolled in the
3458 college program for as long as the person meets the requirements
3459 of the TANF program, unless prohibited by federal law.

3460 (g) No adult in a work activity required under this
3461 subsection (6) shall be employed or assigned (i) when any other
3462 individual is on layoff from the same or any substantially
3463 equivalent job within six (6) months before the date of the TANF
3464 recipient's employment or assignment; or (ii) if the employer has
3465 terminated the employment of any regular employee or otherwise
3466 caused an involuntary reduction of its workforce in order to fill
3467 the vacancy so created with an adult receiving TANF assistance.
3468 The Mississippi Department of Employment Security, established
3469 under Section 71-5-101, shall appoint one or more impartial
3470 hearing officers to hear and decide claims by employees of
3471 violations of this paragraph (g). The hearing officer shall hear
3472 all the evidence with respect to any claim made hereunder and such
3473 additional evidence as he may require and shall make a
3474 determination and the reason therefor. The claimant shall be
3475 promptly notified of the decision of the hearing officer and the



3476 reason therefor. Within ten (10) days after the decision of the
3477 hearing officer has become final, any party aggrieved thereby may
3478 secure judicial review thereof by commencing an action, in the
3479 circuit court of the county in which the claimant resides, against
3480 the department for the review of such decision, in which action
3481 any other party to the proceeding before the hearing officer shall
3482 be made a defendant. Any such appeal shall be on the record which
3483 shall be certified to the court by the department in the manner
3484 provided in Section 71-5-531, and the jurisdiction of the court
3485 shall be confined to questions of law which shall render its
3486 decision as provided in that section.

3487 (7) The Department of Human Services may provide child care
3488 for eligible participants who require such care so that they may
3489 accept employment or remain employed. The department may also
3490 provide child care for those participating in the TANF program
3491 when it is determined that they are satisfactorily involved in
3492 education, training or other allowable work activities. The
3493 department may contract with Head Start agencies to provide child
3494 care services to TANF recipients. The department may also arrange
3495 for child care by use of contract or vouchers, provide vouchers in
3496 advance to a caretaker relative, reimburse a child care provider,
3497 or use any other arrangement deemed appropriate by the department,
3498 and may establish different reimbursement rates for child care
3499 services depending on the category of the facility or home. Any
3500 center-based or group home child care facility under this



3501 subsection shall be licensed by the State Department of Health
3502 pursuant to law. When child care is being provided in the child's
3503 own home, in the home of a relative of the child, or in any other
3504 unlicensed setting, the provision of such child care may be
3505 monitored on a random basis by the Department of Human Services or
3506 the State Department of Health. Transitional child care
3507 assistance may be continued if it is necessary for parents to
3508 maintain employment once support has ended, unless prohibited
3509 under state or federal law. Transitional child care assistance
3510 may be provided for up to twenty-four (24) months after the last
3511 month during which the family was eligible for TANF assistance, if
3512 federal funds are available for such child care assistance.

3513 (8) The Department of Human Services may provide
3514 transportation or provide reasonable reimbursement for
3515 transportation expenses that are necessary for individuals to be
3516 able to participate in allowable work activity under the TANF
3517 program.

3518 (9) Medicaid assistance shall be provided to a family of
3519 TANF program participants for up to twenty-four (24) consecutive
3520 calendar months following the month in which the participating
3521 family would be ineligible for TANF benefits because of increased
3522 income, expiration of earned income disregards, or increased hours
3523 of employment of the caretaker relative; however, Medicaid
3524 assistance for more than twelve (12) months may be provided only
3525 if a federal waiver is obtained to provide such assistance for



3526 more than twelve (12) months and federal and state funds are
3527 available to provide such assistance.

3528 (10) The department shall require applicants for and
3529 recipients of public assistance from the department to sign a
3530 personal responsibility contract that will require the applicant
3531 or recipient to acknowledge his or her responsibilities to the
3532 state.

3533 (11) The department shall enter into an agreement with the
3534 State Personnel Board and other state agencies that will allow
3535 those TANF participants who qualify for vacant jobs within state
3536 agencies to be placed in state jobs. State agencies participating
3537 in the TANF work program shall receive any and all benefits
3538 received by employers in the private sector for hiring TANF
3539 recipients. This subsection (11) shall be effective only if the
3540 state obtains any necessary federal waiver or approval and if
3541 federal funds are available therefor. Not later than September 1,
3542 2021, the department shall prepare a report, which shall be
3543 provided to the Chairmen of the House and Senate Public Health
3544 Committees and to any other member of the Legislature upon
3545 request, on the history, status, outcomes and effectiveness of the
3546 agreements required under this subsection.

3547 (12) Any unspent TANF funds remaining from the prior fiscal
3548 year may be expended for any TANF allowable activities.

3549 (13) The Mississippi Department of Human Services shall
3550 provide TANF applicants information and referral to programs that



3551 provide information about birth control, prenatal health care,
3552 abstinence education, marriage education, family preservation and
3553 fatherhood. Not later than September 1, 2021, the department
3554 shall prepare a report, which shall be provided to the Chairmen of
3555 the House and Senate Public Health Committees and to any other
3556 member of the Legislature upon request, on the history, status,
3557 outcomes and effectiveness of the information and referral
3558 requirements under this subsection.

3559 (14) No new TANF program requirement or restriction
3560 affecting a person's eligibility for TANF assistance, or allowable
3561 work activity, which is not mandated by federal law or regulation
3562 may be implemented by the Department of Human Services after July
3563 1, 2004, unless such is specifically authorized by an amendment to
3564 this section by the Legislature.

3565 **SECTION 44.** Section 43-19-45, Mississippi Code of 1972, is
3566 reenacted as follows:

3567 43-19-45. (1) The Child Support Unit shall establish a
3568 state parent locator service for the purpose of locating absent
3569 and nonsupporting parents and alleged parents, which will utilize
3570 all appropriate public and private locator sources. In order to
3571 carry out the responsibilities imposed under Sections 43-19-31
3572 through 43-19-53, the Child Support Unit may secure, by
3573 administrative subpoena from the customer records of public
3574 utilities and cable television companies, the names and addresses
3575 of individuals and the names and addresses of employers of such



3576 individuals that would enable the location of parents or alleged
3577 parents who have a duty to provide support and maintenance for
3578 their children. The Child Support Unit may also administratively
3579 subpoena any and all financial information, including account
3580 numbers, names and social security numbers of record for assets,
3581 accounts, and account balances from any individual, financial
3582 institution, business or other entity, public or private, needed
3583 to establish, modify or enforce a support order. No entity
3584 complying with an administrative subpoena to supply the requested
3585 information of whatever nature shall be liable in any civil action
3586 or proceeding on account of such compliance. Full faith and
3587 credit shall be given to all uniform administrative subpoenas
3588 issued by other state child support units. The recipient of an
3589 administrative subpoena shall supply the Child Support Unit, other
3590 state and federal IV-D agencies, its attorneys, investigators,
3591 probation officers, county or district attorneys in this state,
3592 all information relative to the location, employment,
3593 employment-related benefits including, but not limited to,
3594 availability of medical insurance, income and property of such
3595 parents and alleged parents and with all information on hand
3596 relative to the location and prosecution of any person who has, by
3597 means of a false statement or misrepresentation or by
3598 impersonation or other fraudulent device, obtained Temporary
3599 Assistance for Needy Families (TANF) to which he or she was not
3600 entitled, notwithstanding any provision of law making such



3601 information confidential. The Mississippi Department of
3602 Information Technology Services and any other agency in this state
3603 using the facilities of the Mississippi Department of Information
3604 Technology Services are directed to permit the Child Support Unit
3605 access to their files, inclusive of those maintained for other
3606 state agencies, for the purpose of locating absent and
3607 nonsupporting parents and alleged parents, except to the extent
3608 that any such access would violate any valid federal statute or
3609 regulation issued pursuant thereto. The Child Support Unit, other
3610 state and federal IV-D agencies, its attorneys, investigators,
3611 probation officers, or county or district attorneys, shall use
3612 such information only for the purpose of investigating or
3613 enforcing the support liability of such absent parents or alleged
3614 parents or for the prosecution of other persons mentioned herein.
3615 Neither the Child Support Unit nor those authorities shall use the
3616 information, or disclose it, for any other purpose. All records
3617 maintained pursuant to the provisions of Sections 43-19-31 through
3618 43-19-53 shall be confidential and shall be available only to the
3619 Child Support Unit, other state and federal IV-D agencies, the
3620 attorneys, investigators and other staff employed or under
3621 contract under Sections 43-19-31 through 43-19-53, district or
3622 county attorneys, probation departments, child support units in
3623 other states, and courts having jurisdiction in paternity, support
3624 or abandonment proceedings. The Child Support Unit may release to
3625 the public the name, photo, last-known address, arrearage amount



3626 and other necessary information of a parent who has a judgment
3627 against him for child support and is currently in arrears in the
3628 payment of this support. Such release may be included in a "Most
3629 Wanted List" or other media in order to solicit assistance.

3630 (2) The Child Support Unit shall have the authority to
3631 secure information from the records of the Mississippi Department
3632 of Employment Security that may be necessary to locate absent and
3633 nonsupporting parents and alleged parents under the provisions of
3634 Sections 43-19-31 through 43-19-53. Upon request of the Child
3635 Support Unit, all departments, boards, bureaus and agencies of the
3636 state shall provide to the Child Support Unit verification of
3637 employment or payment and the address and social security number
3638 of any person designated as an absent or nonsupporting parent or
3639 alleged parent. In addition, upon request of the Child Support
3640 Unit, the Mississippi Department of Employment Security, or any
3641 private employer or payor of any income to a person designated as
3642 an absent or nonsupporting parent or alleged parent, shall provide
3643 to the Child Support Unit verification of employment or payment
3644 and the address and social security number of the person so
3645 designated. Full faith and credit shall be given to such notices
3646 issued by child support units in other states. All such records
3647 and information shall be confidential and shall not be used for
3648 any purposes other than those specified by Sections 43-19-31
3649 through 43-19-53. The violation of the provisions of this
3650 subsection shall be unlawful and any person convicted of violating



3651 the provisions of this subsection shall be guilty of a misdemeanor
3652 and shall pay a fine of not more than Two Hundred Dollars
3653 (\$200.00).

3654 (3) Federal and state IV-D agencies shall have access to the
3655 state parent locator service and any system used by the Child
3656 Support Unit to locate an individual for purposes relating to
3657 motor vehicles or law enforcement. No employer or other source of
3658 income who complies with this section shall be liable in any civil
3659 action or proceeding brought by the obligor or obligee on account
3660 of such compliance.

3661 **SECTION 45.** Section 43-19-46, Mississippi Code of 1972, is
3662 reenacted as follows:

3663 43-19-46. (1) Each employer paying wages, salary or
3664 commission and doing business in Mississippi shall report to the
3665 Directory of New Hires within the Mississippi Department of Human
3666 Services:

3667 (a) The hiring of any person who resides or works in
3668 this state to whom the employer anticipates paying wages, salary
3669 or commission; and

3670 (b) The hiring or return to work of any employee who
3671 was laid off, furloughed, separated, granted leave without pay or
3672 was terminated from employment.

3673 (2) Employers shall report, by mailing or by other means
3674 authorized by the Department of Human Services, a copy of the
3675 employee's W-4 form or its equivalent that will result in timely



3676 reporting. Each employer shall submit reports within fifteen (15)
3677 days of the hiring, rehiring or return to work of the employee.

3678 The report shall contain:

3679 (a) The employee's name, address, social security
3680 number and the date of birth;

3681 (b) The employer's name, address, and federal and state
3682 withholding tax identification numbers; and

3683 (c) The date upon which the employee began or resumed
3684 employment, or is scheduled to begin or otherwise resume
3685 employment.

3686 (3) The department shall retain the information, which shall
3687 be forwarded to the federal registry of new hires.

3688 (4) The Department of Human Services may operate the
3689 program, may enter into a mutual agreement with the Mississippi
3690 Department of Employment Security or the Department of Revenue, or
3691 both, for the operation of the Directory of New Hires Program, or
3692 the Department of Human Services may contract for that service, in
3693 which case the department shall maintain administrative control of
3694 the program.

3695 (5) In cases in which an employer fails to report
3696 information, as required by this section, an administratively
3697 levied civil penalty in an amount not to exceed Five Hundred
3698 Dollars (\$500.00) shall apply if the failure is the result of a
3699 conspiracy between the employer and employee to not supply the
3700 required report or to supply a false or incomplete report. The



3701 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).
3702 Appeal shall be as provided in Section 43-19-58.

3703 **SECTION 46.** Section 57-62-5, Mississippi Code of 1972, is
3704 reenacted as follows:

3705 **[For businesses or industries that received or applied for**
3706 **incentive payments prior to July 1, 2005, this section shall read**
3707 **as follows:]**

3708 57-62-5. As used in this chapter, the following words and
3709 phrases shall have the meanings ascribed in this section unless
3710 the context clearly indicates otherwise:

3711 (a) "Qualified business or industry" means any
3712 corporation, limited liability company, partnership, sole
3713 proprietorship, business trust or other legal entity and subunits
3714 or affiliates thereof, pursuant to rules and regulations of the
3715 MDA, which provides an average annual salary, excluding benefits
3716 which are not subject to Mississippi income taxes, of at least one
3717 hundred twenty-five percent (125%) of the most recently published
3718 state average annual wage or the most recently published average
3719 annual wage of the county in which the qualified business or
3720 industry is located as determined by the Mississippi Department of
3721 Employment Security, whichever is the lesser. An establishment
3722 shall not be considered to be a qualified business or industry
3723 unless it offers, or will offer within one hundred eighty (180)
3724 days of the date it receives the first incentive payment pursuant
3725 to the provisions of this chapter, a basic health benefits plan to



3726 the individuals it employs in new direct jobs in this state which
3727 is approved by the MDA. Qualified business or industry does not
3728 include retail business or gaming business;

3729 (b) "New direct job" means full-time employment in this
3730 state in a qualified business or industry that has qualified to
3731 receive an incentive payment pursuant to this chapter, which
3732 employment did not exist in this state before the date of approval
3733 by the MDA of the application of the qualified business or
3734 industry pursuant to the provisions of this chapter. "New direct
3735 job" shall include full-time employment in this state of employees
3736 who are employed by an entity other than the establishment that
3737 has qualified to receive an incentive payment and who are leased
3738 to the qualified business or industry, if such employment did not
3739 exist in this state before the date of approval by the MDA of the
3740 application of the establishment;

3741 (c) "Full-time job" means a job of at least thirty-five
3742 (35) hours per week;

3743 (d) "Estimated direct state benefits" means the tax
3744 revenues projected by the MDA to accrue to the state as a result
3745 of the qualified business or industry;

3746 (e) "Estimated direct state costs" means the costs
3747 projected by the MDA to accrue to the state as a result of the
3748 qualified business or industry;



3749 (f) "Estimated net direct state benefits" means the
3750 estimated direct state benefits less the estimated direct state
3751 costs;

3752 (g) "Net benefit rate" means the estimated net direct
3753 state benefits computed as a percentage of gross payroll, provided
3754 that:

3755 (i) Except as otherwise provided in this paragraph
3756 (g), the net benefit rate may be variable and shall not exceed
3757 four percent (4%) of the gross payroll; and shall be set in the
3758 sole discretion of the MDA;

3759 (ii) In no event shall incentive payments,
3760 cumulatively, exceed the estimated net direct state benefits;

3761 (h) "Gross payroll" means wages for new direct jobs of
3762 the qualified business or industry; and

3763 (i) "MDA" means the Mississippi Development Authority.

3764 **[For businesses or industries that received or applied for**
3765 **incentive payments from and after July 1, 2005, but prior to July**
3766 **1, 2010, this section shall read as follows:]**

3767 57-62-5. As used in this chapter, the following words and
3768 phrases shall have the meanings ascribed in this section unless
3769 the context clearly indicates otherwise:

3770 (a) "Qualified business or industry" means any
3771 corporation, limited liability company, partnership, sole
3772 proprietorship, business trust or other legal entity and subunits



3773 or affiliates thereof, pursuant to rules and regulations of the
3774 MDA, which:

3775 (i) Is a data/information processing enterprise
3776 meeting minimum criteria established by the MDA that provides an
3777 average annual salary, excluding benefits which are not subject to
3778 Mississippi income taxes, of at least one hundred percent (100%)
3779 of the most recently published state average annual wage or the
3780 most recently published average annual wage of the county in which
3781 the qualified business or industry is located as determined by the
3782 Mississippi Department of Employment Security, whichever is the
3783 lesser, and creates not less than two hundred (200) new direct
3784 jobs if the enterprise is located in a Tier One or Tier Two area
3785 (as such areas are designated in accordance with Section
3786 57-73-21), or which creates not less than one hundred (100) new
3787 jobs if the enterprise is located in a Tier Three area (as such
3788 areas are designated in accordance with Section 57-73-21);

3789 (ii) Is a manufacturing or distribution enterprise
3790 meeting minimum criteria established by the MDA that provides an
3791 average annual salary, excluding benefits which are not subject to
3792 Mississippi income taxes, of at least one hundred ten percent
3793 (110%) of the most recently published state average annual wage or
3794 the most recently published average annual wage of the county in
3795 which the qualified business or industry is located as determined
3796 by the Mississippi Department of Employment Security, whichever is
3797 the lesser, invests not less than Twenty Million Dollars



3798 (\$20,000,000.00) in land, buildings and equipment, and creates not
3799 less than fifty (50) new direct jobs if the enterprise is located
3800 in a Tier One or Tier Two area (as such areas are designated in
3801 accordance with Section 57-73-21), or which creates not less than
3802 twenty (20) new jobs if the enterprise is located in a Tier Three
3803 area (as such areas are designated in accordance with Section
3804 57-73-21);

3805 (iii) Is a corporation, limited liability company,
3806 partnership, sole proprietorship, business trust or other legal
3807 entity and subunits or affiliates thereof, pursuant to rules and
3808 regulations of the MDA, which provides an average annual salary,
3809 excluding benefits which are not subject to Mississippi income
3810 taxes, of at least one hundred twenty-five percent (125%) of the
3811 most recently published state average annual wage or the most
3812 recently published average annual wage of the county in which the
3813 qualified business or industry is located as determined by the
3814 Mississippi Department of Employment Security, whichever is the
3815 lesser, and creates not less than twenty-five (25) new direct jobs
3816 if the enterprise is located in a Tier One or Tier Two area (as
3817 such areas are designated in accordance with Section 57-73-21), or
3818 which creates not less than ten (10) new jobs if the enterprise is
3819 located in a Tier Three area (as such areas are designated in
3820 accordance with Section 57-73-21). An establishment shall not be
3821 considered to be a qualified business or industry unless it
3822 offers, or will offer within one hundred eighty (180) days of the



3823 date it receives the first incentive payment pursuant to the
3824 provisions of this chapter, a basic health benefits plan to the
3825 individuals it employs in new direct jobs in this state which is
3826 approved by the MDA. Qualified business or industry does not
3827 include retail business or gaming business; or

3828 (iv) Is a research and development or a technology
3829 intensive enterprise meeting minimum criteria established by the
3830 MDA that provides an average annual salary, excluding benefits
3831 which are not subject to Mississippi income taxes, of at least one
3832 hundred fifty percent (150%) of the most recently published state
3833 average annual wage or the most recently published average annual
3834 wage of the county in which the qualified business or industry is
3835 located as determined by the Mississippi Department of Employment
3836 Security, whichever is the lesser, and creates not less than ten
3837 (10) new direct jobs.

3838 An establishment shall not be considered to be a qualified
3839 business or industry unless it offers, or will offer within one
3840 hundred eighty (180) days of the date it receives the first
3841 incentive payment pursuant to the provisions of this chapter, a
3842 basic health benefits plan to the individuals it employs in new
3843 direct jobs in this state which is approved by the MDA. Qualified
3844 business or industry does not include retail business or gaming
3845 business.

3846 (b) "New direct job" means full-time employment in this
3847 state in a qualified business or industry that has qualified to



3848 receive an incentive payment pursuant to this chapter, which
3849 employment did not exist in this state before the date of approval
3850 by the MDA of the application of the qualified business or
3851 industry pursuant to the provisions of this chapter. "New direct
3852 job" shall include full-time employment in this state of employees
3853 who are employed by an entity other than the establishment that
3854 has qualified to receive an incentive payment and who are leased
3855 to the qualified business or industry, if such employment did not
3856 exist in this state before the date of approval by the MDA of the
3857 application of the establishment.

3858 (c) "Full-time job" or "full-time employment" means a
3859 job of at least thirty-five (35) hours per week.

3860 (d) "Estimated direct state benefits" means the tax
3861 revenues projected by the MDA to accrue to the state as a result
3862 of the qualified business or industry.

3863 (e) "Estimated direct state costs" means the costs
3864 projected by the MDA to accrue to the state as a result of the
3865 qualified business or industry.

3866 (f) "Estimated net direct state benefits" means the
3867 estimated direct state benefits less the estimated direct state
3868 costs.

3869 (g) "Net benefit rate" means the estimated net direct
3870 state benefits computed as a percentage of gross payroll, provided
3871 that:



3872 (i) Except as otherwise provided in this paragraph
3873 (g), the net benefit rate may be variable and shall not exceed
3874 four percent (4%) of the gross payroll; and shall be set in the
3875 sole discretion of the MDA;

3876 (ii) In no event shall incentive payments,
3877 cumulatively, exceed the estimated net direct state benefits.

3878 (h) "Gross payroll" means wages for new direct jobs of
3879 the qualified business or industry.

3880 (i) "MDA" means the Mississippi Development Authority.

3881 **[For businesses or industries that apply for incentive**
3882 **payments from and after July 1, 2010, this section shall read as**
3883 **follows:]**

3884 57-62-5. As used in this chapter, the following words and
3885 phrases shall have the meanings ascribed in this section unless
3886 the context clearly indicates otherwise:

3887 (a) "Qualified business or industry" means any
3888 corporation, limited liability company, partnership, sole
3889 proprietorship, business trust or other legal entity and subunits
3890 or affiliates thereof, pursuant to rules and regulations of the
3891 MDA, which:

3892 (i) Is a data/information processing enterprise
3893 meeting minimum criteria established by the MDA that provides an
3894 average annual salary, excluding benefits which are not subject to
3895 Mississippi income taxes, of at least one hundred percent (100%)
3896 of the most recently published state average annual wage or the



3897 most recently published average annual wage of the county in which
3898 the qualified business or industry is located as determined by the
3899 Mississippi Department of Employment Security, whichever is the
3900 lesser, and creates not less than two hundred (200) new direct
3901 jobs;

3902 (ii) Is a corporation, limited liability company,
3903 partnership, sole proprietorship, business trust or other legal
3904 entity and subunits or affiliates thereof, pursuant to rules and
3905 regulations of the MDA, which provides an average annual salary,
3906 excluding benefits which are not subject to Mississippi income
3907 taxes, of at least one hundred ten percent (110%) of the most
3908 recently published state average annual wage or the most recently
3909 published average annual wage of the county in which the qualified
3910 business or industry is located as determined by the Mississippi
3911 Department of Employment Security, whichever is the lesser, and
3912 creates not less than twenty-five (25) new direct jobs; or

3913 (iii) Is a corporation, limited liability company,
3914 partnership, sole proprietorship, business trust or other legal
3915 entity and subunits or affiliates thereof, pursuant to rules and
3916 regulations of the MDA, which is a manufacturer that:

3917 1. Provides an average annual salary,
3918 excluding benefits which are not subject to Mississippi income
3919 taxes, of at least one hundred ten percent (110%) of the most
3920 recently published state average annual wage or the most recently
3921 published average annual wage of the county in which the qualified



3922 business or industry is located as determined by the Mississippi
3923 Department of Employment Security, whichever is the lesser;

3924 2. Has a minimum of five thousand (5,000)
3925 existing employees as of the last day of the previous calendar
3926 year; and

3927 3. MDA determines will create not less than
3928 three thousand (3,000) new direct jobs within forty-eight (48)
3929 months of the date the MDA determines that the applicant is
3930 qualified to receive incentive payments.

3931 An establishment shall not be considered to be a qualified
3932 business or industry unless it offers, or will offer within one
3933 hundred eighty (180) days of the date it receives the first
3934 incentive payment pursuant to the provisions of this chapter, a
3935 basic health benefits plan to the individuals it employs in new
3936 direct jobs in this state which is approved by the MDA. Qualified
3937 business or industry does not include retail business or gaming
3938 business, or any medical cannabis establishment as defined in the
3939 Mississippi Medical Cannabis Act.

3940 (b) "New direct job" means full-time employment in this
3941 state in a qualified business or industry that has qualified to
3942 receive an incentive payment pursuant to this chapter, which
3943 employment did not exist in this state:

3944 (i) Before the date of approval by the MDA of the
3945 application of the qualified business or industry pursuant to the
3946 provisions of this chapter; or



3947 (ii) Solely with respect to any farm equipment
3948 manufacturer that locates its North American headquarters to
3949 Mississippi between January 1, 2018, and December 31, 2020, before
3950 a specific date determined by the MDA that falls on or after the
3951 date that the MDA first issues to such farm equipment manufacturer
3952 one or more written commitments or offers of any incentives in
3953 connection with the new headquarters project and related
3954 facilities expected to result in the creation of such new job.

3955 "New direct job" shall include full-time employment in this
3956 state of employees who are employed by an entity other than the
3957 establishment that has qualified to receive an incentive payment
3958 and who are leased to the qualified business or industry, if such
3959 employment did not exist in this state before the date of approval
3960 by the MDA of the application of the establishment.

3961 (c) "Full-time job" or "full-time employment" means a
3962 job of at least thirty-five (35) hours per week.

3963 (d) "Gross payroll" means wages for new direct jobs of
3964 the qualified business or industry.

3965 (e) "MDA" means the Mississippi Development Authority.

3966 **SECTION 47.** Section 57-62-9, Mississippi Code of 1972, is
3967 reenacted as follows:

3968 **[For businesses or industries that received or applied for**
3969 **incentive payments prior to July 1, 2005, this section shall read**
3970 **as follows:]**



3971 57-62-9. (1) Except as otherwise provided in this section,
3972 a qualified business or industry that meets the qualifications
3973 specified in this chapter may receive quarterly incentive payments
3974 for a period not to exceed ten (10) years from the Department of
3975 Revenue pursuant to the provisions of this chapter in an amount
3976 which shall be equal to the net benefit rate multiplied by the
3977 actual gross payroll of new direct jobs for a calendar quarter as
3978 verified by the Mississippi Department of Employment Security, but
3979 not to exceed the amount of money previously paid into the fund by
3980 the employer. A qualified business or industry that is a project
3981 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
3982 which the ten-year period will begin. Such date may not be later
3983 than sixty (60) months after the date the business or industry
3984 applied for incentive payments.

3985 (2) (a) A qualified business or industry that is a project
3986 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
3987 receive incentive payments for an additional period not to exceed
3988 five (5) years beyond the expiration date of the initial ten-year
3989 period if:

3990 (i) The qualified business or industry creates at
3991 least three thousand (3,000) new direct jobs within five (5) years
3992 after the date the business or industry commences commercial
3993 production;

3994 (ii) Within five (5) years after the date the
3995 business or industry commences commercial production, the average



3996 annual wage of the jobs is at least one hundred fifty percent
3997 (150%) of the most recently published state average annual wage or
3998 the most recently published average annual wage of the county in
3999 which the qualified business or industry is located as determined
4000 by the Mississippi Department of Employment Security, whichever is
4001 the lesser. The criteria for the average annual wage requirement
4002 shall be based upon the state average annual wage or the average
4003 annual wage of the county whichever is appropriate, at the time of
4004 creation of the minimum number of jobs, and the threshold
4005 established at that time will remain constant for the duration of
4006 the additional period; and

4007 (iii) The qualified business or industry meets and
4008 maintains the job and wage requirements of subparagraphs (i) and
4009 (ii) of this paragraph (a) for four (4) consecutive calendar
4010 quarters.

4011 (b) A qualified business or industry that is a project
4012 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4013 incentive payments for the additional period provided in paragraph
4014 (a) of this subsection (2) may apply to the MDA to receive
4015 incentive payments for an additional period not to exceed ten (10)
4016 years beyond the expiration date of the additional period provided
4017 in paragraph (a) of this subsection (2) if:

4018 (i) The qualified business or industry creates at
4019 least four thousand (4,000) new direct jobs after qualifying for
4020 the additional incentive period provided in paragraph (a) of this



4021 subsection (2) but before the expiration of the additional period.
4022 For purposes of determining whether the business or industry meets
4023 the minimum jobs requirement of this subparagraph (i), the number
4024 of jobs the business or industry created in order to meet the
4025 minimum jobs requirement of paragraph (a) of this subsection (2)
4026 shall be subtracted from the minimum jobs requirement of this
4027 subparagraph (i);

4028 (ii) The average annual wage of the jobs is at
4029 least one hundred fifty percent (150%) of the most recently
4030 published state average annual wage or the most recently published
4031 average annual wage of the county in which the qualified business
4032 or industry is located as determined by the Mississippi Department
4033 of Employment Security, whichever is the lesser. The criteria for
4034 the average annual wage requirement shall be based upon the state
4035 average annual wage or the average annual wage of the county
4036 whichever is appropriate, at the time of creation of the minimum
4037 number of jobs, and the threshold established at that time will
4038 remain constant for the duration of the additional period; and

4039 (iii) The qualified business or industry meets and
4040 maintains the job and wage requirements of subparagraphs (i) and
4041 (ii) of this paragraph (b) for four (4) consecutive calendar
4042 quarters.

4043 (3) In order to receive incentive payments, an establishment
4044 shall apply to the MDA. The application shall be on a form



4045 prescribed by the MDA and shall contain such information as may be
4046 required by the MDA to determine if the applicant is qualified.

4047 (4) In order to qualify to receive such payments, the
4048 establishment applying shall be required to:

4049 (a) Be engaged in a qualified business or industry;

4050 (b) Provide an average salary, excluding benefits which
4051 are not subject to Mississippi income taxes, of at least one
4052 hundred twenty-five percent (125%) of the most recently published
4053 state average annual wage or the most recently published average
4054 annual wage of the county in which the qualified business or
4055 industry is located as determined by the Mississippi Department of
4056 Employment Security, whichever is the lesser. The criteria for
4057 this requirement shall be based upon the state average annual wage
4058 or the average annual wage of the county whichever is appropriate,
4059 at the time of application, and the threshold established upon
4060 application will remain constant for the duration of the project;

4061 (c) The business or industry must create and maintain a
4062 minimum of ten (10) full-time jobs in counties that have an
4063 average unemployment rate over the previous twelve-month period
4064 which is at least one hundred fifty percent (150%) of the most
4065 recently published state unemployment rate, as determined by the
4066 Mississippi Department of Employment Security or in Tier Three
4067 counties as determined under Section 57-73-21. In all other
4068 counties, the business or industry must create and maintain a
4069 minimum of twenty-five (25) full-time jobs. The criteria for this



4070 requirement shall be based on the designation of the county at the
4071 time of the application. The threshold established upon the
4072 application will remain constant for the duration of the project.
4073 The business or industry must meet its job creation commitment
4074 within twenty-four (24) months of the application approval.
4075 However, if the qualified business or industry is applying for
4076 incentive payments for an additional period under subsection (2)
4077 of this section, the business or industry must comply with the
4078 applicable job and wage requirements of subsection (2) of this
4079 section.

4080 (5) The MDA shall determine if the applicant is qualified to
4081 receive incentive payments. If the applicant is determined to be
4082 qualified by the MDA, the MDA shall conduct a cost/benefit
4083 analysis to determine the estimated net direct state benefits and
4084 the net benefit rate applicable for a period not to exceed ten
4085 (10) years and to estimate the amount of gross payroll for the
4086 period. If the applicant is determined to be qualified to receive
4087 incentive payments for an additional period under subsection (2)
4088 of this section, the MDA shall conduct a cost/benefit analysis to
4089 determine the estimated net direct state benefits and the net
4090 benefit rate applicable for the appropriate additional period and
4091 to estimate the amount of gross payroll for the additional period.
4092 In conducting such cost/benefit analysis, the MDA shall consider
4093 quantitative factors, such as the anticipated level of new tax
4094 revenues to the state along with the cost to the state of the



4095 qualified business or industry, and such other criteria as deemed
4096 appropriate by the MDA, including the adequacy of retirement
4097 benefits that the business or industry provides to individuals it
4098 employs in new direct jobs in this state. In no event shall
4099 incentive payments, cumulatively, exceed the estimated net direct
4100 state benefits. Once the qualified business or industry is
4101 approved by the MDA, an agreement shall be deemed to exist between
4102 the qualified business or industry and the State of Mississippi,
4103 requiring the continued incentive payment, together with any
4104 amount due pursuant to subsection (8) of this section, if
4105 applicable, to be made as long as the qualified business or
4106 industry retains its eligibility.

4107 (6) Upon approval of such an application, the MDA shall
4108 notify the Department of Revenue and shall provide it with a copy
4109 of the approved application and the estimated net direct state
4110 benefits. The Department of Revenue may require the qualified
4111 business or industry to submit such additional information as may
4112 be necessary to administer the provisions of this chapter. The
4113 qualified business or industry shall report to the Department of
4114 Revenue periodically to show its continued eligibility for
4115 incentive payments. The qualified business or industry may be
4116 audited by the Department of Revenue to verify such eligibility.
4117 In addition, the State Auditor may conduct performance and
4118 compliance audits under this chapter according to Section
4119 7-7-211(o) and may bill the oversight agency.



4120 (7) If the qualified business or industry is located in an
4121 area that has been declared by the Governor to be a disaster area
4122 and as a result of the disaster the business or industry is unable
4123 to create or maintain the full-time jobs required by this section:

4124 (a) The Commissioner of Revenue may extend the period
4125 of time that the business or industry may receive incentive
4126 payments for a period of time not to exceed two (2) years;

4127 (b) The Commissioner of Revenue may waive the
4128 requirement that a certain number of jobs be maintained for a
4129 period of time not to exceed twenty-four (24) months; and

4130 (c) The MDA may extend the period of time within which
4131 the jobs must be created for a period of time not to exceed
4132 twenty-four (24) months.

4133 (8) Notwithstanding any other provision of this section to
4134 the contrary, from and after January 1, 2023, if the amount of the
4135 incentive payment that a qualified business or industry is
4136 eligible to receive under this chapter is less than the amount
4137 that the incentive payment would have been if the payment had been
4138 calculated using any applicable income tax rates in Section 27-7-5
4139 that were in effect before January 1, 2023, then the qualified
4140 business or industry also shall receive a grant equal to the
4141 difference between such two (2) amounts. Further, the term
4142 "incentive payment," as such term is used in this chapter, shall
4143 be deemed to not refer to or otherwise include any grant payment



4144 payable to a qualified business or industry pursuant to this
4145 subsection.

4146 **[For businesses or industries that received or applied for**
4147 **incentive payments from and after July 1, 2005, but prior to July**
4148 **1, 2010, this section shall read as follows:]**

4149 57-62-9. (1) (a) Except as otherwise provided in this
4150 section, a qualified business or industry that meets the
4151 qualifications specified in this chapter may receive quarterly
4152 incentive payments for a period not to exceed ten (10) years from
4153 the Department of Revenue pursuant to the provisions of this
4154 chapter in an amount which shall be equal to the net benefit rate
4155 multiplied by the actual gross payroll of new direct jobs for a
4156 calendar quarter as verified by the Mississippi Department of
4157 Employment Security, but not to exceed:

4158 (i) Ninety percent (90%) of the amount of money
4159 previously paid into the fund by the employer if the employer
4160 provides an average annual salary, excluding benefits which are
4161 not subject to Mississippi income taxes, of at least one hundred
4162 seventy-five percent (75%) of the most recently published state
4163 average annual wage or the most recently published average annual
4164 wage of the county in which the qualified business or industry is
4165 located as determined by the Mississippi Department of Employment
4166 Security, whichever is the lesser;

4167 (ii) Eighty percent (80%) of the amount of money
4168 previously paid into the fund by the employer if the employer



4169 provides an average annual salary, excluding benefits which are
4170 not subject to Mississippi income taxes, of at least one hundred
4171 twenty-five percent (125%) but less than one hundred seventy-five
4172 percent (175%) of the most recently published state average annual
4173 wage or the most recently published average annual wage of the
4174 county in which the qualified business or industry is located as
4175 determined by the Mississippi Department of Employment Security,
4176 whichever is the lesser; or

4177 (iii) Seventy percent (70%) of the amount of money
4178 previously paid into the fund by the employer if the employer
4179 provides an average annual salary, excluding benefits which are
4180 not subject to Mississippi income taxes, of less than one hundred
4181 twenty-five percent (125%) of the most recently published state
4182 average annual wage or the most recently published average annual
4183 wage of the county in which the qualified business or industry is
4184 located as determined by the Mississippi Department of Employment
4185 Security, whichever is the lesser.

4186 (b) A qualified business or industry that is a project
4187 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4188 which the ten-year period will begin. Such date may not be later
4189 than sixty (60) months after the date the business or industry
4190 applied for incentive payments.

4191 (2) (a) A qualified business or industry that is a project
4192 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4193 receive incentive payments for an additional period not to exceed



4194 five (5) years beyond the expiration date of the initial ten-year
4195 period if:

4196 (i) The qualified business or industry creates at
4197 least three thousand (3,000) new direct jobs within five (5) years
4198 after the date the business or industry commences commercial
4199 production;

4200 (ii) Within five (5) years after the date the
4201 business or industry commences commercial production, the average
4202 annual wage of the jobs is at least one hundred fifty percent
4203 (150%) of the most recently published state average annual wage or
4204 the most recently published average annual wage of the county in
4205 which the qualified business or industry is located as determined
4206 by the Mississippi Department of Employment Security, whichever is
4207 the lesser. The criteria for the average annual wage requirement
4208 shall be based upon the state average annual wage or the average
4209 annual wage of the county whichever is appropriate, at the time of
4210 creation of the minimum number of jobs, and the threshold
4211 established at that time will remain constant for the duration of
4212 the additional period; and

4213 (iii) The qualified business or industry meets and
4214 maintains the job and wage requirements of subparagraphs (i) and
4215 (ii) of this paragraph (a) for four (4) consecutive calendar
4216 quarters.

4217 (b) A qualified business or industry that is a project
4218 as defined in Section 57-75-5(f)(iv)1 and qualified to receive



4219 incentive payments for the additional period provided in paragraph
4220 (a) of this subsection (2) may apply to the MDA to receive
4221 incentive payments for an additional period not to exceed ten (10)
4222 years beyond the expiration date of the additional period provided
4223 in paragraph (a) of this subsection (2) if:

4224 (i) The qualified business or industry creates at
4225 least four thousand (4,000) new direct jobs after qualifying for
4226 the additional incentive period provided in paragraph (a) of this
4227 subsection (2) but before the expiration of the additional period.
4228 For purposes of determining whether the business or industry meets
4229 the minimum jobs requirement of this subparagraph (i), the number
4230 of jobs the business or industry created in order to meet the
4231 minimum jobs requirement of paragraph (a) of this subsection (2)
4232 shall be subtracted from the minimum jobs requirement of this
4233 subparagraph (i);

4234 (ii) The average annual wage of the jobs is at
4235 least one hundred fifty percent (150%) of the most recently
4236 published state average annual wage or the most recently published
4237 average annual wage of the county in which the qualified business
4238 or industry is located as determined by the Mississippi Department
4239 of Employment Security, whichever is the lesser. The criteria for
4240 the average annual wage requirement shall be based upon the state
4241 average annual wage or the average annual wage of the county
4242 whichever is appropriate, at the time of creation of the minimum



4243 number of jobs, and the threshold established at that time will
4244 remain constant for the duration of the additional period; and

4245 (iii) The qualified business or industry meets and
4246 maintains the job and wage requirements of subparagraphs (i) and
4247 (ii) of this paragraph (b) for four (4) consecutive calendar
4248 quarters.

4249 (3) In order to receive incentive payments, an establishment
4250 shall apply to the MDA. The application shall be on a form
4251 prescribed by the MDA and shall contain such information as may be
4252 required by the MDA to determine if the applicant is qualified.

4253 (4) (a) In order to qualify to receive such payments, the
4254 establishment applying shall be required to meet the definition of
4255 the term "qualified business or industry";

4256 (b) The criteria for the average annual salary
4257 requirement shall be based upon the state average annual wage or
4258 the average annual wage of the county whichever is appropriate, at
4259 the time of application, and the threshold established upon
4260 application will remain constant for the duration of the project;

4261 (c) The business or industry must meet its job creation
4262 commitment within twenty-four (24) months of the application
4263 approval. However, if the qualified business or industry is
4264 applying for incentive payments for an additional period under
4265 subsection (2) of this section, the business or industry must
4266 comply with the applicable job and wage requirements of subsection
4267 (2) of this section.



4268 (5) (a) The MDA shall determine if the applicant is
4269 qualified to receive incentive payments.

4270 (b) If the applicant is determined to be qualified to
4271 receive incentive payments for an additional period under
4272 subsection (2) of this section, the MDA shall conduct a
4273 cost/benefit analysis to determine the estimated net direct state
4274 benefits and the net benefit rate applicable for the appropriate
4275 additional period and to estimate the amount of gross payroll for
4276 the additional period. In conducting such cost/benefit analysis,
4277 the MDA shall consider quantitative factors, such as the
4278 anticipated level of new tax revenues to the state along with the
4279 cost to the state of the qualified business or industry, and such
4280 other criteria as deemed appropriate by the MDA, including the
4281 adequacy of retirement benefits that the business or industry
4282 provides to individuals it employs in new direct jobs in this
4283 state. In no event shall incentive payments, cumulatively, exceed
4284 the estimated net direct state benefits. Once the qualified
4285 business or industry is approved by the MDA, an agreement shall be
4286 deemed to exist between the qualified business or industry and the
4287 State of Mississippi, requiring the continued incentive payment,
4288 together with any amount due pursuant to subsection (8) of this
4289 section, if applicable, to be made as long as the qualified
4290 business or industry retains its eligibility.

4291 (6) Upon approval of such an application, the MDA shall
4292 notify the Department of Revenue and shall provide it with a copy



4293 of the approved application and the estimated net direct state
4294 benefits. The Department of Revenue may require the qualified
4295 business or industry to submit such additional information as may
4296 be necessary to administer the provisions of this chapter. The
4297 qualified business or industry shall report to the Department of
4298 Revenue periodically to show its continued eligibility for
4299 incentive payments. The qualified business or industry may be
4300 audited by the Department of Revenue to verify such eligibility.
4301 In addition, the State Auditor may conduct performance and
4302 compliance audits under this chapter according to Section
4303 7-7-211(o) and may bill the oversight agency.

4304 (7) If the qualified business or industry is located in an
4305 area that has been declared by the Governor to be a disaster area
4306 and as a result of the disaster the business or industry is unable
4307 to create or maintain the full-time jobs required by this section:

4308 (a) The Commissioner of Revenue may extend the period
4309 of time that the business or industry may receive incentive
4310 payments for a period of time not to exceed two (2) years;

4311 (b) The Commissioner of Revenue may waive the
4312 requirement that a certain number of jobs be maintained for a
4313 period of time not to exceed twenty-four (24) months; and

4314 (c) The MDA may extend the period of time within which
4315 the jobs must be created for a period of time not to exceed
4316 twenty-four (24) months.



4317 (8) Notwithstanding any other provision of this section to
4318 the contrary, from and after January 1, 2023, if the amount of the
4319 incentive payment that a qualified business or industry is
4320 eligible to receive under this chapter is less than the amount
4321 that the incentive payment would have been if the payment had been
4322 calculated using any applicable income tax rates in Section 27-7-5
4323 that were in effect before January 1, 2023, then the qualified
4324 business or industry also shall receive a grant equal to the
4325 difference between such two (2) amounts. Further, the term
4326 "incentive payment," as such term is used in this chapter, shall
4327 be deemed to not refer to or otherwise include any grant payment
4328 payable to a qualified business or industry pursuant to this
4329 subsection.

4330 **[For businesses or industries that apply for incentive**
4331 **payments from and after July 1, 2010, this section shall read as**
4332 **follows:]**

4333 57-62-9. (1) (a) Except as otherwise provided in this
4334 section, a qualified business or industry that meets the
4335 qualifications specified in this chapter may receive quarterly
4336 incentive payments for a period not to exceed ten (10) years from
4337 the Department of Revenue pursuant to the provisions of this
4338 chapter in an amount which shall be equal to ninety percent (90%)
4339 of the amount of actual income tax withheld for employees with new
4340 direct jobs, but in no event more than four percent (4%) of the
4341 total annual salary paid for new direct jobs during such period,



4342 excluding benefits which are not subject to Mississippi income
4343 taxes.

4344 (b) A qualified business or industry that is a project
4345 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4346 which the ten-year period will begin. Such date may not be later
4347 than sixty (60) months after the date the business or industry
4348 applied for incentive payments.

4349 (c) A qualified business or industry as defined in
4350 Section 57-62-5(a)(iii) may elect the date upon which the ten-year
4351 period will begin and may elect to begin receiving incentive
4352 payments as early as the second quarter after that date.

4353 Incentive payments will be calculated on all jobs above the
4354 existing number of jobs as of the date the MDA determines that the
4355 applicant is qualified to receive incentive payments. In the
4356 event that the qualified business or industry falls below the
4357 number of existing jobs at the time of determination that the
4358 applicant is qualified to receive the incentive payment, the
4359 incentive payment shall cease until the qualified business or
4360 industry once again exceeds that number. If after forty-eight
4361 (48) months, the qualified business or industry has failed to
4362 create at least three thousand (3,000) new direct jobs, incentive
4363 payments shall cease and the qualified business or industry shall
4364 not be qualified to receive further incentive payments.

4365 (2) (a) A qualified business or industry that is a project
4366 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to



4367 receive incentive payments for an additional period not to exceed
4368 five (5) years beyond the expiration date of the initial ten-year
4369 period if:

4370 (i) The qualified business or industry creates at
4371 least three thousand (3,000) new direct jobs within five (5) years
4372 after the date the business or industry commences commercial
4373 production;

4374 (ii) Within five (5) years after the date the
4375 business or industry commences commercial production, the average
4376 annual wage of the jobs is at least one hundred fifty percent
4377 (150%) of the most recently published state average annual wage or
4378 the most recently published average annual wage of the county in
4379 which the qualified business or industry is located as determined
4380 by the Mississippi Department of Employment Security, whichever is
4381 the lesser. The criteria for the average annual wage requirement
4382 shall be based upon the state average annual wage or the average
4383 annual wage of the county whichever is appropriate, at the time of
4384 creation of the minimum number of jobs, and the threshold
4385 established at that time will remain constant for the duration of
4386 the additional period; and

4387 (iii) The qualified business or industry meets and
4388 maintains the job and wage requirements of subparagraphs (i) and
4389 (ii) of this paragraph (a) for four (4) consecutive calendar
4390 quarters.



4391 (b) A qualified business or industry that is a project
4392 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4393 incentive payments for the additional period provided in paragraph
4394 (a) of this subsection (2) may apply to the MDA to receive
4395 incentive payments for an additional period not to exceed ten (10)
4396 years beyond the expiration date of the additional period provided
4397 in paragraph (a) of this subsection (2) if:

4398 (i) The qualified business or industry creates at
4399 least four thousand (4,000) new direct jobs after qualifying for
4400 the additional incentive period provided in paragraph (a) of this
4401 subsection (2) but before the expiration of the additional period.
4402 For purposes of determining whether the business or industry meets
4403 the minimum jobs requirement of this subparagraph (i), the number
4404 of jobs the business or industry created in order to meet the
4405 minimum jobs requirement of paragraph (a) of this subsection (2)
4406 shall be subtracted from the minimum jobs requirement of this
4407 subparagraph (i);

4408 (ii) The average annual wage of the jobs is at
4409 least one hundred fifty percent (150%) of the most recently
4410 published state average annual wage or the most recently published
4411 average annual wage of the county in which the qualified business
4412 or industry is located as determined by the Mississippi Department
4413 of Employment Security, whichever is the lesser. The criteria for
4414 the average annual wage requirement shall be based upon the state
4415 average annual wage or the average annual wage of the county



4416 whichever is appropriate, at the time of creation of the minimum
4417 number of jobs, and the threshold established at that time will
4418 remain constant for the duration of the additional period; and

4419 (iii) The qualified business or industry meets and
4420 maintains the job and wage requirements of subparagraphs (i) and
4421 (ii) of this paragraph (b) for four (4) consecutive calendar
4422 quarters.

4423 (3) In order to receive incentive payments, an establishment
4424 shall apply to the MDA. The application shall be on a form
4425 prescribed by the MDA and shall contain such information as may be
4426 required by the MDA to determine if the applicant is qualified.

4427 (4) (a) In order to qualify to receive such payments, the
4428 establishment applying shall be required to meet the definition of
4429 the term "qualified business or industry";

4430 (b) The criteria for the average annual salary
4431 requirement shall be based upon the state average annual wage or
4432 the average annual wage of the county whichever is appropriate, at
4433 the time of application, and the threshold established upon
4434 application will remain constant for the duration of the project;

4435 (c) Except as otherwise provided for a qualified
4436 business or industry as defined in Section 57-62-5(a)(iii), the
4437 business or industry must meet its job creation commitment within
4438 twenty-four (24) months of the application approval. However, if
4439 the qualified business or industry is applying for incentive
4440 payments for an additional period under subsection (2) of this



4441 section, the business or industry must comply with the applicable
4442 job and wage requirements of subsection (2) of this section.

4443 (5) (a) The MDA shall determine if the applicant is
4444 qualified to receive incentive payments.

4445 (b) If the applicant is determined to be qualified to
4446 receive incentive payments for an additional period under
4447 subsection (2) of this section, the MDA shall conduct an analysis
4448 to estimate the amount of gross payroll for the appropriate
4449 additional period. Incentive payments, cumulatively, shall not
4450 exceed ninety percent (90%) of the amount of actual income tax
4451 withheld for employees with new direct jobs, but in no event more
4452 than four percent (4%) of the total annual salary paid for new
4453 direct jobs during the additional period, excluding benefits which
4454 are not subject to Mississippi income taxes. Once the qualified
4455 business or industry is approved by the MDA, an agreement shall be
4456 deemed to exist between the qualified business or industry and the
4457 State of Mississippi, requiring the continued incentive payment,
4458 together with any amount due pursuant to subsection (8) of this
4459 section, if applicable, to be made as long as the qualified
4460 business or industry retains its eligibility.

4461 (6) Upon approval of such an application, the MDA shall
4462 notify the Department of Revenue and shall provide it with a copy
4463 of the approved application and the minimum job and salary
4464 requirements. The Department of Revenue may require the qualified
4465 business or industry to submit such additional information as may



4466 be necessary to administer the provisions of this chapter. The
4467 qualified business or industry shall report to the Department of
4468 Revenue periodically to show its continued eligibility for
4469 incentive payments. The qualified business or industry may be
4470 audited by the Department of Revenue to verify such eligibility.
4471 In addition, the State Auditor may conduct performance and
4472 compliance audits under this chapter according to Section
4473 7-7-211(o) and may bill the oversight agency.

4474 (7) If the qualified business or industry is located in an
4475 area that has been declared by the Governor to be a disaster area
4476 and as a result of the disaster the business or industry is unable
4477 to create or maintain the full-time jobs required by this section:

4478 (a) The Commissioner of Revenue may extend the period
4479 of time that the business or industry may receive incentive
4480 payments for a period of time not to exceed two (2) years;

4481 (b) The Commissioner of Revenue may waive the
4482 requirement that a certain number of jobs be maintained for a
4483 period of time not to exceed twenty-four (24) months; and

4484 (c) The MDA may extend the period of time within which
4485 the jobs must be created for a period of time not to exceed
4486 twenty-four (24) months.

4487 (8) Notwithstanding any other provision of this section to
4488 the contrary, from and after January 1, 2023, if the amount of the
4489 incentive payment that a qualified business or industry is
4490 eligible to receive under this chapter is less than the amount



4491 that the incentive payment would have been if the payment had been
4492 calculated using any applicable income tax rates in Section 27-7-5
4493 that were in effect before January 1, 2023, then the qualified
4494 business or industry also shall receive a grant equal to the
4495 difference between such two (2) amounts. Further, the term
4496 "incentive payment," as such term is used in this chapter, shall
4497 be deemed to not refer to or otherwise include any grant payment
4498 payable to a qualified business or industry pursuant to this
4499 subsection.

4500 **SECTION 48.** Section 57-75-5, Mississippi Code of 1972, is
4501 reenacted as follows:

4502 57-75-5. Words and phrases used in this chapter shall have
4503 meanings as follows, unless the context clearly indicates a
4504 different meaning:

4505 (a) "Act" means the Mississippi Major Economic Impact
4506 Act as originally enacted or as hereafter amended.

4507 (b) "Authority" means the Mississippi Major Economic
4508 Impact Authority created pursuant to the act.

4509 (c) "Bonds" means general obligation bonds, interim
4510 notes and other evidences of debt of the State of Mississippi
4511 issued pursuant to this chapter.

4512 (d) "Facility related to the project" means and
4513 includes any of the following, as the same may pertain to the
4514 project within the project area: (i) facilities to provide
4515 potable and industrial water supply systems, sewage and waste



4516 disposal systems and water, natural gas and electric transmission
4517 systems to the site of the project; (ii) airports, airfields and
4518 air terminals; (iii) rail lines; (iv) port facilities; (v)
4519 highways, streets and other roadways; (vi) public school
4520 buildings, classrooms and instructional facilities, training
4521 facilities and equipment, including any functionally related
4522 facilities; (vii) parks, outdoor recreation facilities and
4523 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
4524 art centers, cultural centers, folklore centers and other public
4525 facilities; (ix) health care facilities, public or private; and
4526 (x) fire protection facilities, equipment and elevated water
4527 tanks.

4528 (e) "Person" means any natural person, corporation,
4529 association, partnership, limited liability company, receiver,
4530 trustee, guardian, executor, administrator, fiduciary,
4531 governmental unit, public agency, political subdivision, or any
4532 other group acting as a unit, and the plural as well as the
4533 singular.

4534 (f) "Project" means:

4535 (i) Any industrial, commercial, research and
4536 development, warehousing, distribution, transportation,
4537 processing, mining, United States government or tourism enterprise
4538 together with all real property required for construction,
4539 maintenance and operation of the enterprise with an initial
4540 capital investment of not less than Three Hundred Million Dollars



4541 (\$300,000,000.00) from private or United States government sources
4542 together with all buildings, and other supporting land and
4543 facilities, structures or improvements of whatever kind required
4544 or useful for construction, maintenance and operation of the
4545 enterprise; or with an initial capital investment of not less than
4546 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
4547 or United States government sources together with all buildings
4548 and other supporting land and facilities, structures or
4549 improvements of whatever kind required or useful for construction,
4550 maintenance and operation of the enterprise and which creates at
4551 least one thousand (1,000) net new full-time jobs; or which
4552 creates at least one thousand (1,000) net new full-time jobs which
4553 provides an average salary, excluding benefits which are not
4554 subject to Mississippi income taxation, of at least one hundred
4555 twenty-five percent (125%) of the most recently published average
4556 annual wage of the state as determined by the Mississippi
4557 Department of Employment Security. "Project" shall include any
4558 addition to or expansion of an existing enterprise if such
4559 addition or expansion has an initial capital investment of not
4560 less than Three Hundred Million Dollars (\$300,000,000.00) from
4561 private or United States government sources, or has an initial
4562 capital investment of not less than One Hundred Fifty Million
4563 Dollars (\$150,000,000.00) from private or United States government
4564 sources together with all buildings and other supporting land and
4565 facilities, structures or improvements of whatever kind required



4566 or useful for construction, maintenance and operation of the
4567 enterprise and which creates at least one thousand (1,000) net new
4568 full-time jobs; or which creates at least one thousand (1,000) net
4569 new full-time jobs which provides an average salary, excluding
4570 benefits which are not subject to Mississippi income taxation, of
4571 at least one hundred twenty-five percent (125%) of the most
4572 recently published average annual wage of the state as determined
4573 by the Mississippi Department of Employment Security. "Project"
4574 shall also include any ancillary development or business resulting
4575 from the enterprise, of which the authority is notified, within
4576 three (3) years from the date that the enterprise entered into
4577 commercial production, that the project area has been selected as
4578 the site for the ancillary development or business.

4579 (ii) 1. Any major capital project designed to
4580 improve, expand or otherwise enhance any active duty or reserve
4581 United States armed services bases and facilities or any major
4582 Mississippi National Guard training installations, their support
4583 areas or their military operations, upon designation by the
4584 authority that any such base was or is at risk to be recommended
4585 for closure or realignment pursuant to the Defense Base Closure
4586 and Realignment Act of 1990, as amended, or other applicable
4587 federal law; or any major development project determined by the
4588 authority to be necessary to acquire or improve base properties
4589 and to provide employment opportunities through construction of
4590 projects as defined in Section 57-3-5, which shall be located on



4591 or provide direct support service or access to such military
4592 installation property in the event of closure or reduction of
4593 military operations at the installation.

4594 2. Any major study or investigation related
4595 to such a facility, installation or base, upon a determination by
4596 the authority that the study or investigation is critical to the
4597 expansion, retention or reuse of the facility, installation or
4598 base.

4599 3. Any project as defined in Section 57-3-5,
4600 any business or enterprise determined to be in the furtherance of
4601 the public purposes of this act as determined by the authority or
4602 any facility related to such project each of which shall be,
4603 directly or indirectly, related to any military base or other
4604 military-related facility no longer operated by the United States
4605 armed services or the Mississippi National Guard.

4606 (iii) Any enterprise to be maintained, improved or
4607 constructed in Tishomingo County by or for a National Aeronautics
4608 and Space Administration facility in such county.

4609 (iv) 1. Any major capital project with an initial
4610 capital investment from private sources of not less than Seven
4611 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
4612 at least three thousand (3,000) jobs meeting criteria established
4613 by the Mississippi Development Authority.

4614 2. "Project" shall also include any ancillary
4615 development or business resulting from an enterprise operating a



4616 project as defined in item 1 of this paragraph (f) (iv), of which
4617 the authority is notified, within three (3) years from the date
4618 that the enterprise entered into commercial production, that the
4619 state has been selected as the site for the ancillary development
4620 or business.

4621 (v) Any manufacturing, processing or industrial
4622 project determined by the authority, in its sole discretion, to
4623 contribute uniquely and significantly to the economic growth and
4624 development of the state, and which meets the following criteria:

4625 1. The project shall create at least two
4626 thousand (2,000) net new full-time jobs meeting criteria
4627 established by the authority, which criteria shall include, but
4628 not be limited to, the requirement that such jobs must be held by
4629 persons eligible for employment in the United States under
4630 applicable state and federal law.

4631 2. The project and any facility related to
4632 the project shall include a total investment from private sources
4633 of not less than Sixty Million Dollars (\$60,000,000.00), or from
4634 any combination of sources of not less than Eighty Million Dollars
4635 (\$80,000,000.00).

4636 (vi) Any real property owned or controlled by the
4637 National Aeronautics and Space Administration, the United States
4638 government, or any agency thereof, which is legally conveyed to
4639 the State of Mississippi or to the State of Mississippi for the
4640 benefit of the Mississippi Major Economic Impact Authority, its



4641 successors and assigns pursuant to Section 212 of Public Law
4642 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4643 (vii) Any major capital project related to the
4644 establishment, improvement, expansion and/or other enhancement of
4645 any active duty military installation and having a minimum capital
4646 investment from any source or combination of sources other than
4647 the State of Mississippi of at least Forty Million Dollars
4648 (\$40,000,000.00), and which will create at least four hundred
4649 (400) military installation related full-time jobs, which jobs may
4650 be military jobs, civilian jobs or a combination of military and
4651 civilian jobs. The authority shall require that binding
4652 commitments be entered into requiring that the minimum
4653 requirements for the project provided for in this subparagraph
4654 shall be met not later than July 1, 2008.

4655 (viii) Any major capital project with an initial
4656 capital investment from any source or combination of sources of
4657 not less than Ten Million Dollars (\$10,000,000.00) which will
4658 create at least eighty (80) full-time jobs which provide an
4659 average annual salary, excluding benefits which are not subject to
4660 Mississippi income taxes, of at least one hundred thirty-five
4661 percent (135%) of the most recently published average annual wage
4662 of the state or the most recently published average annual wage of
4663 the county in which the project is located as determined by the
4664 Mississippi Department of Employment Security, whichever is the



4665 lesser. The authority shall require that binding commitments be
4666 entered into requiring that:

4667 1. The minimum requirements for the project
4668 provided for in this subparagraph shall be met; and

4669 2. That if such commitments are not met, all
4670 or a portion of the funds provided by the state for the project as
4671 determined by the authority shall be repaid.

4672 (ix) Any regional retail shopping mall with an
4673 initial capital investment from private sources in excess of One
4674 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
4675 footage in excess of eight hundred thousand (800,000) square feet,
4676 which will create at least seven hundred (700) full-time jobs with
4677 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
4678 authority shall require that binding commitments be entered into
4679 requiring that:

4680 1. The minimum requirements for the project
4681 provided for in this subparagraph shall be met; and

4682 2. That if such commitments are not met, all
4683 or a portion of the funds provided by the state for the project as
4684 determined by the authority shall be repaid.

4685 (x) Any major capital project with an initial
4686 capital investment from any source or combination of sources of
4687 not less than Seventy-five Million Dollars (\$75,000,000.00) which
4688 will create at least one hundred twenty-five (125) full-time jobs
4689 which provide an average annual salary, excluding benefits which



4690 are not subject to Mississippi income taxes, of at least one
4691 hundred thirty-five percent (135%) of the most recently published
4692 average annual wage of the state or the most recently published
4693 average annual wage of the county in which the project is located
4694 as determined by the Mississippi Department of Employment
4695 Security, whichever is the greater. The authority shall require
4696 that binding commitments be entered into requiring that:

4697 1. The minimum requirements for the project
4698 provided for in this subparagraph shall be met; and

4699 2. That if such commitments are not met, all
4700 or a portion of the funds provided by the state for the project as
4701 determined by the authority shall be repaid.

4702 (xi) Any potential major capital project that the
4703 authority has determined is feasible to recruit.

4704 (xii) Any project built according to the
4705 specifications and federal provisions set forth by the National
4706 Aeronautics and Space Administration Center Operations Directorate
4707 at Stennis Space Center for the purpose of consolidating common
4708 services from National Aeronautics and Space Administration
4709 centers in human resources, procurement, financial management and
4710 information technology located on land owned or controlled by the
4711 National Aeronautics and Space Administration, which will create
4712 at least four hundred seventy (470) full-time jobs.

4713 (xiii) Any major capital project with an initial
4714 capital investment from any source or combination of sources of



4715 not less than Ten Million Dollars (\$10,000,000.00) which will
4716 create at least two hundred fifty (250) full-time jobs. The
4717 authority shall require that binding commitments be entered into
4718 requiring that:

4719 1. The minimum requirements for the project
4720 provided for in this subparagraph shall be met; and

4721 2. That if such commitments are not met, all
4722 or a portion of the funds provided by the state for the project as
4723 determined by the authority shall be repaid.

4724 (xiv) Any major pharmaceutical facility with a
4725 capital investment of not less than Fifty Million Dollars
4726 (\$50,000,000.00) made after July 1, 2002, through four (4) years
4727 after the initial date of any loan or grant made by the authority
4728 for such project, which will maintain at least seven hundred fifty
4729 (750) full-time employees. The authority shall require that
4730 binding commitments be entered into requiring that:

4731 1. The minimum requirements for the project
4732 provided for in this subparagraph shall be met; and

4733 2. That if such commitments are not met, all
4734 or a portion of the funds provided by the state for the project as
4735 determined by the authority shall be repaid.

4736 (xv) Any pharmaceutical manufacturing, packaging
4737 and distribution facility with an initial capital investment from
4738 any local or federal sources of not less than Five Hundred
4739 Thousand Dollars (\$500,000.00) which will create at least ninety



4740 (90) full-time jobs. The authority shall require that binding
4741 commitments be entered into requiring that:

4742 1. The minimum requirements for the project
4743 provided for in this subparagraph shall be met; and

4744 2. That if such commitments are not met, all
4745 or a portion of the funds provided by the state for the project as
4746 determined by the authority shall be repaid.

4747 (xvi) Any major industrial wood processing
4748 facility with an initial capital investment of not less than One
4749 Hundred Million Dollars (\$100,000,000.00) which will create at
4750 least one hundred twenty-five (125) full-time jobs which provide
4751 an average annual salary, excluding benefits which are not subject
4752 to Mississippi income taxes, of at least Thirty Thousand Dollars
4753 (\$30,000.00). The authority shall require that binding
4754 commitments be entered into requiring that:

4755 1. The minimum requirements for the project
4756 provided for in this subparagraph shall be met; and

4757 2. That if such commitments are not met, all
4758 or a portion of the funds provided by the state for the project as
4759 determined by the authority shall be repaid.

4760 (xvii) Any technical, engineering,
4761 manufacturing-logistic service provider with an initial capital
4762 investment of not less than One Million Dollars (\$1,000,000.00)
4763 which will create at least ninety (90) full-time jobs. The



4764 authority shall require that binding commitments be entered into
4765 requiring that:

4766 1. The minimum requirements for the project
4767 provided for in this subparagraph shall be met; and

4768 2. That if such commitments are not met, all
4769 or a portion of the funds provided by the state for the project as
4770 determined by the authority shall be repaid.

4771 (xviii) Any major capital project with an initial
4772 capital investment from any source or combination of sources other
4773 than the State of Mississippi of not less than Six Hundred Million
4774 Dollars (\$600,000,000.00) which will create at least four hundred
4775 fifty (450) full-time jobs with an average annual salary,
4776 excluding benefits which are not subject to Mississippi income
4777 taxes, of at least Seventy Thousand Dollars (\$70,000.00). The
4778 authority shall require that binding commitments be entered into
4779 requiring that:

4780 1. The minimum requirements for the project
4781 provided for in this subparagraph shall be met; and

4782 2. That if such commitments are not met, all
4783 or a portion of the funds provided by the state for the project as
4784 determined by the authority shall be repaid.

4785 (xix) Any major coal and/or petroleum coke
4786 gasification project with an initial capital investment from any
4787 source or combination of sources other than the State of
4788 Mississippi of not less than Eight Hundred Million Dollars



4789 (\$800,000,000.00), which will create at least two hundred (200)
4790 full-time jobs with an average annual salary, excluding benefits
4791 which are not subject to Mississippi income taxes, of at least
4792 Forty-five Thousand Dollars (\$45,000.00). The authority shall
4793 require that binding commitments be entered into requiring that:

4794 1. The minimum requirements for the project
4795 provided for in this subparagraph shall be met; and

4796 2. That if such commitments are not met, all
4797 or a portion of the funds provided by the state for the project as
4798 determined by the authority shall be repaid.

4799 (xx) Any planned mixed use development located on
4800 not less than four thousand (4,000) acres of land that will
4801 consist of commercial, recreational, resort, tourism and
4802 residential development with a capital investment from private
4803 sources of not less than Four Hundred Seventy-five Million Dollars
4804 (\$475,000,000.00) in the aggregate in any one (1) or any
4805 combination of tourism projects that will create at least three
4806 thousand five hundred (3,500) jobs in the aggregate. For the
4807 purposes of this paragraph (f)(xx), the term "tourism project"
4808 means and has the same definition as that term has in Section
4809 57-28-1. In order to meet the minimum capital investment required
4810 under this paragraph (f)(xx), at least Two Hundred Thirty-seven
4811 Million Five Hundred Thousand Dollars (\$237,500,000.00) of such
4812 investment must be made not later than June 1, 2015, and the
4813 remainder of the minimum capital investment must be made not later



4814 than June 1, 2017. In order to meet the minimum number of jobs
4815 required to be created under this paragraph (f)(xx), at least one
4816 thousand seven hundred fifty (1,750) of such jobs must be created
4817 not later than June 1, 2015, and the remainder of the jobs must be
4818 created not later than June 1, 2017. The authority shall require
4819 that binding commitments be entered into requiring that:

4820 1. The minimum requirements for the project
4821 provided for in this subparagraph shall be met; and

4822 2. That if such commitments are not met, all
4823 or a portion of the funds provided by the state for the project as
4824 determined by the authority shall be repaid.

4825 (xxi) Any enterprise owning or operating an
4826 automotive manufacturing and assembly plant and its affiliates for
4827 which construction begins after March 2, 2007, and not later than
4828 December 1, 2007, with an initial capital investment from private
4829 sources of not less than Five Hundred Million Dollars
4830 (\$500,000,000.00) which will create at least one thousand five
4831 hundred (1,500) jobs meeting criteria established by the
4832 authority, which criteria shall include, but not be limited to,
4833 the requirement that such jobs must be held by persons eligible
4834 for employment in the United States under applicable state and
4835 federal law. The authority shall require that binding commitments
4836 be entered into requiring that:

4837 1. The minimum requirements for the project
4838 provided for in this subparagraph shall be met; and



4839 2. That if such commitments are not met, all
4840 or a portion of the funds provided by the state for the project as
4841 determined by the authority shall be repaid.

4842 (xxii) Any enterprise owning or operating a major
4843 powertrain component manufacturing and assembly plant for which
4844 construction begins after May 11, 2007, and not later than
4845 December 1, 2007, with an initial capital investment from private
4846 sources of not less than Three Hundred Million Dollars
4847 (\$300,000,000.00) which will create at least five hundred (500)
4848 new full-time jobs meeting criteria established by the authority,
4849 which criteria shall include, but not be limited to, the
4850 requirement that such jobs must be held by persons eligible for
4851 employment in the United States under applicable state and federal
4852 law, and the requirement that the average annual wages and taxable
4853 benefits of such jobs shall be at least one hundred twenty-five
4854 percent (125%) of the most recently published average annual wage
4855 of the state or the most recently published average annual wage of
4856 the county in which the project is located as determined by the
4857 Mississippi Department of Employment Security, whichever is the
4858 lesser. The authority shall require that binding commitments be
4859 entered into requiring that:

4860 1. The minimum requirements for the project
4861 provided for in this subparagraph shall be met; and



4862 2. That if such commitments are not met, all
4863 or a portion of the funds provided by the state for the project as
4864 determined by the authority shall be repaid.

4865 (xxiii) Any biological and agricultural defense
4866 project operated by an agency of the government of the United
4867 States with an initial capital investment of not less than Four
4868 Hundred Fifty Million Dollars (\$450,000,000.00) from any source
4869 other than the State of Mississippi and its subdivisions, which
4870 will create at least two hundred fifty (250) new full-time jobs.
4871 All jobs created by the project must be held by persons eligible
4872 for employment in the United States under applicable state and
4873 federal law.

4874 (xxiv) Any enterprise owning or operating an
4875 existing tire manufacturing plant which adds to such plant capital
4876 assets of not less than Twenty-five Million Dollars
4877 (\$25,000,000.00) after January 1, 2009, and that maintains at
4878 least one thousand two hundred (1,200) full-time jobs in this
4879 state at one (1) location with an average annual salary, excluding
4880 benefits which are not subject to Mississippi income taxes, of at
4881 least Forty-five Thousand Dollars (\$45,000.00). The authority
4882 shall require that binding commitments be entered into requiring
4883 that:

4884 1. The minimum requirements for the project
4885 provided for in this subparagraph shall be met; and



4886 2. That if such commitments are not met, all
4887 or a portion of the funds provided by the state for the project as
4888 determined by the authority shall be repaid.

4889 (xxv) Any enterprise owning or operating a
4890 facility for the manufacture of composite components for the
4891 aerospace industry which will have an investment from private
4892 sources of not less than One Hundred Seventy-five Million Dollars
4893 (\$175,000,000.00) by not later than December 31, 2015, and which
4894 will result in the full-time employment at the project site of not
4895 less than two hundred seventy-five (275) persons by December 31,
4896 2011, and not less than four hundred twenty-five (425) persons by
4897 December 31, 2013, and not less than eight hundred (800) persons
4898 by December 31, 2017, all with an average annual compensation,
4899 excluding benefits which are not subject to Mississippi income
4900 taxes, of at least Fifty-three Thousand Dollars (\$53,000.00). The
4901 authority shall require that binding commitments be entered into
4902 requiring that:

4903 1. The minimum requirements for the project
4904 provided for in this subparagraph shall be met; and

4905 2. That if such commitments are not met, all
4906 or a portion of the funds provided by the state for the project as
4907 determined by the authority shall be repaid.

4908 (xxvi) Any enterprise owning or operating a
4909 facility for the manufacture of pipe which will have an investment
4910 from any source other than the State of Mississippi and its



4911 subdivisions of not less than Three Hundred Million Dollars
4912 (\$300,000,000.00) by not later than December 31, 2015, and which
4913 will create at least five hundred (500) new full-time jobs within
4914 five (5) years after the start of commercial production and
4915 maintain such jobs for at least ten (10) years, all with an
4916 average annual compensation, excluding benefits which are not
4917 subject to Mississippi income taxes, of at least Thirty-two
4918 Thousand Dollars (\$32,000.00). The authority shall require that
4919 binding commitments be entered into requiring that:

4920 1. The minimum requirements for the project
4921 provided for in this subparagraph shall be met; and

4922 2. That if such commitments are not met, all
4923 or a portion of the funds provided by the state for the project as
4924 determined by the authority shall be repaid.

4925 (xxvii) Any enterprise owning or operating a
4926 facility for the manufacture of solar panels which will have an
4927 investment from any source other than the State of Mississippi and
4928 its subdivisions of not less than One Hundred Thirty-two Million
4929 Dollars (\$132,000,000.00) by not later than December 31, 2015, and
4930 which will create at least five hundred (500) new full-time jobs
4931 within five (5) years after the start of commercial production and
4932 maintain such jobs for at least ten (10) years, all with an
4933 average annual compensation, excluding benefits which are not
4934 subject to Mississippi income taxes, of at least Thirty-four



4935 Thousand Dollars (\$34,000.00). The authority shall require that
4936 binding commitments be entered into requiring that:

4937 1. The minimum requirements for the project
4938 provided for in this subparagraph shall be met; and

4939 2. That if such commitments are not met, all
4940 or a portion of the funds provided by the state for the project as
4941 determined by the authority shall be repaid.

4942 (xxviii) 1. Any enterprise owning or operating an
4943 automotive parts manufacturing plant and its affiliates for which
4944 construction begins after June 1, 2013, and not later than June
4945 30, 2014, with an initial capital investment of not less than
4946 Three Hundred Million Dollars (\$300,000,000.00) which will create
4947 at least five hundred (500) new full-time jobs meeting criteria
4948 established by the authority, which criteria shall include, but
4949 not be limited to, the requirement that such jobs must be held by
4950 persons eligible for employment in the United States under
4951 applicable state and federal law, and the requirement that the
4952 average annual wages and taxable benefits of such jobs shall be at
4953 least one hundred ten percent (110%) of the most recently
4954 published average annual wage of the state or the most recently
4955 published average annual wage of the county in which the project
4956 is located as determined by the Mississippi Department of
4957 Employment Security, whichever is the lesser. The authority shall
4958 require that binding commitments be entered into requiring that:



4959 a. The minimum requirements for the
4960 project provided for in this subparagraph shall be met; and
4961 b. That if such commitments are not met,
4962 all or a portion of the funds provided by the state for the
4963 project as determined by the authority shall be repaid.

4964 2. It is anticipated that the project defined
4965 in this subparagraph (xxviii) will expand in three (3) additional
4966 phases, will create an additional five hundred (500) full-time
4967 jobs meeting the above criteria in each phase, and will invest an
4968 additional Three Hundred Million Dollars (\$300,000,000.00) per
4969 phase.

4970 (xxix) Any enterprise engaged in the manufacture
4971 of tires or other related rubber or automotive products for which
4972 construction of a plant begins after January 1, 2016, and is
4973 substantially completed no later than December 31, 2022, and for
4974 which such enterprise commits to an aggregate capital investment
4975 by such enterprise and its affiliates of not less than One Billion
4976 Four Hundred Fifty Million Dollars (\$1,450,000,000.00) and the
4977 creation thereby of at least two thousand five hundred (2,500) new
4978 full-time jobs meeting criteria established by the authority,
4979 which criteria shall include, but not be limited to, the
4980 requirement that such jobs must be held by persons eligible for
4981 employment in the United States under applicable state and federal
4982 law, and the requirement that the average annual salary or wage,
4983 excluding the value of any benefits which are not subject to



4984 Mississippi income tax, of such jobs shall be at least Forty
4985 Thousand Dollars (\$40,000.00). The authority shall require that
4986 binding commitments be entered into requiring that:

4987 1. Minimum requirements for investment and
4988 jobs for the project shall be met; and

4989 2. If such requirements are not met, all or a
4990 portion of the funds provided by the state for the project may, as
4991 determined by the authority, be subject to repayment by such
4992 enterprise and/or its affiliates, together with any penalties or
4993 damages required by the authority in connection therewith.

4994 (xxx) Any enterprise owning or operating a
4995 maritime fabrication and assembly facility for which construction
4996 begins after February 1, 2016, and concludes not later than
4997 December 31, 2018, with an initial capital investment in land,
4998 buildings and equipment not less than Sixty-eight Million Dollars
4999 (\$68,000,000.00) and will create not less than one thousand
5000 (1,000) new full-time jobs meeting criteria established by the
5001 authority, which criteria shall include, but not be limited to,
5002 the requirement that such jobs must be held by persons eligible
5003 for employment in the United States under applicable state and
5004 federal law, and the requirement that the average annual
5005 compensation, excluding benefits which are not subject to
5006 Mississippi income taxes, of at least Forty Thousand Dollars
5007 (\$40,000.00). The authority shall require that binding
5008 commitments be entered into requiring that:



5009 1. The minimum requirements for the project
5010 provided for in this subparagraph shall be met; and

5011 2. If such commitments are not met, all or a
5012 portion of the funds provided by the state for the project may, as
5013 determined by the authority, be subject to repayment by such
5014 enterprise, together with any penalties or damages required by the
5015 authority in connection therewith.

5016 (xxxi) Each of the projects defined in this
5017 paragraph (f)(xxxi)1 and 2 that are undertaken by affiliated
5018 enterprises, together with any or all of the projects defined in
5019 this paragraph (f)(xxxi)3 and/or 4 if they are undertaken by the
5020 same or other enterprises affiliated with those enterprises that
5021 undertake projects defined in this paragraph (f)(xxxi)1 and 2:

5022 1. An enterprise engaged in the manufacturing
5023 and production of recycled flat-rolled aluminum or related
5024 products for which construction of recycled aluminum flat-rolled
5025 mill begins after January 1, 2023, and is substantially completed
5026 no later than December 31, 2026; and

5027 2. An enterprise engaged in the manufacturing
5028 and production of biocarbon from biomass for which construction of
5029 the biocarbon manufacturing facility begins after December 1,
5030 2022, and is substantially completed no later than December 31,
5031 2026; provided that such series of projects may additionally, but
5032 shall not be required to, include:



5033 3. Any other affiliated enterprise that
5034 undertakes the development and operation of a new industrial or
5035 commercial facility in the state, excluding any area or areas
5036 designated by the authority in a written agreement between such
5037 enterprise or any affiliate thereof, for which the construction of
5038 any such facility begins after January 1, 2023, and is
5039 substantially completed no later than December 31, 2029; and/or

5040 4. An enterprise engaged in the development
5041 and operation of port activities (e.g., the loading and unloading
5042 of barges, rail cars and trucks, the storage and handling of
5043 materials, and other port-related operations) in support of all or
5044 any of the enterprises enumerated in this paragraph (f)(xxxi)1, 2
5045 and 3, or otherwise in support of an existing electric arc furnace
5046 steel mill producing flat-rolled steel and related products; and
5047 for which the parent enterprise of such affiliated enterprises
5048 enumerated in this paragraph (f)(xxxi)1, 2, 3 and/or 4 commits to
5049 an aggregate, collective capital investment by one or more or any
5050 combination of such enterprises and their affiliates, as well as
5051 by any co-located customers, of not less than Two Billion Five
5052 Hundred Million Dollars (\$2,500,000,000.00) and the creation
5053 thereby of at least one thousand (1,000) new full-time jobs
5054 meeting criteria established by the authority, which criteria
5055 shall include, but not be limited to, the requirement that such
5056 jobs must be held by persons eligible for employment in the United
5057 States under applicable state and federal law, and the requirement



5058 that the average annual salary or wage, excluding the value of any
5059 benefits which are not subject to Mississippi income tax, of such
5060 jobs shall be at least Ninety-three Thousand Dollars (\$93,000.00).
5061 The authority shall require that binding commitments be entered
5062 into requiring that:

5063 a. Minimum requirements for investment
5064 and jobs for such affiliated projects shall be met; and

5065 b. If such requirements are not
5066 collectively met, all or a portion of the funds provided by the
5067 state for such affiliated projects may, as determined by the
5068 authority, be subject to repayment by such enterprises and/or
5069 their affiliates, together with any penalties or damages required
5070 by the authority in connection therewith.

5071 For purposes of this paragraph (f)(xxxi), A. a co-located
5072 customer shall mean a person who locates and operates any new
5073 manufacturing, processing, warehousing and/or distribution
5074 facility within the project area for the project defined in this
5075 paragraph (f)(xxxi)1 and utilizes, directly or indirectly, in its
5076 operations any aluminum or related products produced by such
5077 project, and B. an affiliated enterprise or an affiliate means a
5078 related business entity which shares a common direct or indirect
5079 ownership with the enterprise owning or operating a project as
5080 defined in this paragraph (f)(xxxi)1, 2, 3 or 4. References in
5081 the act to a project, as defined by this paragraph (f)(xxxi) shall



5082 mean any one of, any combination or all of the projects as defined
5083 in this paragraph (f) (xxxi)1, 2, 3 or 4.

5084 (g) (i) "Project area" means the project site,
5085 together with any area or territory within the state lying within
5086 sixty-five (65) miles of any portion of the project site whether
5087 or not such area or territory be contiguous; however, for the
5088 project defined in paragraph (f) (iv) of this section the term
5089 "project area" means any area or territory within the state. The
5090 project area shall also include all territory within a county if
5091 any portion of such county lies within sixty-five (65) miles of
5092 any portion of the project site. "Project site" means the real
5093 property on which the principal facilities of the enterprise will
5094 operate. The provisions of this subparagraph (i) shall not apply
5095 to a project as defined in paragraph (f) (xxi) of this section.

5096 (ii) For the purposes of a project as defined in
5097 paragraph (f) (xxi) of this section, the term "project area" means
5098 the acreage authorized in the certificate of convenience and
5099 necessity issued by the Mississippi Development Authority to a
5100 regional economic development alliance under Section 57-64-1 et
5101 seq.

5102 (iii) For the purposes of a project as defined in
5103 paragraph (f) (xxxi)1 of this section, the term "project area"
5104 means the acreage specified by the authority in written agreement
5105 with the enterprise undertaking such project and/or an affiliate
5106 thereof.



5107 (h) "Public agency" means:
5108 (i) Any department, board, commission, institution
5109 or other agency or instrumentality of the state;
5110 (ii) Any city, town, county, political
5111 subdivision, school district or other district created or existing
5112 under the laws of the state or any public agency of any such city,
5113 town, county, political subdivision or district or any other
5114 public entity created or existing under local and private
5115 legislation;
5116 (iii) Any department, commission, agency or
5117 instrumentality of the United States of America; and
5118 (iv) Any other state of the United States of
5119 America which may be cooperating with respect to location of the
5120 project within the state, or any agency thereof.
5121 (i) "State" means State of Mississippi.
5122 (j) "Fee-in-lieu" means a negotiated fee to be paid by
5123 the project in lieu of any franchise taxes imposed on the project
5124 by Chapter 13, Title 27, Mississippi Code of 1972. The
5125 fee-in-lieu shall not be less than Twenty-five Thousand Dollars
5126 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an
5127 enterprise operating an existing project defined in paragraph
5128 (f)(iv)¹ of this section; however, a fee-in-lieu shall not be
5129 negotiated for other existing enterprises that fall within the
5130 definition of the term "project."



5131 (k) (i) "Affiliate" means a subsidiary or related
5132 business entity which shares a common direct or indirect ownership
5133 with the enterprise owning or operating a project as defined in
5134 paragraph (f)(xxi), paragraph (f)(xxviii) or paragraph (f)(xxix)
5135 of this section. The subsidiary or related business must provide
5136 services directly related to the core activities of the project.

5137 (ii) For the purposes of a project as defined in
5138 paragraph (f)(xxxi) of this section, an "affiliated enterprise" or
5139 an "affiliate" means a related business entity which shares a
5140 common direct or indirect ownership with the enterprise owning or
5141 operating a project as defined in paragraph (f)(xxxi)1, 2, 3 or 4
5142 of this section.

5143 (l) "Tier One supplier" means a supplier of a project
5144 as defined in paragraph (f)(xxi) of this section that is certified
5145 by the enterprise owning the project and creates a minimum of
5146 fifty (50) new full-time jobs.

5147 **SECTION 49.** Section 57-80-7, Mississippi Code of 1972, is
5148 reenacted as follows:

5149 57-80-7. (1) From and after December 31, 2000, the
5150 following counties may apply to the MDA for the issuance of a
5151 certificate of public convenience and necessity:

5152 (a) Any county of this state which has an annualized
5153 unemployment rate that is at least two hundred percent (200%) of
5154 the state's unemployment rate as of December 31 of any year after



5155 December 31, 2000, as determined by the Mississippi Department of
5156 Employment Security's most recently published data;

5157 (b) Any county of this state in which thirty percent
5158 (30%) or more of the population of the county is at or below the
5159 federal poverty level according to the official data compiled by
5160 the United States Census Bureau as of August 30, 2000, for
5161 counties that apply before December 31, 2002, or the most recent
5162 official data compiled by the United States Census Bureau for
5163 counties that apply from and after December 31, 2002; or

5164 (c) Any county of this state having an eligible
5165 supervisors district.

5166 (2) The application, at a minimum, must contain (a) the
5167 Mississippi Department of Employment Security's most recently
5168 published figures that reflect the annualized unemployment rate of
5169 the applying county as of December 31 or the most recent official
5170 data by the United States Census Bureau required by subsection (1)
5171 of this section, as the case may be, and (b) an order or
5172 resolution of the county consenting to the designation of the
5173 county as a growth and prosperity county.

5174 (3) Any municipality of a designated growth and prosperity
5175 county or within an eligible supervisors district and not more
5176 than eight (8) miles from the boundary of the county that meets
5177 the criteria of subsection (1)(b) of this section may by order or
5178 resolution of the municipality consent to participation in the
5179 Growth and Prosperity Program.



5180 (4) No incentive or tax exemption shall be given under this
5181 chapter without the consent of the affected county or
5182 municipality.

5183 **SECTION 50.** Section 69-2-5, Mississippi Code of 1972, is
5184 reenacted as follows:

5185 69-2-5. (1) The Mississippi Cooperative Extension Service
5186 shall act as a clearinghouse for the dissemination of information
5187 regarding programs and services which may be available to help
5188 those persons and businesses which have been adversely affected by
5189 the present emergency in the agricultural community. The
5190 Cooperative Extension Service shall develop a plan of assistance
5191 which shall identify all programs and services available within
5192 the state which can be of assistance to those affected by the
5193 present emergency. The Department of Agriculture and Commerce,
5194 Department of Finance and Administration, Department of Human
5195 Services, Department of Mental Health, State Department of Health,
5196 Board of Trustees of State Institutions of Higher Learning,
5197 Mississippi Community College Board, Research and Development
5198 Center, Mississippi Development Authority, Department of
5199 Employment Security, Office of the Governor, Board of Vocational
5200 and Technical Education, Mississippi Authority for Educational
5201 Television, and other agencies of the state which have programs
5202 and services that can be of assistance to those affected by the
5203 present emergency, shall provide information regarding their
5204 programs and services to the Cooperative Extension Service for use



5205 in the clearinghouse. The types of programs and services shall
5206 include, but not be limited to, financial counseling, farm and
5207 small business management, employment services, labor market
5208 information, job retraining, vocational and technical training,
5209 food stamp programs, personal counseling, health services, and
5210 free or low cost legal services. The clearinghouse shall provide
5211 a single contact point to provide program information and referral
5212 services to individuals interested or needing services from
5213 state-funded assistance programs affecting agriculture,
5214 horticulture, aquaculture and other agribusinesses or related
5215 industries. Such assistance information shall identify all monies
5216 available under the Small Business Financing Act, the Business
5217 Investment Act, the Emerging Crops Fund legislation and any other
5218 sources which may be used singularly or combined, to provide a
5219 comprehensive financing package. The provisions of this section
5220 in establishing a single contact point for information and
5221 referral services shall not be construed to authorize the hiring
5222 of additional personnel.

5223 (2) The Cooperative Extension Service may accept monetary or
5224 in-kind contributions, gifts and grants for the establishment or
5225 operation of the clearinghouse.

5226 (3) The Cooperative Extension Service shall establish a
5227 method for the dissemination of information to those who can be
5228 benefited by the existing programs and services of the state.



5229 (4) The Cooperative Extension Service shall file an annual
5230 report with the Governor, Lieutenant Governor and Speaker of the
5231 House of Representatives regarding the efforts which have been
5232 made in the clearinghouse operation. The report shall also
5233 recommend any additional measures, including legislation, which
5234 may be needed or desired in providing programs and benefits to
5235 those affected by the agricultural emergency.

5236 **SECTION 51.** Section 60, Chapter 572, Laws of 2004, as
5237 amended by Section 58, Chapter 30, Laws of the First Extraordinary
5238 Session of 2008, as amended by Section 58, Chapter 559, Laws of
5239 2010 Regular Session, as amended by Section 59, Chapter 471, Laws
5240 of 2011, as amended by Section 58, Chapter 515, Laws of 2012, as
5241 amended by Section 58, Chapter 451, Laws of 2019, as amended by
5242 Section 7, Chapter 476, Laws of 2020, is amended as follows:

5243 **SECTION 52.** Sections 8 through 59 of this act shall stand
5244 repealed on July 1, * * * 2026.

5245 **SECTION 53.** This act shall take effect and be in force from
5246 and after July 1, 2023.

