

By: Senator(s) Parker

To: Economic and Workforce
Development

SENATE BILL NO. 2810
(As Sent to Governor)

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



35 BE GRANTED TO RECIPIENTS; TO REENACT SECTION 43-19-45, MISSISSIPPI
36 CODE OF 1972, WHICH REQUIRES THE CHILD SUPPORT UNIT ESTABLISHED BY
37 THE DEPARTMENT OF HUMAN SERVICES TO ESTABLISH A STATE PARENT
38 LOCATOR SERVICE; TO REENACT SECTION 43-19-46, MISSISSIPPI CODE OF
39 1972, WHICH REQUIRES EMPLOYERS TO SUBMIT CERTAIN INFORMATION
40 RELATING TO NEWLY HIRED EMPLOYEES TO THE DIRECTORY OF NEW HIRES
41 WITHIN THE DEPARTMENT OF HUMAN SERVICES; TO REENACT SECTIONS
42 57-62-5 AND 57-62-9, MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE
43 MISSISSIPPI ADVANTAGE JOBS ACT; TO REENACT SECTION 57-75-5,
44 MISSISSIPPI CODE OF 1972, WHICH DEFINES CERTAIN TERMS USED UNDER
45 THE MISSISSIPPI MAJOR ECONOMIC IMPACT ACT; TO REENACT SECTION
46 57-80-7, MISSISSIPPI CODE OF 1972, WHICH RELATES TO THE GROWTH AND
47 PROSPERITY ACT; TO REENACT SECTION 69-2-5, MISSISSIPPI CODE OF
48 1972, WHICH PRESCRIBES CERTAIN DUTIES OF THE MISSISSIPPI
49 COOPERATIVE EXTENSION SERVICE RELATING TO THE DISSEMINATION OF
50 INFORMATION TO THE AGRICULTURAL COMMUNITY; TO REENACT SECTION
51 7-1-355, MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE DEPARTMENT
52 OF EMPLOYMENT SECURITY, OFFICE OF THE GOVERNOR, TO MAKE AN ANNUAL
53 REPORT TO THE LEGISLATURE ON WORKFORCE INVESTMENT ACTIVITIES; TO
54 AMEND SECTION 60, CHAPTER 572, LAWS OF 2004, AS LAST AMENDED BY
55 SECTION 7, CHAPTER 476, LAWS OF 2020, TO EXTEND THE DATE OF REPEAL
56 ON THOSE STATUTES REENACTED BY THIS ACT; TO AMEND SECTION 25-1-98,
57 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEAL DATE ON THE
58 AUTHORITY OF STATE SERVICE AGENCIES TO ALLOW TELEWORK IN
59 ACCORDANCE WITH A POLICY APPROVED BY THE STATE PERSONNEL BOARD; TO
60 AMEND SECTION 71-5-355, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
61 THE NONCHARGES CAUSED BY THE COVID-19 PANDEMIC SHALL NOT BE USED
62 FOR THE PURPOSES OF CALCULATING THE GENERAL EXPERIENCE RATE; TO
63 CREATE NEW SECTION 71-5-146, MISSISSIPPI CODE OF 1972, TO
64 AUTHORIZE THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY TO
65 FINGERPRINT AND CONDUCT BACKGROUND INVESTIGATIONS ON CERTAIN
66 EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS, AND TO ENACT POLICIES
67 AND PROCEDURES REGARDING THE SAME; AND FOR RELATED PURPOSES.

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

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

71 37-153-1. This article shall be known and may be cited as
72 the "Mississippi Comprehensive Workforce Training and Education
73 Consolidation Act of 2004."

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



76 37-153-3. It is the intent of the Legislature by the passage
77 of Chapter 572, Laws of 2004, to establish one (1) comprehensive
78 workforce development system in the State of Mississippi that is
79 focused on achieving results, using resources efficiently and
80 ensuring that workers and employers can easily access needed
81 services. This system shall reflect a consolidation of the
82 Mississippi Workforce Development Advisory Council and the
83 Mississippi State Workforce Investment Act Board. The purpose of
84 Chapter 572, Laws of 2004, is to provide workforce activities,
85 through a statewide system that maximizes cooperation among state
86 agencies, that increase the employment, retention and earnings of
87 participants, and increase occupational skill attainment by
88 participants and as a result, improve the quality of the
89 workforce, reduce welfare dependency and enhance the productivity
90 and competitiveness of the State of Mississippi.

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

93 37-153-5. For purposes of this article, the following words
94 and phrases shall have the meanings respectively ascribed in this
95 section unless the context clearly indicates otherwise:

96 (a) "State board" or "board" means the Mississippi
97 State Workforce Investment Board.

98 (b) "District councils" means the Local Workforce
99 Development Councils.



100 (c) "Local workforce investment board" means the board
101 that oversees the workforce development activities of local
102 workforce areas under the federal Workforce Investment Act.

103 (d) "Office" means the Mississippi Office of Workforce
104 Development, housed at the Department of Finance and
105 Administration.

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

108 37-153-7. (1) There is created the Mississippi Office of
109 Workforce Development and the Mississippi State Workforce
110 Investment Board, which shall serve as the advisory board for the
111 office. The Mississippi State Workforce Investment Board shall be
112 composed of thirty-one (31) voting members, of which a majority
113 shall be representatives of business and industry in accordance
114 with the federal Workforce Innovation and Opportunity Act, or any
115 successive acts.

116 (2) The members of the State Workforce Investment Board
117 shall include:

118 (a) The Governor, or his designee;

119 (b) Nineteen (19) members, appointed by the Governor,
120 of whom:

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

123 1. Are owners of businesses, chief executives
124 or operating officers of businesses, or other business executives



125 or employers with optimum policymaking or hiring authority, and
126 who, in addition, may be members of a local board described in
127 Section 3122(b)(2)(A)(i) of the federal Workforce Innovation and
128 Opportunity Act. At least two (2) of the members appointed under
129 this item 1. shall be small business owners, chief executives or
130 operating officers of businesses with less than fifty (50)
131 employees;

132 2. Represent businesses, including small
133 businesses, or organizations representing businesses, which
134 provide employment opportunities that, at a minimum, include
135 high-quality, work-relevant training and development in
136 high-demand industry sectors or occupations in the state; and

137 3. Are appointed from among individuals
138 nominated by state business organizations and business trade
139 associations;

140 (ii) Not less than twenty percent (20%) shall
141 consist of representatives of the workforce within the state,
142 which:

143 1. Includes labor organization
144 representatives who have been nominated by state labor
145 federations;

146 2. Includes a labor organization member or
147 training director from an apprenticeship program in the state,
148 which shall be a joint labor-management apprenticeship program if
149 such a program exists in the state;



150 3. May include representatives of
151 community-based organizations, including organizations serving
152 veterans or providing or supporting competitive, integrated
153 employment for individuals with disabilities, who have
154 demonstrated experience and expertise in addressing employment,
155 training or education needs of individuals with barriers to
156 employment; and

157 4. May include representatives of
158 organizations, including organizations serving out-of-school
159 youth, who have demonstrated experience or expertise in addressing
160 the employment, training or education needs of eligible youth;

161 (iii) The balance shall include government
162 representatives, including the lead state officials with primary
163 responsibility for core programs, and chief elected officials
164 (collectively representing both cities and counties, where
165 appropriate);

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

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

171 (e) The following state officials:

172 (i) The Executive Director of the Mississippi
173 Department of Employment Security;



174 (ii) The Executive Director of the Department of
175 Rehabilitation Services;

176 (iii) The State Superintendent of Public
177 Education;

178 (iv) The Executive Director of the Mississippi
179 Development Authority;

180 (v) The Executive Director of the Mississippi
181 Community College Board;

182 (vi) The President of the Community College
183 Association; and

184 (vii) The Commissioner of the Institutions of
185 Higher Learning.

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

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

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

194 (i) The membership of the board shall reflect the
195 diversity of the State of Mississippi.

196 (j) The Governor shall designate the Chairman of the
197 Mississippi State Workforce Investment Board from among the
198 business and industry voting members of the board, and a quorum of



199 the board shall consist of a majority of the voting members of the
200 board.

201 (k) The voting members of the board who are not state
202 employees shall be entitled to reimbursement of their reasonable
203 expenses in the manner and amount specified in Section 25-3-41 and
204 shall be entitled to receive per diem compensation as authorized
205 in Section 25-3-69.

206 (3) Members of the state board may be recalled by their
207 appointing authority for cause, including a felony conviction,
208 fraudulent or dishonest acts or gross abuse of discretion, failure
209 to meet board member qualifications, or chronic failure to attend
210 board meetings.

211 (4) The Mississippi Department of Employment Security shall
212 establish limits on administrative costs for each portion of
213 Mississippi's workforce development system consistent with the
214 federal Workforce Investment Act or any future federal workforce
215 legislation.

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

221 (a) Through the office, develop and submit to the
222 Governor, Lieutenant Governor and Speaker of the House a strategic
223 plan for an integrated state workforce development system that



224 aligns resources and structures the system to more effectively and
225 efficiently meet the demands of Mississippi's employers and job
226 seekers. This plan will comply with the federal Workforce
227 Investment Act of 1998, as amended, the federal Workforce
228 Innovation and Opportunity Act of 2014 and amendments and
229 successor legislation to these acts;

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

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

235 (ii) Review local workforce development plans that
236 reflect the use of funds from the federal Workforce Investment
237 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
238 Act and the amendment or successor legislation to the acts, and
239 the Mississippi Comprehensive Workforce Training and Education
240 Consolidation Act;

241 (c) Recommend to the office the designation of local
242 workforce investment areas as required in Section 116 of the
243 federal Workforce Investment Act of 1998 and the Workforce
244 Innovation and Opportunity Act of 2014. There shall be four (4)
245 workforce investment areas that are generally aligned with the
246 planning and development district structure in Mississippi.
247 Planning and development districts will serve as the fiscal agents
248 to manage Workforce Investment Act funds, oversee and support the



249 local workforce investment boards aligned with the area and the
250 local programs and activities as delivered by the one-stop
251 employment and training system. The planning and development
252 districts will perform this function through the provisions of the
253 county cooperative service districts created under Sections
254 19-3-101 through 19-3-115; however, planning and development
255 districts currently performing this function under the Interlocal
256 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
257 continue to do so;

258 (d) Assist the Governor in the development of an
259 allocation formula for the distribution of funds for adult
260 employment and training activities and youth activities to local
261 workforce investment areas;

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

265 (f) Assist the Governor in the establishment and
266 management of a one-stop employment and training system conforming
267 to the requirements of the federal Workforce Investment Act of
268 1998 and the Workforce Innovation and Opportunity Act of 2014, as
269 amended, recommending policy for implementing the Governor's
270 approved plan for employment and training activities and services
271 within the state. In developing this one-stop career operating
272 system, the Mississippi State Workforce Investment Board, in
273 conjunction with local workforce investment boards, shall:



- 274 (i) Design broad guidelines for the delivery of
275 workforce development programs;
- 276 (ii) Identify all existing delivery agencies and
277 other resources;
- 278 (iii) Define appropriate roles of the various
279 agencies to include an analysis of service providers' strengths
280 and weaknesses;
- 281 (iv) Determine the best way to utilize the various
282 agencies to deliver services to recipients; and
- 283 (v) Develop a financial plan to support the
284 delivery system that shall, at a minimum, include an
285 accountability system;
- 286 (g) To provide authority, in accordance with any
287 executive order of the Governor, for developing the necessary
288 collaboration among state agencies at the highest level for
289 accomplishing the purposes of this article;
- 290 (h) To monitor the effectiveness of the workforce
291 development centers and WIN job centers;
- 292 (i) To advise the Governor, public schools,
293 community/junior colleges and institutions of higher learning on
294 effective school-to-work transition policies and programs that
295 link students moving from high school to higher education and
296 students moving between community colleges and four-year
297 institutions in pursuit of academic and technical skills training;



298 (j) To work with industry to identify barriers that
299 inhibit the delivery of quality workforce education and the
300 responsiveness of educational institutions to the needs of
301 industry;

302 (k) To provide periodic assessments on effectiveness
303 and results of the overall Mississippi comprehensive workforce
304 development system and district councils;

305 (l) Develop broad statewide development goals,
306 including a goal to raise the state's labor force participation
307 rate;

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

311 (n) To assist the Governor in carrying out any other
312 responsibility required by the federal Workforce Investment Act of
313 1998, as amended and the Workforce Innovation and Opportunity Act,
314 successor legislation and amendments.

315 (6) The Mississippi State Workforce Investment Board shall
316 coordinate all training programs and funds within its purview,
317 consistent with the federal Workforce Investment Act, Workforce
318 Innovation and Opportunity Act, amendments and successor
319 legislation to these acts, and other relevant federal law.

320 Each state agency director responsible for workforce training
321 activities shall advise the Mississippi Office of Workforce
322 Development and the State Workforce Investment Board of



323 appropriate federal and state requirements. Each state agency,
324 department and institution shall report any monies received for
325 workforce training activities or career and technical education
326 and a detailed itemization of how those monies were spent to the
327 state board. The board shall compile the data and provide a
328 report of the monies and expenditures to the Chairs of the House
329 and Senate Appropriations Committee, the Chair of the House
330 Workforce Development Committee and the Chair of the Senate
331 Economic and Workforce Development Committee by October 1 of each
332 year. Each such state agency director shall remain responsible
333 for the actions of his agency; however, each state agency and
334 director shall work cooperatively to fulfill the state's goals.

335 (7) The State Workforce Investment Board shall establish an
336 executive committee, which shall consist of the following State
337 Workforce Investment Board members:

338 (a) The Chair of the State Workforce Investment Board;

339 (b) Two (2) business representatives currently serving
340 on the state board selected by the Governor;

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

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

346 (e) The two (2) legislators, who shall serve in a
347 nonvoting capacity, one (1) of whom shall be appointed by the



348 Lieutenant Governor from the membership of the Mississippi Senate
349 and one (1) of whom shall be appointed by the Speaker of the House
350 of Representatives from the membership of the Mississippi House of
351 Representatives.

352 (8) The executive committee shall select an executive
353 director of the Office of Workforce Development, with the advice
354 and consent of a majority of the State Workforce Investment Board.
355 The executive committee shall seek input from economic development
356 organizations across the state when selecting the executive
357 director. The executive director shall:

358 (a) Be a person with extensive experience in
359 development of economic, human and physical resources, and
360 promotion of industrial and commercial development. The executive
361 director shall have a bachelor's degree from a state-accredited
362 institution and no less than eight (8) years of professional
363 experience related to workforce or economic development;

364 (b) Perform the functions necessary for the daily
365 operation and administration of the office, with oversight from
366 the executive committee and the State Workforce Investment Board,
367 to fulfill the duties of the state board as described in Chapter
368 476, Laws of 2020;

369 (c) Hire staff needed for the performance of his or her
370 duties under Chapter 476, Laws of 2020. The executive director,
371 with approval from the executive committee, shall set the



372 compensation of any hired employees from any funds made available
373 for that purpose;

374 (d) Enter any part of the Mississippi Community College
375 Board, individual community and junior colleges, or other
376 workforce training facilities operated by the state or its
377 subdivisions;

378 (e) Serve at the will and pleasure of the executive
379 committee;

380 (f) Promulgate rules and regulations, subject to
381 oversight by the executive committee, not inconsistent with this
382 article, as may be necessary to enforce the provisions in Chapter
383 476, Laws of 2020; and

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

387 (9) The Office of Workforce Development and Mississippi
388 Community College Board shall collaborate in the administration
389 and oversight of the Mississippi Workforce Enhancement Training
390 Fund and Mississippi Works Fund, as described in Section 71-5-353.
391 The executive director shall maintain complete and exclusive
392 operational control of the office's functions.

393 (10) The office shall file an annual report with the
394 Governor, Secretary of State, President of the Senate, Secretary
395 of the Senate, Speaker of the House, and Clerk of the House not
396 later than October 1 of each year regarding all funds approved by



397 the office to be expended on workforce training during the prior
398 calendar year. The report shall include:

399 (a) Information on the performance of the Mississippi
400 Workforce Enhancement Training Fund and the Mississippi Works
401 Fund, in terms of adding value to the local and state economy, the
402 contribution to future growth of the state economy, and movement
403 toward state goals, including increasing the labor force
404 participation rate; and

405 (b) With respect to specific workforce training
406 projects:

407 (i) The location of the training;

408 (ii) The amount allocated to the project;

409 (iii) The purpose of the project;

410 (iv) The specific business entity that is the
411 beneficiary of the project; and

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

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

416 Such confidentiality shall not limit disclosure under the
417 Mississippi Public Records Act of 1983 of records describing the
418 nature, quantity, cost or other pertinent information related to
419 the activities of, or services performed using, the Mississippi
420 Workforce Enhancement Training Fund or the Mississippi Works Fund.



421 (11) Nothing in Chapter 476, Laws of 2020 [Senate Bill No.
422 2564] shall void or otherwise interrupt any contract, lease, grant
423 or other agreement previously entered into by the State Workforce
424 Investment Board, Mississippi Community College Board, individual
425 community or junior colleges, or other entities.

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

428 37-153-9. (1) In accordance with the federal Workforce
429 Investment Act of 1998, there shall be established, for each of
430 the four (4) state workforce areas prescribed in Section 37-153-3
431 (2)(c), a local workforce investment board to set policy for the
432 portion of the state workforce investment system within the local
433 area and carry out the provisions of the Workforce Investment Act.

434 (2) Each community college district shall have an affiliated
435 District Workforce Development Council. The district council
436 shall be composed of a diverse group of fifteen (15) persons
437 appointed by the board of trustees of the affiliated public
438 community or junior college. The members of each district council
439 shall be selected from persons recommended by the chambers of
440 commerce, employee groups, industrial foundations, community
441 organizations and local governments located in the community
442 college district of the affiliated community college with one (1)
443 appointee being involved in basic literacy training. However, at
444 least eight (8) members of each district council shall be chief
445 executive officers, plant managers that are representatives of



446 employers in that district or service sector executives. The
447 District Workforce Development Council affiliated with each
448 respective community or junior college shall advise the president
449 of the community or junior college on the operation of its
450 workforce development center/one-stop center.

451 The Workforce Development Council shall have the following
452 advisory duties:

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

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

457 (ii) Sets short-term and long-term goals for
458 industry-specific training and upgrading and for general
459 development of the workforce; and

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

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

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

468 (d) To encourage continuous improvement through
469 evaluation and assessment; and



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

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

474 37-153-11. (1) There are created workforce development
475 centers to provide assessment, training and placement services to
476 individuals needing retraining, training and upgrading for small
477 business and local industry. Each workforce development center
478 shall be affiliated with a separate public community or junior
479 college district and shall coordinate with the Office of Workforce
480 Development.

481 (2) Each workforce development center shall be staffed and
482 organized locally by the affiliated community college. The
483 workforce development center shall serve as staff to the
484 affiliated district council.

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

489 (a) For individuals needing training and retraining:

490 (i) Recruiting, assessing, counseling and
491 referring to training or jobs;

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



494 (iii) Basic literacy skills training and high
495 school equivalency education;

496 (iv) Vocational and technical training, full-time
497 or part-time; and

498 (v) Short-term skills training for educationally
499 and economically disadvantaged adults in cooperation with
500 federally established employment and training programs;

501 (b) For specific small businesses, industries or firms
502 within the district:

503 (i) Job analysis, testing and curriculum
504 development;

505 (ii) Development of specific long-range training
506 plans;

507 (iii) Industry or firm-related preemployment
508 training;

509 (iv) Workplace basic skills and literacy training;

510 (v) Customized skills training;

511 (vi) Assistance in developing the capacity for
512 total quality management training;

513 (vii) Technology transfer information and referral
514 services to business of local applications of new research in
515 cooperation with the University Research Center, the state's
516 universities and other laboratories; and

517 (viii) Development of business plans;



518 (c) For public schools within the district technical
519 assistance to secondary schools in curriculum coordination,
520 development of tech prep programs, instructional development and
521 resource coordination; and

522 (d) For economic development, a local forum and
523 resource center for all local industrial development groups to
524 meet and promote regional economic development.

525 (4) Each workforce development center shall compile and make
526 accessible to the Office of Workforce Development and Mississippi
527 State Workforce Investment Board necessary information for use in
528 evaluating outcomes of its efforts and in improving the quality of
529 programs at each community college, and shall include information
530 on literacy initiatives. Each workforce development center shall,
531 through an interagency management information system, maintain
532 records on new small businesses, placement, length of time on the
533 job after placement and wage rates of those placed in a form
534 containing such information as established by the state council.

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

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



542 37-153-13. The Mississippi Community College Board, in
543 collaboration with the Office of Workforce Development, is
544 designated as the primary support agency to the workforce
545 development centers. The Mississippi Community College Board, in
546 collaboration with the Office of Workforce Development, may
547 exercise the following powers:

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

550 (b) To provide the workforce development centers
551 consistent standards and benchmarks to guide development of the
552 local workforce development system and to provide a means by which
553 the outcomes of local services can be measured;

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

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

559 (ii) Establishing rigorous and comprehensive local
560 preemployment training programs;

561 (iii) Developing local institutional capacity to
562 deliver total quality management training;

563 (iv) Developing local institutional capacity to
564 transfer new technologists into the marketplace;

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



567 (vi) Developing data for strategic planning;

568 (d) To collaborate with the Mississippi Development
569 Authority, Office of Workforce Development, individual community
570 and junior colleges, and other economic development and
571 educational organizations and political subdivisions to increase
572 the economic development potential and the state's labor force
573 participation rate;

574 (e) To administer presented and approved certification
575 programs by the community colleges for tax credits and partnership
576 funding for corporate training;

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

582 (g) To develop internal capacity to provide services
583 and to contract for services from universities and other providers
584 directly to local institutions;

585 (h) To develop and administer an incentive
586 certification program;

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

589 (j) To collaborate, partner and contract for services
590 with community-based organizations and disadvantaged businesses in
591 the delivery of workforce training and career information



592 especially to youth, as defined by the federal Workforce
593 Investment Act, and to those adults who are in low income jobs or
594 whose individual skill levels are so low as to be unable initially
595 to be aided by a workforce development center. Community-based
596 organizations and disadvantaged businesses must meet
597 performance-based certification requirements set by the
598 Mississippi Community College Board, in collaboration with the
599 Office of Workforce Development.

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

602 37-153-15. (1) As used in this article:

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

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

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

614 (iii) Linked to an occupation that is identified
615 as emerging.



616 (b) The words "qualifying industry certification" mean
617 an industry certification that is linked to an occupation with
618 wages of at least seventy percent (70%) of the median state income
619 unless the industry certification is stackable to another
620 postsecondary or professional credential which is linked to an
621 occupation which meets the wage criterion.

622 (2) The State Workforce Investment Board shall provide the
623 State Board of Education annually with a list of qualifying
624 industry certifications. If the occupations identified in the
625 list are not substantially the same as those occupations
626 identified in the prior year, the State Board of Education shall
627 provide reasonable notice of the changes to school districts.

628 (3) Beginning in fiscal year 2019-2020 and subject to
629 available funding, the Department of Education shall pay a career
630 and technical education incentive grant to the public school for
631 each student enrolled in the public school who earns a qualifying
632 industry certification. The amount per student for the career and
633 technical education incentive grant shall be Six Hundred Dollars
634 (\$600.00). If the statewide sum of the career and technical
635 education incentive grants awarded pursuant to this section
636 exceeds the amount of available funds appropriated for the grants,
637 the grants per student shall be reduced proportionately to cover
638 all eligible grants under this section. Any costs accrued during
639 one (1) fiscal year may be claimed and reimbursed in the following
640 fiscal year.



641 (4) The grants may be used for qualifying industry
642 certification examination fees, professional development for
643 teachers in career and technical education programs under this
644 section, student instructional support for programs that lead to
645 qualifying industry certifications, or to increase access to
646 qualifying industry certifications. Any grants awarded under this
647 section may not be used to supplant funds provided for the basic
648 operation of the career and technical education programs.

649 (5) On or before October 1 of each year, the Department of
650 Education, working in collaboration with the Office of Workforce
651 Development and any other entities as necessary, shall submit a
652 report to the Governor, the Lieutenant Governor, the Speaker of
653 the House of Representatives, the Chairmen of the House and Senate
654 Education Committees, the Chairman of the House Workforce
655 Development Committee and the Chairman of the Senate Economic and
656 Workforce Development Committee on the following:

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

660 (b) The number of students who earned a qualifying
661 industry certification by certification.

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

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



666 (e) Aggregated demographic data on the students who
667 earned a qualifying industry certification, including the
668 qualifying industry certifications earned by rural and urban
669 students.

670 **SECTION 9.** Section 37-153-17, Mississippi Code of 1972, is
671 reenacted and amended as follows:

672 37-153-17. Sections 37-153-1, 37-153-3, 37-153-5, 37-153-7,
673 37-153-9, 37-153-11, 37-153-13 and 37-153-15 shall stand repealed
674 on July 1, * * * 2026.

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

677 71-5-5. The Legislature finds and declares that the
678 existence and continued operation of a federal tax upon employers,
679 against which some portion of the contributions required under
680 this chapter may be credited, will protect Mississippi employers
681 from undue disadvantages in their competition with employers in
682 other states. If at any time, upon a formal complaint to the
683 Governor, he shall find that Title IX of the Social Security Act
684 has been amended or repealed by Congress or has been held
685 unconstitutional by the Supreme Court of the United States, and
686 that, as a result thereof, the provisions of this chapter
687 requiring Mississippi employers to pay contributions will subject
688 them to a serious competitive disadvantage in relation to
689 employers in other states, he shall publish such findings and
690 proclaim that the operation of the provisions of this chapter



691 requiring the payment of contributions and benefits shall be
692 suspended for a period of not more than six (6) months. The
693 Department of Employment Security shall thereupon requisition from
694 the Unemployment Trust Fund all monies therein standing to its
695 credit, and shall deposit such monies, together with any other
696 monies in the Unemployment Compensation Fund, as a special fund in
697 any banks or public depositories in this state in which general
698 funds of the state may be deposited.

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

701 If within the aforesaid six-month period the Governor shall
702 find that other federal legislation has been enacted which avoids
703 the competitive disadvantage herein described, he shall forthwith
704 publicly so proclaim, and upon the date of such proclamation, the
705 provisions of this chapter requiring the payment of contributions
706 and benefits shall again become fully operative as of the date of
707 such suspension with the same effect as if such suspension had not
708 occurred. If within such six-month period no such other federal
709 legislation is enacted or the Legislature of this state has not
710 otherwise prescribed, the Department of Employment Security shall,
711 under regulations prescribed by it, refund, without interest, to
712 each employer by whom contributions have been paid his pro rata
713 share of the total contributions paid under this chapter. Any
714 interest or earnings of the fund shall be available to the
715 Department of Employment Security to pay for the costs of making



716 such refunds. When the Department of Employment Security shall
717 have executed the duties herein prescribed and performed such
718 other acts as are incidental to the termination of its duties
719 under this chapter, the Governor shall, by public proclamation,
720 declare that the provisions of this chapter, in their entirety,
721 shall cease to be operative.

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

724 71-5-11. As used in this chapter, unless the context clearly
725 requires otherwise:

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

729 B. "Benefit year" with respect to any individual means the
730 period beginning with the first day of the first week with respect
731 to which he or she first files a valid claim for benefits, and
732 ending with the day preceding the same day of the same month in
733 the next calendar year; and, thereafter, the period beginning with
734 the first day of the first week with respect to which he or she
735 next files his or her valid claim for benefits, and ending with
736 the day preceding the same day of the same month in the next
737 calendar year. Any claim for benefits made in accordance with
738 Section 71-5-515 shall be deemed to be a "valid claim" for
739 purposes of this subsection if the individual has been paid the
740 wages for insured work required under Section 71-5-511(e).



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

743 D. "Calendar quarter" means the period of three (3)
744 consecutive calendar months ending on March 31, June 30, September
745 30, or December 31.

746 E. "Department" or "commission" means the Mississippi
747 Department of Employment Security, Office of the Governor.

748 F. "Executive director" means the Executive Director of the
749 Mississippi Department of Employment Security, Office of the
750 Governor, appointed under Section 71-5-107.

751 G. "Employing unit" means this state or another state or any
752 instrumentalities or any political subdivisions thereof or any of
753 their instrumentalities or any instrumentality of more than one
754 (1) of the foregoing or any instrumentality of any of the
755 foregoing and one or more other states or political subdivisions,
756 any Indian tribe as defined in Section 3306(u) of the Federal
757 Unemployment Tax Act (FUTA), which includes any subdivision,
758 subsidiary or business enterprise wholly owned by such Indian
759 tribe, any individual or type of organization, including any
760 partnership, association, trust, estate, joint-stock company,
761 insurance company, or corporation, whether domestic or foreign, or
762 the receiver, trustee in bankruptcy, trustee or successor thereof,
763 or the legal representative of a deceased person, which has or had
764 in its employ one or more individuals performing services for it
765 within this state. All individuals performing services within



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

790 H. "Employer" means:



791 (1) Any employing unit which,
792 (a) In any calendar quarter in either the current
793 or preceding calendar year paid for service in employment wages of
794 One Thousand Five Hundred Dollars (\$1,500.00) or more, except as
795 provided in paragraph (9) of this subsection, or
796 (b) For some portion of a day in each of twenty
797 (20) different calendar weeks, whether or not such weeks were
798 consecutive, in either the current or the preceding calendar year
799 had in employment at least one (1) individual (irrespective of
800 whether the same individual was in employment in each such day),
801 except as provided in paragraph (9) of this subsection;
802 (2) Any employing unit for which service in employment,
803 as defined in subsection I(3) of this section, is performed;
804 (3) Any employing unit for which service in employment,
805 as defined in subsection I(4) of this section, is performed;
806 (4) (a) Any employing unit for which agricultural
807 labor, as defined in subsection I(6) of this section, is
808 performed;
809 (b) Any employing unit for which domestic service
810 in employment, as defined in subsection I(7) of this section, is
811 performed;
812 (5) Any individual or employing unit which acquired the
813 organization, trade, business, or substantially all the assets
814 thereof, of another which at the time of such acquisition was an
815 employer subject to this chapter;



816 (6) Any individual or employing unit which acquired its
817 organization, trade, business, or substantially all the assets
818 thereof, from another employing unit, if the employment record of
819 the acquiring individual or employing unit subsequent to such
820 acquisition, together with the employment record of the acquired
821 organization, trade, or business prior to such acquisition, both
822 within the same calendar year, would be sufficient to constitute
823 an employing unit as an employer subject to this chapter under
824 paragraph (1) or (3) of this subsection;

825 (7) Any employing unit which, having become an employer
826 under paragraph (1), (3), (5) or (6) of this subsection or under
827 any other provisions of this chapter, has not, under Section
828 71-5-361, ceased to be an employer subject to this chapter;

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

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

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



841 performing services in agricultural labor, shall not be taken into
842 account. If an employing unit is determined an employer of
843 agricultural labor, such employing unit shall be determined an
844 employer for purposes of paragraph (1) of this subsection;

845 (10) All entities utilizing the services of any
846 employee leasing firm shall be considered the employer of the
847 individuals leased from the employee leasing firm. Temporary help
848 firms shall be considered the employer of the individuals they
849 provide to perform services for other individuals or
850 organizations.

851 I. "Employment" means and includes:

852 (1) Any service performed, which was employment as
853 defined in this section and, subject to the other provisions of
854 this subsection, including service in interstate commerce,
855 performed for wages or under any contract of hire, written or
856 oral, express or implied.

857 (2) Services performed for remuneration for a
858 principal:

859 (a) As an agent-driver or commission-driver
860 engaged in distributing meat products, vegetable products, fruit
861 products, bakery products, beverages (other than milk), or laundry
862 or dry-cleaning services;

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



866 principal (except for sideline sales activities on behalf of some
867 other person) of orders from wholesalers, retailers, contractors,
868 or operator of hotels, restaurants, or other similar
869 establishments for merchandise for resale or supplies for use in
870 their business operations.

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

874 (i) The contract of service contemplates that
875 substantially all of the services are to be performed personally
876 by such individual;

877 (ii) The individual does not have a
878 substantial investment in facilities used in connection with the
879 performance of the services (other than in facilities for
880 transportation); and

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

884 (3) Service performed in the employ of this state or
885 any of its instrumentalities or any political subdivision thereof
886 or any of its instrumentalities or any instrumentality of more
887 than one (1) of the foregoing or any instrumentality of any of the
888 foregoing and one or more other states or political subdivisions
889 or any Indian tribe as defined in Section 3306(u) of the Federal
890 Unemployment Tax Act (FUTA), which includes any subdivision,



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

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

900 (b) The organization had four (4) or more
901 individuals in employment for some portion of a day in each of
902 twenty (20) different weeks, whether or not such weeks were
903 consecutive, within the current or preceding calendar year,
904 regardless of whether they were employed at the same moment of
905 time.

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

909 (a) In the employ of:

910 (i) A church or convention or association of
911 churches; or

912 (ii) An organization which is operated
913 primarily for religious purposes and which is operated,
914 supervised, controlled, or principally supported by a church or
915 convention or association of churches; or



916 (b) By a duly ordained, commissioned, or licensed
917 minister of a church in the exercise of his or her ministry, or by
918 a member of a religious order in the exercise of duties required
919 by such order; or

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

923 (i) As an elected official;

924 (ii) As a member of a legislative body, or a
925 member of the judiciary, of a state or political subdivision or a
926 member of an Indian tribal council;

927 (iii) As a member of the State National Guard
928 or Air National Guard;

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

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

935 1. A major nontenured policy-making or
936 advisory position, or

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



940 (d) In a facility conducted for the purpose of
941 carrying out a program of rehabilitation for individuals whose
942 earning capacity is impaired by age or physical or mental
943 deficiency or injury, or providing remunerative work for
944 individuals who because of their impaired physical or mental
945 capacity cannot be readily absorbed in the competitive labor
946 market, by an individual receiving such rehabilitation or
947 remunerative work; or

948 (e) By an inmate of a custodial or penal
949 institution; or

950 (f) As part of an unemployment work-relief or
951 work-training program assisted or financed, in whole or in part,
952 by any federal agency or agency of a state or political
953 subdivision thereof or of an Indian tribe, by an individual
954 receiving such work relief or work training, unless coverage of
955 such service is required by federal law or regulation.

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

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

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

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



965 were consecutive, in either the current or the preceding calendar
966 year, employed in agricultural labor ten (10) or more individuals,
967 regardless of whether they were employed at the same moment of
968 time.

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

973 (i) If such crew leader holds a valid
974 certificate of registration under the Farm Labor Contractor
975 Registration Act of 1963; or substantially all the members of such
976 crew operate or maintain tractors, mechanized harvesting or crop
977 dusting equipment, or any other mechanized equipment, which is
978 provided by such crew leader; and

979 (ii) If such individual is not an employee of
980 such other person within the meaning of paragraph (1) of this
981 subsection.

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

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



989 (ii) Such other person shall be treated as
990 having paid cash remuneration to such individual in an amount
991 equal to the amount of cash remuneration paid to such individual
992 by the crew leader (either on his or her own behalf or on behalf
993 of such other person) for the service in agricultural labor
994 performed for such other person.

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

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

999 (ii) Pays (either on his or her own behalf or
1000 on behalf of such other person) the individuals so furnished by
1001 him or her for the service in agricultural labor performed by
1002 them; and

1003 (iii) Has not entered into a written
1004 agreement with such other person under which such individual is
1005 designated as an employee of such other person.

1006 (7) The term "employment" shall include domestic
1007 service in a private home, local college club or local chapter of
1008 a college fraternity or sorority performed for an employing unit
1009 which paid cash remuneration of One Thousand Dollars (\$1,000.00)
1010 or more in any calendar quarter in the current or the preceding
1011 calendar year to individuals employed in such domestic service.
1012 For the purpose of this subsection, the term "employment" does not



1013 apply to service performed as a "sitter" at a hospital in the
1014 employ of an individual.

1015 (8) An individual's entire service, performed within or
1016 both within and without this state, if:

1017 (a) The service is localized in this state; or

1018 (b) The service is not localized in any state but
1019 some of the service is performed in this state; and

1020 (i) The base of operations or, if there is no
1021 base of operations, the place from which such service is directed
1022 or controlled is in this state; or

1023 (ii) The base of operations or place from
1024 which such service is directed or controlled is not in any state
1025 in which some part of the service is performed, but the
1026 individual's residence is in this state.

1027 (9) Services not covered under paragraph (8) of this
1028 subsection and performed entirely without this state, with respect
1029 to no part of which contributions are required and paid under an
1030 unemployment compensation law of any other state or of the federal
1031 government, shall be deemed to be employment subject to this
1032 chapter if the individual performing such services is a resident
1033 of this state and the department approves the election of the
1034 employing unit for whom such services are performed that the
1035 entire service of such individual shall be deemed to be employment
1036 subject to this chapter.



1037 (10) Service shall be deemed to be localized within a
1038 state if:

1039 (a) The service is performed entirely within such
1040 state; or

1041 (b) The service is performed both within and
1042 without such state, but the service performed without such state
1043 is incidental to the individual's service within the state; for
1044 example, is temporary or transitory in nature or consists of
1045 isolated transactions.

1046 (11) The services of an individual who is a citizen of
1047 the United States, performed outside the United States (except in
1048 Canada), in the employ of an American employer (other than service
1049 which is deemed "employment" under the provisions of paragraph
1050 (8), (9) or (10) of this subsection or the parallel provisions of
1051 another state's law), if:

1052 (a) The employer's principal place of business in
1053 the United States is located in this state; or

1054 (b) The employer has no place of business in the
1055 United States; but

1056 (i) The employer is an individual who is a
1057 resident of this state; or

1058 (ii) The employer is a corporation which is
1059 organized under the laws of this state; or

1060 (iii) The employer is a partnership or a
1061 trust and the number of the partners or trustees who are residents



1062 of this state is greater than the number who are residents of any
1063 one (1) other state; or

1064 (c) None of the criteria of subparagraphs (a) and
1065 (b) of this paragraph are met but the employer has elected
1066 coverage in this state or, the employer having failed to elect
1067 coverage in any state, the individual has filed a claim for
1068 benefits, based on such service, under the law of this state; or

1069 (d) An "American employer," for purposes of this
1070 paragraph, means a person who is:

1071 (i) An individual who is a resident of the
1072 United States; or

1073 (ii) A partnership if two-thirds (2/3) or
1074 more of the partners are residents of the United States; or

1075 (iii) A trust if all of the trustees are
1076 residents of the United States; or

1077 (iv) A corporation organized under the laws
1078 of the United States or of any state.

1079 (12) All services performed by an officer or member of
1080 the crew of an American vessel on or in connection with such
1081 vessel, if the operating office from which the operations of such
1082 vessel operating on navigable waters within, or within and
1083 without, the United States are ordinarily and regularly
1084 supervised, managed, directed and controlled, is within this
1085 state, notwithstanding the provisions of paragraph (8) of this
1086 subsection.



1087 (13) Service with respect to which a tax is required to
1088 be paid under any federal law imposing a tax against which credit
1089 may be taken for contributions required to be paid into a state
1090 unemployment fund, or which as a condition for full tax credit
1091 against the tax imposed by the Federal Unemployment Tax Act, 26
1092 USCS Section 3301 et seq., is required to be covered under this
1093 chapter, notwithstanding any other provisions of this subsection.

1094 (14) Services performed by an individual for wages
1095 shall be deemed to be employment subject to this chapter unless
1096 and until it is shown to the satisfaction of the department that
1097 such individual has been and will continue to be free from control
1098 and direction over the performance of such services both under his
1099 or her contract of service and in fact; and the relationship of
1100 employer and employee shall be determined in accordance with the
1101 principles of the common law governing the relation of master and
1102 servant.

1103 (15) The term "employment" shall not include:

1104 (a) Agricultural labor, except as provided in
1105 paragraph (6) of this subsection. The term "agricultural labor"
1106 includes all services performed:

1107 (i) On a farm or in a forest in the employ of
1108 any employing unit in connection with cultivating the soil, in
1109 connection with cutting, planting, deadening, marking or otherwise
1110 improving timber, or in connection with raising or harvesting any
1111 agricultural or horticultural commodity, including the raising,



1112 shearing, feeding, caring for, training, and management of
1113 livestock, bees, poultry, fur-bearing animals and wildlife;

1114 (ii) In the employ of the owner or tenant or
1115 other operator of a farm, in connection with the operation,
1116 management, conservation, improvement or maintenance of such farm
1117 and its tools and equipment, or in salvaging timber or clearing
1118 land of brush and other debris left by a hurricane, if the major
1119 part of such service is performed on a farm;

1120 (iii) In connection with the production or
1121 harvesting of naval stores products or any commodity defined in
1122 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(f),
1123 or in connection with the raising or harvesting of mushrooms, or
1124 in connection with the ginning of cotton, or in connection with
1125 the operation or maintenance of ditches, canals, reservoirs, or
1126 waterways not owned or operated for profit, used exclusively for
1127 supplying and storing water for farming purposes;

1128 (iv) (A) In the employ of the operator of a
1129 farm in handling, planting, drying, packing, packaging,
1130 processing, freezing, grading, storing or delivering to storage or
1131 to market or to a carrier for transportation to market, in its
1132 unmanufactured state, any agricultural or horticultural commodity;
1133 but only if such operator produced more than one-half (1/2) of the
1134 commodity with respect to which such service is performed;

1135 (B) In the employ of a group of
1136 operators of farms (or a cooperative organization of which such



1137 operators are members) in the performance of service described in
1138 subitem (A), but only if such operators produced more than
1139 one-half (1/2) of the commodity with respect to which such service
1140 is performed;

1141 (C) The provisions of subitems (A) and
1142 (B) shall not be deemed to be applicable with respect to service
1143 performed in connection with commercial canning or commercial
1144 freezing or in connection with any agricultural or horticultural
1145 commodity after its delivery to a terminal market for distribution
1146 for consumption;

1147 (v) On a farm operated for profit if such
1148 service is not in the course of the employer's trade or business;

1149 (vi) As used in paragraph (15) (a) of this
1150 subsection, the term "farm" includes stock, dairy, poultry, fruit,
1151 fur-bearing animals, and truck farms, plantations, ranches,
1152 nurseries, ranges, greenhouses, or other similar structures used
1153 primarily for the raising of agricultural or horticultural
1154 commodities, and orchards.

1155 (b) Domestic service in a private home, local
1156 college club, or local chapter of a college fraternity or
1157 sorority, except as provided in paragraph (7) of this subsection,
1158 or service performed as a "sitter" at a hospital in the employ of
1159 an individual.

1160 (c) Casual labor not in the usual course of the
1161 employing unit's trade or business.



1162 (d) Service performed by an individual in the
1163 employ of his or her son, daughter, or spouse, and service
1164 performed by a child under the age of twenty-one (21) in the
1165 employ of his or her father or mother.

1166 (e) Service performed in the employ of the United
1167 States government or of an instrumentality wholly owned by the
1168 United States; except that if the Congress of the United States
1169 shall permit states to require any instrumentalities of the United
1170 States to make payments into an unemployment fund under a state
1171 unemployment compensation act, then to the extent permitted by
1172 Congress and from and after the date as of which such permission
1173 becomes effective, all of the provisions of this chapter shall be
1174 applicable to such instrumentalities and to services performed by
1175 employees for such instrumentalities in the same manner, to the
1176 same extent, and on the same terms as to all other employers and
1177 employing units. If this state should not be certified under the
1178 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any
1179 year, then the payment required by such instrumentality with
1180 respect to such year shall be deemed to have been erroneously
1181 collected and shall be refunded by the department from the fund in
1182 accordance with the provisions of Section 71-5-383.

1183 (f) Service performed in the employ of an
1184 "employer" as defined by the Railroad Unemployment Insurance Act,
1185 45 USCS Section 351(a), or as an "employee representative" as
1186 defined by the Railroad Unemployment Insurance Act, 45 USCS



1187 Section 351(f), and service with respect to which unemployment
1188 compensation is payable under an unemployment compensation system
1189 for maritime employees, or under any other unemployment
1190 compensation system established by an act of Congress; however,
1191 the department is authorized and directed to enter into agreements
1192 with the proper agencies under such act or acts of Congress, which
1193 agreements shall become effective ten (10) days after publication
1194 thereof in the manner provided in Section 71-5-117 for general
1195 rules, to provide reciprocal treatment to individuals who have,
1196 after acquiring potential rights to benefits under this chapter,
1197 acquired rights to unemployment compensation under such act or
1198 acts of Congress or who have, after acquiring potential rights to
1199 unemployment compensation under such act or acts of Congress,
1200 acquired rights to benefits under this chapter.

1201 (g) Service performed in any calendar quarter in
1202 the employ of any organization exempt from income tax under the
1203 Internal Revenue Code, 26 USCS Section 501(a) (other than an
1204 organization described in 26 USCS Section 401(a)), or exempt from
1205 income tax under 26 USCS Section 521 if the remuneration for such
1206 service is less than Fifty Dollars (\$50.00).

1207 (h) Service performed in the employ of a school,
1208 college, or university if such service is performed:

1209 (i) By a student who is enrolled and is
1210 regularly attending classes at such school, college or university,
1211 or



1212 (ii) By the spouse of such a student if such
1213 spouse is advised, at the time such spouse commences to perform
1214 such service, that

1215 (A) The employment of such spouse to
1216 perform such service is provided under a program to provide
1217 financial assistance to such student by such school, college, or
1218 university, and

1219 (B) Such employment will not be covered
1220 by any program of unemployment insurance.

1221 (i) Service performed by an individual under the
1222 age of twenty-two (22) who is enrolled at a nonprofit or public
1223 educational institution which normally maintains a regular faculty
1224 and curriculum and normally has a regularly organized body of
1225 students in attendance at the place where its educational
1226 activities are carried on, as a student in a full-time program
1227 taken for credit at such institution, which combines academic
1228 instruction with work experience, if such service is an integral
1229 part of such program and such institution has so certified to the
1230 employer, except that this subparagraph shall not apply to service
1231 performed in a program established for or on behalf of an employer
1232 or group of employers.

1233 (j) Service performed in the employ of a hospital,
1234 if such service is performed by a patient of the hospital, as
1235 defined in subsection M of this section.



1236 (k) Service performed as a student nurse in the
1237 employ of a hospital or a nurses' training school by an individual
1238 who is enrolled and is regularly attending classes in a nurses'
1239 training school chartered or approved pursuant to state law; and
1240 services performed as an intern in the employ of a hospital by an
1241 individual who has completed a four-year course in a medical
1242 school chartered or approved pursuant to state law.

1243 (l) Service performed by an individual as an
1244 insurance agent or as an insurance solicitor, if all such service
1245 performed by such individual is performed for remuneration solely
1246 by way of commission.

1247 (m) Service performed by an individual in the
1248 delivery or distribution of newspapers or shopping news, not
1249 including delivery or distribution to any point for subsequent
1250 delivery or distribution, except those employed by political
1251 subdivisions, state and local governments, nonprofit organizations
1252 and Indian tribes, as defined by this chapter, or any other
1253 entities for which coverage is required by federal statute and
1254 regulation.

1255 (n) If the services performed during one-half
1256 (1/2) or more of any pay period by an employee for the employing
1257 unit employing him or her constitute employment, all the services
1258 of such employee for such period shall be deemed to be employment;
1259 but if the services performed during more than one-half (1/2) of
1260 any such pay period by an employee for the employing unit



1261 employing him or her do not constitute employment, then none of
1262 the services of such employee for such period shall be deemed to
1263 be employment. As used in this subsection, the term "pay period"
1264 means a period (of not more than thirty-one (31) consecutive days)
1265 for which a payment of remuneration is ordinarily made to the
1266 employee by the employing unit employing him or her.

1267 (o) Service performed by a barber or beautician
1268 whose work station is leased to him or her by the owner of the
1269 shop in which he or she works and who is compensated directly by
1270 the patrons he or she serves and who is free from direction and
1271 control by the lessor.

1272 (p) Service performed by a "direct seller" if:

1273 (i) Such person is engaged in the trade or
1274 business of selling (or soliciting the sale of) consumer products
1275 to any buyer on a buy-sell basis, a deposit-commission basis, or
1276 any similar basis which the department prescribes by regulations,
1277 for resale (by the buyer or any other person) in the home or
1278 otherwise than in a permanent retail establishment; or such person
1279 is engaged in the trade or business of selling (or soliciting the
1280 sale of) consumer products in the home or otherwise than in a
1281 permanent retail establishment;

1282 (ii) Substantially all the remuneration
1283 (whether or not paid in cash) for the performance of the services
1284 described in item (i) of this subparagraph is directly related to



1285 sales or other output (including the performance of services)
1286 rather than to the number of hours worked; and

1287 (iii) The services performed by the person
1288 are performed pursuant to a written contract between such person
1289 and the person for whom the services are performed and such
1290 contract provides that the person will not be treated as an
1291 employee with respect to such services for federal tax purposes.

1292 J. "Employment office" means a free public employment office
1293 or branch thereof, operated by this state or maintained as a part
1294 of the state controlled system of public employment offices.

1295 K. "Public employment service" means the operation of a
1296 program that offers free placement and referral services to
1297 applicants and employers, including job development.

1298 L. "Fund" means the Unemployment Compensation Fund
1299 established by this chapter, to which all contributions required
1300 and from which all benefits provided under this chapter shall be
1301 paid.

1302 M. "Hospital" means an institution which has been licensed,
1303 certified, or approved by the State Department of Health as a
1304 hospital.

1305 N. "Institution of higher learning," for the purposes of
1306 this section, means an educational institution which:

1307 (1) Admits as regular students only individuals having
1308 a certificate of graduation from a high school, or the recognized
1309 equivalent of such a certificate;



1310 (2) Is legally authorized in this state to provide a
1311 program of education beyond high school;

1312 (3) Provides an educational program for which it awards
1313 a bachelor's or higher degree, or provides a program which is
1314 acceptable for full credit toward such a degree, a program of
1315 postgraduate or postdoctoral studies, or a program of training to
1316 prepare students for gainful employment in a recognized
1317 occupation;

1318 (4) Is a public or other nonprofit institution;

1319 (5) Notwithstanding any of the foregoing provisions of
1320 this subsection, all colleges and universities in this state are
1321 institutions of higher learning for purposes of this section.

1322 O. "Re-employment assistance" means money payments payable
1323 to an individual as provided in this chapter and in accordance
1324 with Section 3304(a)(4) and 3306(h) of the Federal Unemployment
1325 Tax Act and Section 303(a)(5) of the Social Security Act, with
1326 respect to his or her unemployment through no fault of his or her
1327 own. Wherever the terms "benefits" or "unemployment benefits"
1328 appear in this chapter, they shall mean re-employment assistance.

1329 P. (1) "State" includes, in addition to the states of the
1330 United States of America, the District of Columbia, Commonwealth
1331 of Puerto Rico and the Virgin Islands.

1332 (2) The term "United States" when used in a
1333 geographical sense includes the states, the District of Columbia,
1334 Commonwealth of Puerto Rico and the Virgin Islands.



1335 (3) The provisions of paragraphs (1) and (2) of this
1336 subsection P, as including the Virgin Islands, shall become
1337 effective on the day after the day on which the United States
1338 Secretary of Labor approves for the first time under Section
1339 3304(a) of the Internal Revenue Code of 1954 an unemployment
1340 compensation law submitted to the secretary by the Virgin Islands
1341 for such approval.

1342 Q. "Unemployment."

1343 (1) An individual shall be deemed "unemployed" in any
1344 week during which he or she performs no services and with respect
1345 to which no wages are payable to him or her, or in any week of
1346 less than full-time work if the wages payable to him or her with
1347 respect to such week are less than his or her weekly benefit
1348 amount as computed and adjusted in Section 71-5-505. This
1349 definition shall exclude individuals receiving voluntary payments
1350 from employers, from any source, that are in lieu of the worker's
1351 regular wages. However, individuals receiving voluntary payments
1352 of less than their set full weekly wage, as well as individuals
1353 who do not work a specified number of hours each week resulting in
1354 inconsistent weekly wages, and who are receiving voluntary
1355 payments for partial wage substitution, may be considered
1356 "unemployed," but would be required to report the gross amount of
1357 the voluntary payments to be treated as wages so the appropriate
1358 deductions to the weekly benefit amount can be made. The
1359 department shall prescribe regulations applicable to unemployed



1360 individuals, making such distinctions in the procedure as to total
1361 unemployment, part-total unemployment, partial unemployment of
1362 individuals attached to their regular jobs, and other forms of
1363 short-time work, as the department deems necessary.

1364 (2) An individual's week of total unemployment shall be
1365 deemed to commence only after his registration with an employment
1366 office, except as the department may by regulation otherwise
1367 prescribe.

1368 (3) Unemployment shall not include administrative leave
1369 for any week with respect to which:

1370 (a) An employer has designated their employee as
1371 being on official administrative leave;

1372 (b) The administrative leave is for a specified
1373 period of time;

1374 (c) There is no apparent permanent job separation;
1375 and

1376 (d) The employee has received compensation equal
1377 to his or her standard compensation.

1378 (4) If the individual on official administrative leave,
1379 as designated by the employer, does not receive full compensation
1380 in line with his or her standard hours or salary, the individual
1381 may be eligible for unemployment insurance benefits as partially
1382 unemployed for the wages they are missing.

1383 (5) Any individual on official administrative leave is
1384 required to report all compensation received.



1385 R. (1) "Wages" means all remuneration for personal
1386 services, including commissions and bonuses and the cash value of
1387 all remuneration in any medium other than cash, except that
1388 "wages," for purposes of determining employer's coverage and
1389 payment of contributions for agricultural and domestic service
1390 means cash remuneration only. Wages shall include payments from
1391 employers, from any source, and for any reason, that are in lieu
1392 of the employee's regular wages. The reasonable cash value of
1393 remuneration in any medium other than cash shall be estimated and
1394 determined in accordance with rules prescribed by the department;
1395 however, that the term "wages" shall not include:

1396 (a) The amount of any payment made to, or on
1397 behalf of, an employee under a plan or system established by an
1398 employer which makes provision for his or her employees generally
1399 or for a class or classes of his or her employees (including any
1400 amount paid by an employer for insurance or annuities, or into a
1401 fund, to provide for any such payment), on account of:

1402 (i) Retirement, or
1403 (ii) Sickness or accident disability, or
1404 (iii) Medical or hospitalization expenses in
1405 connection with sickness or actual disability, or

1406 (iv) Death, provided the employee:

1407 (A) Has not the option to receive,
1408 instead of provision for such death benefit, any part of such
1409 payment or, if such death benefit is insured, any part of the



1410 premiums (or contributions to premiums) paid by his or her
1411 employer, and

1412 (B) Has not the right, under the
1413 provisions of the plan or system or policy of insurance providing
1414 for such death benefit, to assign such benefit or to receive a
1415 cash consideration in lieu of such benefit, either upon his or her
1416 withdrawal from the plan or system providing for such benefit or
1417 upon termination of such plan or system or policy of insurance or
1418 of his or her employment with such employer;

1419 (b) Dismissal payments which the employer is not
1420 legally required to make;

1421 (c) Payment by an employer (without deduction from
1422 the remuneration of an employee) of the tax imposed by the
1423 Internal Revenue Code, 26 USCS Section 3101;

1424 (d) From and after January 1, 1992, the amount of
1425 any payment made to or on behalf of an employee for a "cafeteria"
1426 plan, which meets the following requirements:

1427 (i) Qualifies under Section 125 of the
1428 Internal Revenue Code;

1429 (ii) Covers only employees;

1430 (iii) Covers only noncash benefits;

1431 (iv) Does not include deferred compensation
1432 plans.

1433 (2) [Not enacted].



1434 S. "Week" means calendar week or such period of seven (7)
1435 consecutive days as the department may by regulation prescribe.
1436 The department may by regulation prescribe that a week shall be
1437 deemed to be in, within, or during any benefit year which includes
1438 any part of such week.

1439 T. "Insured work" means "employment" for "employers."

1440 U. The term "includes" and "including," when used in a
1441 definition contained in this chapter, shall not be deemed to
1442 exclude other things otherwise within the meaning of the term
1443 defined.

1444 V. "Employee leasing arrangement" means any agreement
1445 between an employee leasing firm and a client, whereby specified
1446 client responsibilities such as payment of wages, reporting of
1447 wages for unemployment insurance purposes, payment of unemployment
1448 insurance contributions and other such administrative duties are
1449 to be performed by an employee leasing firm, on an ongoing basis.

1450 W. "Employee leasing firm" means any entity which provides
1451 specified duties for a client company such as payment of wages,
1452 reporting of wages for unemployment insurance purposes, payment of
1453 unemployment insurance contributions and other administrative
1454 duties, in connection with the client's employees, that are
1455 directed and controlled by the client and that are providing
1456 ongoing services for the client.

1457 X. (1) "Temporary help firm" means an entity which hires
1458 its own employees and provides those employees to other



1459 individuals or organizations to perform some service, to support
1460 or supplement the existing workforce in special situations such as
1461 employee absences, temporary skill shortages, seasonal workloads
1462 and special assignments and projects, with the expectation that
1463 the worker's position will be terminated upon the completion of
1464 the specified task or function.

1465 (2) "Temporary employee" means an employee assigned to
1466 work for the clients of a temporary help firm.

1467 Y. For the purposes of this chapter, the term "notice" shall
1468 include any official communication, statement or other
1469 correspondence required under the administration of this chapter,
1470 and sent by the department through the United States Postal
1471 Service or electronic or digital transfer, via modem or the
1472 Internet.

1473 **SECTION 12.** Section 71-5-19, Mississippi Code of 1972, is
1474 reenacted as follows:

1475 71-5-19. (1) Whoever makes a false statement or
1476 representation knowing it to be false, or knowingly fails to
1477 disclose a material fact, to obtain or increase any benefit or
1478 other payment under this chapter or under an employment security
1479 law of any other state, of the federal government or of a foreign
1480 government, either for himself or for any other person, shall be
1481 punished by a fine of not less than One Hundred Dollars (\$100.00)
1482 nor more than Five Hundred Dollars (\$500.00), or by imprisonment
1483 for not longer than thirty (30) days, or by both such fine and



1484 imprisonment; and each such false statement or representation or
1485 failure to disclose a material fact shall constitute a separate
1486 offense.

1487 (2) Any employing unit, any officer or agent of an employing
1488 unit or any other person who makes a false statement or
1489 representation knowing it to be false, or who knowingly fails to
1490 disclose a material fact, to prevent or reduce the payment of
1491 benefits to any individual entitled thereto, or to avoid becoming
1492 or remaining subject hereto, or to avoid or reduce any
1493 contribution or other payment required from any employing unit
1494 under this chapter, or who willfully fails or refuses to make any
1495 such contribution or other payment, or to furnish any reports
1496 required hereunder or to produce or permit the inspection or
1497 copying of records as required hereunder, shall be punished by a
1498 fine of not less than One Hundred Dollars (\$100.00) nor more than
1499 One Thousand Dollars (\$1,000.00), or by imprisonment for not
1500 longer than sixty (60) days, or by both such fine and
1501 imprisonment; and each such false statement, or representation, or
1502 failure to disclose a material fact, and each day of such failure
1503 or refusal shall constitute a separate offense. In lieu of such
1504 fine and imprisonment, the employing unit or representative, or
1505 both employing unit and representative, if such representative is
1506 an employing unit in this state and is found to be a party to such
1507 violation, shall not be eligible for a contributions rate of less
1508 than five and four-tenths percent (5.4%) for the tax year in which



1509 such violation is discovered by the department and for the next
1510 two (2) succeeding tax years.

1511 (3) Any person who shall willfully violate any provision of
1512 this chapter or any other rule or regulation thereunder, the
1513 violation of which is made unlawful or the observance of which is
1514 required under the terms of this chapter and for which a penalty
1515 is neither prescribed herein nor provided by any other applicable
1516 statute, shall be punished by a fine of not less than One Hundred
1517 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),
1518 or by imprisonment for not longer than sixty (60) days, or by both
1519 such fine and imprisonment; and each day such violation continues
1520 shall be deemed to be a separate offense. In lieu of such fine
1521 and imprisonment, the employing unit or representative, or both
1522 employing unit and representative, if such representative is an
1523 employing unit in this state and is found to be a party to such
1524 violation, shall not be eligible for a contributions rate of less
1525 than five and four-tenths percent (5.4%) for the tax year in which
1526 the violation is discovered by the department and for the next two
1527 (2) succeeding tax years.

1528 (4) (a) An overpayment of benefits occurs when a person
1529 receives benefits under this chapter:

1530 (i) While any conditions for the receipt of
1531 benefits imposed by this chapter were not fulfilled in his case;

1532 (ii) While he was disqualified from receiving
1533 benefits; or



1534 (iii) When such person receives benefits and is
1535 later found to be disqualified or ineligible for any reason,
1536 including, but not limited to, a redetermination or reversal by
1537 the department or the courts of a previous decision to award such
1538 person benefits.

1539 (b) Any person receiving an overpayment shall, in the
1540 discretion of the department, be liable to have such sum deducted
1541 from any future benefits payable to him under this chapter and
1542 shall be liable to repay to the department for the Unemployment
1543 Compensation Fund a sum equal to the overpayment amount so
1544 received by him; and such sum shall be collectible in the manner
1545 provided in Sections 71-5-363 through 71-5-383 for the collection
1546 of past-due contributions. In addition to Sections 71-5-363
1547 through 71-5-383, the following shall apply to cases involving
1548 damages for overpaid unemployment benefits which have been
1549 obtained and/or received through fraud as defined by department
1550 regulations and laws governing the department. By definition,
1551 fraud can include failure to report earnings while filing for
1552 unemployment benefits. In the event of fraud, a penalty of twenty
1553 percent (20%) of the amount of the overpayment shall be assessed.
1554 Three-fourths (3/4) of that twenty percent (20%) penalty shall be
1555 deposited into the unemployment trust fund and shall be used only
1556 for the purpose of payment of unemployment benefits. The
1557 remainder of that twenty percent (20%) penalty shall be deposited
1558 into the Special Employment Security Administrative Fund.



1559 Interest on the overpayment balance shall accrue at a rate of one
1560 percent (1%) per month on the unpaid balance until repaid and
1561 shall be deposited into the Special Employment Security
1562 Administration Fund. All interest, penalties and damages
1563 deposited into the Special Employment Security Administration Fund
1564 shall be used by the department for administration of the
1565 Mississippi Department of Employment Security.

1566 (c) Any such judgment against such person for
1567 collection of such overpayment shall be in the form of a
1568 seven-year renewable lien. Unless action be brought thereon prior
1569 to expiration of the lien, the department must refile the notice
1570 of the lien prior to its expiration at the end of seven (7) years.
1571 There shall be no limit upon the number of times the department
1572 may refile notices of liens for collection of overpayments.

1573 (d) All warrants issued by the department for the
1574 collection of any unemployment tax or for an overpayment of
1575 benefits imposed by statute and collected by the department shall
1576 be used to levy on salaries, compensation or other monies due the
1577 delinquent employer or claimant. No such warrant shall be issued
1578 until after the delinquent employer or claimant has exhausted all
1579 appeal rights associated with the debt. The warrants shall be
1580 served by mail or by delivery by an agent of the department on the
1581 person or entity responsible or liable for the payment of the
1582 monies due the delinquent employer or claimant. Once served, the
1583 employer or other person owing compensation due the delinquent



1584 employer or claimant shall pay the monies over to the department
1585 in complete or partial satisfaction of the liability. An answer
1586 shall be made within thirty (30) days after service of the warrant
1587 in the form and manner determined satisfactory by the department.
1588 Failure to pay the money over to the department as required by
1589 this section shall result in the served party being personally
1590 liable for the full amount of the monies owed and the levy and
1591 collection process may be issued against the party in the same
1592 manner as other debts owed to the department. Except as otherwise
1593 provided by this section, the answer, the amount payable under the
1594 warrant and the obligation of the payor to continue payment shall
1595 be governed by the garnishment laws of this state but shall be
1596 payable to the department.

1597 (5) The department, by agreement with another state or the
1598 United States, as provided under Section 303(g) of the Social
1599 Security Act, may recover any overpayment of benefits paid to any
1600 individual under the laws of this state or of another state or
1601 under an unemployment benefit program of the United States. Any
1602 overpayments subject to this subsection may be deducted from any
1603 future benefits payable to the individual under the laws of this
1604 state or of another state or under an unemployment program of the
1605 United States.

1606 **SECTION 13.** Section 71-5-101, Mississippi Code of 1972, is
1607 reenacted as follows:



1608 71-5-101. There is established the Mississippi Department of
1609 Employment Security, Office of the Governor. The Department of
1610 Employment Security shall be the Mississippi Employment Security
1611 Commission and shall retain all powers and duties as granted to
1612 the Mississippi Employment Security Commission. Wherever the term
1613 "Employment Security Commission" appears in any law, the same
1614 shall mean the Mississippi Department of Employment Security,
1615 Office of the Governor. The Executive Director of the Department
1616 of Employment Security may assign to the appropriate offices such
1617 powers and duties deemed appropriate to carry out the lawful
1618 functions of the department.

1619 **SECTION 14.** Section 71-5-107, Mississippi Code of 1972, is
1620 reenacted as follows:

1621 71-5-107. The department shall administer this chapter
1622 through a full-time salaried executive director, to be appointed
1623 by the Governor, with the advice and consent of the Senate. He
1624 shall be responsible for the administration of this chapter under
1625 authority delegated to him by the Governor.

1626 **SECTION 15.** Section 71-5-109, Mississippi Code of 1972, is
1627 reenacted as follows:

1628 71-5-109. There is created a Board of Review consisting of
1629 three (3) members to be appointed by the executive director. The
1630 executive director shall designate one (1) member of the Board of
1631 Review as chairman. Each member shall be paid a salary or per
1632 diem at a rate to be determined by the executive director, and



1633 such expenses as may be allowed by the executive director. All
1634 salaries, per diem and expenses of the Board of Review shall be
1635 paid from the Employment Security Administration Fund.

1636 **SECTION 16.** Section 71-5-111, Mississippi Code of 1972, is
1637 reenacted as follows:

1638 71-5-111. There is created in the State Treasury a special
1639 fund to be known as the Employment Security Administration Fund.
1640 All monies which are deposited or paid into this fund are
1641 appropriated and made available to the department. All monies in
1642 this fund shall be expended solely for the purpose of defraying
1643 the cost of administration of this chapter, and for no other
1644 purpose whatsoever. The fund shall consist of all monies
1645 appropriated by this state and all monies received from the United
1646 States of America, or any agency thereof, or from any other source
1647 for such purpose. Notwithstanding any provision of this section,
1648 all monies requisitioned and deposited in this fund pursuant to
1649 Section 71-5-457 shall remain part of the Employment Security
1650 Administration Fund and shall be used only in accordance with the
1651 conditions specified in that section. All monies in this fund
1652 shall be deposited, administered and disbursed in the same manner
1653 and under the same conditions and requirements as is provided by
1654 law for other special funds in the State Treasury. The State
1655 Treasurer shall be liable on his official bond for the faithful
1656 performance of his duties in connection with the Employment
1657 Security Administration Fund under this chapter.



1658 **SECTION 17.** Section 71-5-112, Mississippi Code of 1972, is
1659 reenacted as follows:

1660 71-5-112. All funds received by the Mississippi Department
1661 of Employment Security shall clear through the State Treasury as
1662 provided and required by Sections 71-5-111 and 71-5-453. All
1663 expenditures from the administration fund of the department
1664 authorized by Section 71-5-111 shall be expended only pursuant to
1665 appropriation approved by the Legislature and as provided by law.

1666 **SECTION 18.** Section 71-5-113, Mississippi Code of 1972, is
1667 reenacted as follows:

1668 71-5-113. All monies received from the Social Security Board
1669 or its successors for the administration of this chapter shall be
1670 expended solely for the purposes and in the amounts found
1671 necessary by the Social Security Board or its successors for the
1672 proper and efficient administration of this chapter.

1673 It shall be the duty of the department to take appropriate
1674 action with respect to the replacement, within a reasonable time,
1675 of any monies received from the Social Security Board, or its
1676 successors, for the administration of this chapter, and monies
1677 used to match grants pursuant to the provisions of the
1678 Wagner-Peyser Act, which the board, or its successors, find,
1679 because of any action or contingency, have been lost or have been
1680 expended for purposes other than, or in amounts in excess of those
1681 found necessary by the Social Security Board, or its successors,
1682 for the proper administration of this chapter. Funds which have



1683 been expended by the department or its agents in accordance with
1684 the budget approved by the Social Security Board, or its
1685 successors, or in accordance with the general standards and
1686 limitations promulgated by the Social Security Board, or its
1687 successors, prior to such expenditure (where proposed expenditures
1688 have not been specifically disapproved by the Social Security
1689 Board, or its successors), shall not be deemed to require
1690 replacement. To effectuate the purposes of this paragraph, it
1691 shall be the duty of the department to take such action to
1692 safeguard the expenditure of the funds referred to herein as it
1693 deems necessary. In the event of a loss of such funds or an
1694 improper expenditure thereof as herein defined, it shall be the
1695 duty of the department to notify the Governor of any such loss or
1696 improper expenditure and submit to him a request for an
1697 appropriation in the amount thereof. The Governor shall transmit
1698 to the next regular session of the Legislature following such
1699 notification, the department's request for an appropriation in an
1700 amount necessary to replace funds which have been lost or
1701 improperly expended as defined above. Such request of the
1702 department for an appropriation shall not be subject to the
1703 provisions of Sections 27-103-101 through 27-103-139. The
1704 Legislature recognizes its obligation to replace such funds as may
1705 be necessary and shall make necessary appropriations in accordance
1706 with such requests.



1707 **SECTION 19.** Section 71-5-114, Mississippi Code of 1972, is
1708 reenacted as follows:

1709 71-5-114. There is created in the State Treasury a special
1710 fund, to be known as the "Special Employment Security
1711 Administration Fund," into which shall be deposited or transferred
1712 all interest, penalties and damages collected on and after July 1,
1713 1982, pursuant to Sections 71-5-363 through 71-5-379 and all
1714 interest and penalties required to be deposited into the fund
1715 pursuant to Section 71-5-19(4)(b). Interest, penalties and
1716 damages collected on delinquent payments deposited during any
1717 calendar quarter in the clearing account in the Unemployment Trust
1718 Fund shall, as soon as practicable after the close of such
1719 calendar quarter, be transferred to the Special Employment
1720 Security Administration Fund. All monies in this fund shall be
1721 deposited, administered and disbursed in the same manner and under
1722 the same conditions and requirements as is provided by law for
1723 other special funds in the State Treasury. The State Treasurer
1724 shall be liable on his official bond for the faithful performance
1725 of his duties in connection with the Special Employment Security
1726 Administration Fund under this chapter. Those monies may be
1727 expended for any programs for which the department has
1728 administrative responsibility but shall not be expended or made
1729 available for expenditure in any manner which would permit their
1730 substitution for (or permit a corresponding reduction in) federal
1731 funds which would, in the absence of those monies, be available to



1732 finance expenditures for the administration of the state
1733 unemployment compensation and employment service laws or any other
1734 laws directing the administration of any programs for which the
1735 department has the administrative responsibility. Nothing in this
1736 section shall prevent those monies in this fund from being used as
1737 a revolving fund to cover expenditures necessary and proper under
1738 the law for which federal funds have been duly requested but not
1739 yet received, subject to the charging of such expenditures against
1740 such funds when necessary. The monies in this fund may be used by
1741 the department for the payment of costs of administration of the
1742 employment security laws of this state which are found not to be
1743 or not to have been properly and validly chargeable against funds
1744 obtained from federal sources. All monies in this Special
1745 Employment Security Administration Fund shall be continuously
1746 available to the department for expenditure in accordance with the
1747 provisions of this chapter, and shall not lapse at any time. The
1748 monies in this fund are specifically made available to replace, as
1749 contemplated by Section 71-5-113, expenditures from the Employment
1750 Security Administration Fund established by Section 71-5-111,
1751 which have been found, because of any action or contingency, to
1752 have been lost or improperly expended.

1753 The department, whenever it is of the opinion that the money
1754 in the Special Employment Security Administration Fund is more
1755 than ample to pay for all foreseeable needs for which such special
1756 fund is set up, may, by written order, order the transfer



1757 therefrom to the Unemployment Compensation Fund of such amount of
1758 money in the Special Employment Security Administration Fund as it
1759 deems proper, and the same shall thereupon be immediately
1760 transferred to the Unemployment Compensation Fund.

1761 **SECTION 20.** Section 71-5-115, Mississippi Code of 1972, is
1762 reenacted as follows:

1763 71-5-115. It shall be the duty of the executive director to
1764 administer this chapter; and the executive director shall have the
1765 power and authority to adopt, amend or rescind such rules and
1766 regulations, to employ such persons, make such expenditures,
1767 require such reports, make such investigations, and take such
1768 other action as he deems necessary or suitable to that end. Such
1769 rules and regulations shall be effective upon publication in the
1770 manner, not inconsistent with the provisions of this chapter,
1771 which the executive director shall prescribe. The executive
1772 director shall determine the department's own organization and
1773 methods of procedure in accordance with the provisions of this
1774 chapter, and shall have an official seal which shall be judicially
1775 noticed. Not later than the first day of February in each year,
1776 the executive director shall submit to the Governor a report
1777 covering the administration and operation of this chapter during
1778 the preceding fiscal year and shall make such recommendations for
1779 amendments to this chapter as the executive director deems proper.
1780 Whenever the executive director believes that a change in
1781 contribution or benefit rates will become necessary to protect the



1782 solvency of the fund, he shall promptly so inform the Governor and
1783 the Legislature, and make recommendations with respect thereto.

1784 **SECTION 21.** Section 71-5-117, Mississippi Code of 1972, is
1785 reenacted as follows:

1786 71-5-117. General rules may be adopted, amended or rescinded
1787 by the executive director only after public hearing or opportunity
1788 to be heard thereon, of which proper notice has been given.

1789 General rules shall become effective ten (10) days after filing
1790 with the Secretary of State and publication in one or more
1791 newspapers of general circulation in this state. Regulations may
1792 be adopted, amended or rescinded by the executive director and
1793 shall become effective in the manner and at the time prescribed by
1794 the executive director.

1795 **SECTION 22.** Section 71-5-119, Mississippi Code of 1972, is
1796 reenacted as follows:

1797 71-5-119. The department shall cause to be available for
1798 distribution to the public the text of this chapter, its
1799 regulations and general rules, its reports to the Governor, and
1800 any other material it deems relevant and suitable, and shall
1801 furnish the same to any person upon application therefor.

1802 **SECTION 23.** Section 71-5-121, Mississippi Code of 1972, is
1803 reenacted as follows:

1804 71-5-121. Subject to other provisions of this chapter, the
1805 executive director is authorized to appoint, fix the compensation,
1806 and prescribe the duties and powers of such officers, accountants,



1807 attorneys, experts and other persons as may be necessary in the
1808 performance of department duties; however, all personnel who were
1809 former members of the Armed Forces of the United States of America
1810 shall be given credit regardless of rate, rank or commission. All
1811 positions shall be filled by persons selected and appointed on a
1812 nonpartisan merit basis, in accordance with Section 25-9-101 et
1813 seq., that provides for a state service personnel system. The
1814 executive director shall not employ any person who is an officer
1815 or committee member of any political party organization. The
1816 executive director may delegate to any such person so appointed
1817 such power and authority as he deems reasonable and proper for the
1818 effective administration of this chapter, and may in his
1819 discretion bond any person handling monies or signing checks
1820 hereunder. The veteran status of an individual shall be
1821 considered and preference given in accordance with the provisions
1822 of the State Personnel Board.

1823 The department and its employees are exempt from Sections
1824 25-15-101 and 25-15-103.

1825 The department may use federal granted funds to provide such
1826 group health, life, accident and hospitalization insurance for its
1827 employees as may be agreed upon by the department and the federal
1828 granting authorities.

1829 The department shall adopt a "layoff formula" to be used
1830 wherever it is determined that, because of reduced workload,



1831 budget reductions or in order to effect a more economical
1832 operation, a reduction in force shall occur in any group.

1833 In establishing this formula, the department shall give
1834 effect to the principle of seniority and shall provide that
1835 seniority points may be added for disabled veterans and veterans,
1836 with due regard to the efficiency of the service. Any such layoff
1837 formula shall be implemented according to the policies, rules and
1838 regulations of the State Personnel Board.

1839 **SECTION 24.** Section 71-5-123, Mississippi Code of 1972, is
1840 reenacted as follows:

1841 71-5-123. The executive director shall retain all powers and
1842 duties as granted to the state advisory council appointed by the
1843 former Employment Security Commission. The executive director may
1844 appoint local advisory councils, composed in each case of an equal
1845 number of employer representatives and employee representatives
1846 who may fairly be regarded as representative because of their
1847 vocation, employment or affiliations, and of such members
1848 representing the general public as the executive director may
1849 designate. Such councils shall aid the department in formulating
1850 policies and discussing problems related to the administration of
1851 this chapter and in assuring impartiality and freedom from
1852 political influence in the solution of such problems. Members of
1853 the advisory councils shall receive a per diem in accordance with
1854 Section 25-3-69 for attendance upon meetings of the council, and
1855 shall be reimbursed for actual and necessary traveling expenses.



1856 The per diem and expenses herein authorized shall be paid from the
1857 Employment Security Administration Fund.

1858 **SECTION 25.** Section 71-5-125, Mississippi Code of 1972, is
1859 reenacted as follows:

1860 71-5-125. The department shall take all appropriate steps to
1861 reduce and prevent unemployment; to encourage and assist in the
1862 adoption of practical methods of vocational training, retraining
1863 and vocational guidance; to investigate, recommend, advise and
1864 assist in the establishment and operation, by municipalities,
1865 counties, school districts and the state, of reserves for public
1866 works to be used in times of business depression and unemployment;
1867 to promote the reemployment of unemployed workers throughout the
1868 state in every other way that may be feasible; and to these ends
1869 to carry on and publish the results of investigation and research
1870 studies.

1871 **SECTION 26.** Section 71-5-127, Mississippi Code of 1972, is
1872 reenacted as follows:

1873 71-5-127. (1) Any information or records concerning an
1874 individual or employing unit obtained by the department pursuant
1875 to the administration of this chapter or any other federally
1876 funded programs for which the department has responsibility shall
1877 be private and confidential, except as otherwise provided in this
1878 article or by regulation. Information or records may be released
1879 by the department when the release is required by the federal



1880 government in connection with, or as a condition of funding for, a
1881 program being administered by the department.

1882 (2) Each employing unit shall keep true and accurate work
1883 records, containing such information as the department may
1884 prescribe. Such records shall be open to inspection and be
1885 subject to being copied by the department or its authorized
1886 representatives at any reasonable time and as often as may be
1887 necessary. The department, Board of Review and any referee may
1888 require from any employing unit any sworn or unsworn reports with
1889 respect to persons employed by it which they or any of them deem
1890 necessary for the effective administration of this chapter.
1891 Information, statements, transcriptions of proceedings,
1892 transcriptions of recordings, electronic recordings, letters,
1893 memoranda, and other documents and reports thus obtained or
1894 obtained from any individual pursuant to the administration of
1895 this chapter shall, except to the extent necessary for the proper
1896 administration of this chapter, be held confidential and shall not
1897 be published or be opened to public inspection (other than to
1898 public employees in the performance of their public duties) in any
1899 manner revealing the individual's or employing unit's identity.

1900 (3) Any claimant or his legal representative at a hearing
1901 before an appeal tribunal or the Board of Review shall be supplied
1902 with information from such records to the extent necessary for the
1903 proper presentation of his claim in any proceeding pursuant to
1904 this chapter.



1905 (4) Any employee or member of the Board of Review or any
1906 employee of the department who violates any provisions of this
1907 section shall be fined not less than Twenty Dollars (\$20.00) nor
1908 more than Two Hundred Dollars (\$200.00), or imprisoned for not
1909 longer than ninety (90) days, or both.

1910 (5) The department may make the state's records relating to
1911 the administration of this chapter available to the Railroad
1912 Retirement Board, and may furnish the Railroad Retirement Board,
1913 at the expense of such board, such copies thereof as the Railroad
1914 Retirement Board deems necessary for its purposes. The department
1915 may afford reasonable cooperation with every agency of the United
1916 States charged with the administration of any unemployment
1917 insurance law.

1918 **SECTION 27.** Section 71-5-129, Mississippi Code of 1972, is
1919 reenacted as follows:

1920 71-5-129. Records hereinafter designated, which are found by
1921 the department to be useless, may be disposed of in accordance
1922 with approved records control schedules.

1923 (a) Records which have been preserved by it for not
1924 less than three (3) years:

- 1925 (1) Initial claims for benefits,
1926 (2) Continued claims for benefits,
1927 (3) Correspondence and master index cards in
1928 connection with such claims for benefits, and



1929 (4) Individual wage slips filed by employers
1930 subject to the provisions of the Unemployment Compensation Law.

1931 (b) Records which have been preserved by it for not
1932 less than six (6) months after becoming inactive:

- 1933 (1) Work applications,
- 1934 (2) Cross-index cards for work applications,
- 1935 (3) Test records,
- 1936 (4) Employer records,
- 1937 (5) Work orders,
- 1938 (6) Clearance records,
- 1939 (7) Counseling records,
- 1940 (8) Farm placement records, and
- 1941 (9) Correspondence relating to all such records.

1942 Nothing herein contained shall be construed as authorizing
1943 the destruction or disposal of basic fiscal records reflecting the
1944 financial operations of the department and no records may be
1945 destroyed without the approval of the Director of the Department
1946 of Archives and History.

1947 **SECTION 28.** Section 71-5-131, Mississippi Code of 1972, is
1948 reenacted as follows:

1949 71-5-131. All letters, reports, communications, or any other
1950 matters, either oral or written, from the employer or employee to
1951 each other or to the department or any of its agents,
1952 representatives or employees, which shall have been written, sent,
1953 delivered or made in connection with the requirements and



1954 administration of this chapter shall be absolutely privileged and
1955 shall not be made the subject matter or basis of any suit for
1956 slander or libel in any court of the State of Mississippi unless
1957 the same be false in fact and maliciously written, sent, delivered
1958 or made for the purpose of causing a denial of benefits under this
1959 chapter.

1960 **SECTION 29.** Section 71-5-133, Mississippi Code of 1972, is
1961 reenacted as follows:

1962 71-5-133. In any case where an employing unit or any
1963 officer, member or agent thereof, or any other person having
1964 possession of the records thereof, shall fail or refuse upon
1965 demand by the department or its duly appointed agents to produce
1966 or permit the examination or copying of any book, paper, account,
1967 record or other data pertaining to payrolls or employment or
1968 ownership of interests or stock in any employing unit, or bearing
1969 upon the correctness of any report, or for the purpose of making a
1970 report as required by this chapter where none has been made, then
1971 and in that event the department or its duly authorized agents
1972 may, by the issuance of a subpoena, require the attendance of such
1973 employing unit or any officer, member or agent thereof, or any
1974 other person having possession of the records thereof, and take
1975 testimony with respect to any such matter and may require any such
1976 person to produce any books or records specified in such subpoena.
1977 The department or its authorized agents at any such hearing shall
1978 have power to administer oaths to any such person or persons.



1979 When any person called as a witness by a subpoena signed by the
1980 department or its agents and served upon him by the sheriff of a
1981 county of which such person is a resident, or wherein is located
1982 the principal office of such employing unit or wherein such
1983 records are located or kept, shall fail to obey such subpoena to
1984 appear before the department or its authorized agent, or shall
1985 refuse to testify or to answer any questions or to produce any
1986 book, record, paper or other data when required to do so, such
1987 failure or refusal shall be reported to the Attorney General, who
1988 shall thereupon institute proceedings by the filing of a petition
1989 in the name of the State of Mississippi, on the relation of the
1990 department, in the circuit court or other court of competent
1991 jurisdiction of the county where such witness resides, or wherein
1992 such records are located or kept, to compel the obedience of such
1993 witness. Such petition shall set forth the facts and
1994 circumstances of the demand for and refusal or failure to permit
1995 the examination or copying of such records, or the failure or
1996 refusal of such witness to testify in answer to such subpoena or
1997 to produce the records so required by such subpoena. Such court,
1998 upon the filing and docketing of such petition, shall thereupon
1999 promptly issue an order to the defendants named in the petition to
2000 produce forthwith in such court, or at a place in such county
2001 designated in such order for the examination or copying by the
2002 department or its duly appointed agents, the records, books or
2003 documents so described, and to testify concerning matters



2004 described in such petition. Unless such defendants to such
2005 petition shall appear in the court upon a day specified in such
2006 order, which day shall be not more than ten (10) days after the
2007 date of issuance of such order, and offer, under oath, good and
2008 sufficient reasons why such examination or copying should not be
2009 permitted, or why such subpoena should not be obeyed, such court
2010 shall thereupon deliver to the department or its agents, for
2011 examination or copying, the records, books and documents so
2012 described in the petition and so produced in such court, and shall
2013 order the defendants to appear in answer to the subpoena of the
2014 department or its agents, and to testify concerning matters
2015 inquired about by the department. Any employing unit or any
2016 officer, member or agent thereof, or any other person having
2017 possession of the records thereof, who shall willfully disobey
2018 such order of the court after the same shall have been served upon
2019 him shall be guilty of indirect contempt of such court from which
2020 such order shall have issued, and may be adjudged in contempt of
2021 the court and punished therefor as provided by law.

2022 **SECTION 30.** Section 71-5-135, Mississippi Code of 1972, is
2023 reenacted as follows:

2024 71-5-135. If any employing unit fails to make any report
2025 required by this chapter, the department or its authorized agents
2026 shall give notice to such employing unit to make and file such
2027 report within fifteen (15) days from the date of such notice. If
2028 such employing unit, by its proper members, officers or agents,



2029 shall fail or refuse to make and file such reports within such
2030 time, then and in that event such report shall be made by the
2031 department or its authorized agents from the best information
2032 available, and the amount of contributions due shall be computed
2033 thereon; and such report shall be prima facie correct for the
2034 purposes of this chapter.

2035 **SECTION 31.** Section 71-5-137, Mississippi Code of 1972, is
2036 reenacted as follows:

2037 71-5-137. In the discharge of the duties imposed by this
2038 chapter, the department, any referee, the members of the Board of
2039 Review, and any duly authorized representative of any of them
2040 shall have power to administer oaths and affirmations, to take
2041 depositions, certify to official acts, and issue subpoenas to
2042 compel the attendance of witnesses and the production of books,
2043 papers, correspondence, memoranda and other records deemed
2044 necessary as evidence in connection with a disputed claim or the
2045 administration of this chapter.

2046 **SECTION 32.** Section 71-5-139, Mississippi Code of 1972, is
2047 reenacted as follows:

2048 71-5-139. In case of contumacy or refusal to obey a subpoena
2049 issued to any person, any court in this state within the
2050 jurisdiction of which the inquiry is carried on, or within the
2051 jurisdiction of which the person guilty of contumacy or refusal to
2052 obey is found or resides or transacts business, upon application
2053 by the department, the Board of Review, any referee, or any duly



2054 authorized representative of any of them, shall have jurisdiction
2055 to issue to such person an order requiring such person to appear
2056 before the department, the Board of Review, any referee, or any
2057 duly authorized representative of any of them, there to produce
2058 evidence if so ordered or there to give testimony touching the
2059 matter under investigation or in question. Any failure to obey
2060 such order of the court may be punished by the court as a contempt
2061 thereof. Any person who shall, without just cause, fail or refuse
2062 to attend and testify or to answer any lawful inquiry or to
2063 produce books, papers, correspondence, memoranda and other records
2064 if it is in his power so to do, in obedience to a subpoena of the
2065 department, the Board of Review, any referee, or any duly
2066 authorized representative of any of them, shall be punished by a
2067 fine of not more than Two Hundred Dollars (\$200.00), or by
2068 imprisonment for not longer than sixty (60) days, or by both such
2069 fine and imprisonment; and each day such violation continues shall
2070 be deemed to be a separate offense.

2071 **SECTION 33.** Section 71-5-141, Mississippi Code of 1972, is
2072 reenacted as follows:

2073 71-5-141. No person shall be excused from attending and
2074 testifying or from producing books, papers, correspondence,
2075 memoranda and other records before the department, the Board of
2076 Review, any referee, or any duly authorized representative of any
2077 of them, or in obedience to the subpoena of any of them in any
2078 cause or proceeding before the department, the Board of Review or



2079 an appeal tribunal, on the ground that the testimony or evidence,
2080 documentary or otherwise, required of him may tend to incriminate
2081 him or subject him to a penalty or forfeiture; but no individual
2082 shall be prosecuted or subjected to any penalty or forfeiture for
2083 or on account of any transaction, matter or thing concerning which
2084 he is compelled, after having claimed his privilege against
2085 self-incrimination, to testify or produce evidence, documentary or
2086 otherwise, except that such individual so testifying shall not be
2087 exempt from prosecution and punishment for perjury committed in so
2088 testifying.

2089 **SECTION 34.** Section 71-5-143, Mississippi Code of 1972, is
2090 reenacted as follows:

2091 71-5-143. In the administration of this chapter, the
2092 department shall cooperate, to the fullest extent consistent with
2093 the provisions of this chapter, with the Social Security Board
2094 created by the Social Security Act, approved August 14, 1935, as
2095 amended; shall make such reports in such form and containing such
2096 information as the Social Security Board may from time to time
2097 require, and shall comply with such provisions as the Social
2098 Security Board may from time to time find necessary to assure the
2099 correctness and verification of such reports; and shall comply
2100 with the reasonable, valid and lawful regulations prescribed by
2101 the Social Security Board pursuant to and under the authority of
2102 the Social Security Act, governing the expenditures of such sums
2103 as may be allotted and paid to this state under Title III of the



2104 Social Security Act, as amended, for the purpose of assisting in
2105 the administration of this chapter.

2106 Upon request therefor, the department shall furnish to any
2107 agency of the United States charged with the administration of
2108 public works, or assistance through public employment, the name,
2109 address, ordinary occupation and employment status of each
2110 recipient of benefits, and such recipient's rights to further
2111 benefits under this chapter.

2112 **SECTION 35.** Section 71-5-201, Mississippi Code of 1972, is
2113 reenacted as follows:

2114 71-5-201. The Mississippi State Employment Service is
2115 established in the Mississippi Department of Employment Security,
2116 Office of the Governor. The department, in the conduct of such
2117 service, shall establish and maintain free public employment
2118 offices in such number and in such places as may be necessary for
2119 the proper administration of this article and for the purpose of
2120 performing such functions as are within the purview of the act of
2121 Congress entitled "An act to provide for the establishment of a
2122 national employment system and for cooperation with the states in
2123 the promotion of such system, and for other purposes" (29 USCS
2124 Section 49 et seq.). Any existing free public employment offices
2125 maintained by the state but not heretofore under the jurisdiction
2126 of the department shall be transferred to the jurisdiction of the
2127 department, and upon such transfer all duties and powers conferred
2128 upon any other department, agency or officers of this state



2129 relating to the establishment, maintenance and operation of free
2130 public employment offices shall be vested in the department. The
2131 Mississippi State Employment Service shall be administered by the
2132 department, which is charged with the duty to cooperate with any
2133 official or agency of the United States having powers or duties
2134 under the provisions of the act of Congress, as amended, and to do
2135 and perform all things necessary to secure to this state the
2136 benefits of that act of Congress, as amended, in the promotion and
2137 maintenance of a system of public employment offices. The
2138 provisions of that act of Congress, as amended, are accepted by
2139 this state, in conformity with 29 USCS Section 49c, and this state
2140 will observe and comply with the requirements thereof. The
2141 department is designated and constituted the agency of this state
2142 for the purposes of that act. The department may cooperate with
2143 or enter into agreements with the Railroad Retirement Board or
2144 veteran's organization with respect to the establishment,
2145 maintenance and use of free employment service facilities.

2146 **SECTION 36.** Section 71-5-357, Mississippi Code of 1972, is
2147 reenacted as follows:

2148 71-5-357. Benefits paid to employees of nonprofit
2149 organizations shall be financed in accordance with the provisions
2150 of this section. For the purpose of this section, a nonprofit
2151 organization is an organization (or group of organizations)
2152 described in Section 501(c)(3) of the Internal Revenue Code of



2153 1954 which is exempt from income tax under Section 501(a) of such
2154 code (26 USCS Section 501).

2155 (a) Any nonprofit organization which, under Section
2156 71-5-11, subsection H(3), is or becomes subject to this chapter
2157 shall pay contributions under the provisions of Sections 71-5-351
2158 through 71-5-355 unless it elects, in accordance with this
2159 paragraph, to pay to the department for the unemployment fund an
2160 amount equal to the amount of regular benefits and one-half (1/2)
2161 of the extended benefits paid, that is attributable to service in
2162 the employ of such nonprofit organization, to individuals for
2163 weeks of unemployment which begin during the effective period of
2164 such election.

2165 (i) Any nonprofit organization which becomes
2166 subject to this chapter may elect to become liable for payments in
2167 lieu of contributions for a period of not less than twelve (12)
2168 months, beginning with the date on which such subjectivity begins,
2169 by filing a written notice of its election with the department not
2170 later than thirty (30) days immediately following the date of the
2171 determination of such subjectivity.

2172 (ii) Any nonprofit organization which makes an
2173 election in accordance with subparagraph (i) of this paragraph
2174 will continue to be liable for payments in lieu of contributions
2175 unless it files with the department a written termination notice
2176 not later than thirty (30) days prior to the beginning of the tax
2177 year for which such termination shall first be effective.



2178 (iii) Any nonprofit organization which has been
2179 paying contributions under this chapter may change to a
2180 reimbursable basis by filing with the department, not later than
2181 thirty (30) days prior to the beginning of any tax year, a written
2182 notice of election to become liable for payments in lieu of
2183 contributions. Such election shall not be terminable by the
2184 organization for that and the next tax year.

2185 (iv) The department may for good cause extend the
2186 period within which a notice of election or a notice of
2187 termination must be filed, and may permit an election to be
2188 retroactive.

2189 (v) The department, in accordance with such
2190 regulations as it may prescribe, shall notify each nonprofit
2191 organization of any determination which it may make of its status
2192 as an employer, of the effective date of any election which it
2193 makes and of any termination of such election. Such
2194 determinations shall be subject to reconsideration, appeal and
2195 review in accordance with the provisions of Sections 71-5-351
2196 through 71-5-355.

2197 (b) Payments in lieu of contributions shall be made in
2198 accordance with the provisions of subparagraph (i) of this
2199 paragraph.

2200 (i) At the end of each calendar quarter, or at the
2201 end of any other period as determined by the department, the
2202 department shall bill each nonprofit organization (or group of



2203 such organizations) which has elected to make payments in lieu of
2204 contributions, for an amount equal to the full amount of regular
2205 benefits plus one-half (1/2) of the amount of extended benefits
2206 paid during such quarter or other prescribed period that is
2207 attributable to service in the employ of such organization.

2208 (ii) Payment of any bill rendered under
2209 subparagraph (i) of this paragraph shall be made not later than
2210 forty-five (45) days after such bill was delivered to the
2211 nonprofit organization, unless there has been an application for
2212 review and redetermination in accordance with subparagraph (v) of
2213 this paragraph.

2214 1. All of the enforcement procedures for the
2215 collection of delinquent contributions contained in Sections
2216 71-5-363 through 71-5-383 shall be applicable in all respects for
2217 the collection of delinquent payments due by nonprofit
2218 organizations who have elected to become liable for payments in
2219 lieu of contributions.

2220 2. If any nonprofit organization is
2221 delinquent in making payments in lieu of contributions, the
2222 department may terminate such organization's election to make
2223 payments in lieu of contributions as of the beginning of the next
2224 tax year, and such termination shall be effective for the balance
2225 of such tax year.

2226 (iii) Payments made by any nonprofit organization
2227 under the provisions of this paragraph shall not be deducted or



2228 deductible, in whole or in part, from the remuneration of
2229 individuals in the employ of the organization.

2230 (iv) Payments due by employers who elect to
2231 reimburse the fund in lieu of contributions as provided in this
2232 paragraph may not be noncharged under any condition. The
2233 reimbursement must be on a dollar-for-dollar basis (One Dollar
2234 (\$1.00) reimbursement for each dollar paid in benefits) in every
2235 case, so that the trust fund shall be reimbursed in full, such
2236 reimbursement to include, but not be limited to, benefits or
2237 payments erroneously or incorrectly paid, or paid as a result of a
2238 determination of eligibility which is subsequently reversed, or
2239 paid as a result of claimant fraud. However, political
2240 subdivisions who are reimbursing employers may elect to pay to the
2241 fund an amount equal to five-tenths percent (.5%) through December
2242 31, 2010, and shall pay twenty-five one-hundredths percent (.25%)
2243 thereafter of the taxable wages paid during the calendar year with
2244 respect to employment, and those employers who so elect shall be
2245 relieved of liability for reimbursement of benefits paid under the
2246 same conditions that benefits are not charged to the
2247 experience-rating record of a contributing employer as provided in
2248 Section 71-5-355(2) (b) (ii) other than Clause 5 thereof. Benefits
2249 paid in such circumstances for which reimbursing employers are
2250 relieved of liability for reimbursement shall not be considered
2251 attributable to service in the employment of such reimbursing
2252 employer.



2253 (v) The amount due specified in any bill from the
2254 department shall be conclusive on the organization unless, not
2255 later than fifteen (15) days after the bill was delivered to it,
2256 the organization files an application for redetermination by the
2257 department, setting forth the grounds for such application or
2258 appeal. The department shall promptly review and reconsider the
2259 amount due specified in the bill and shall thereafter issue a
2260 redetermination in any case in which such application for
2261 redetermination has been filed. Any such redetermination shall be
2262 conclusive on the organization unless, not later than fifteen (15)
2263 days after the redetermination was delivered to it, the
2264 organization files an appeal to the Circuit Court of the First
2265 Judicial District of Hinds County, Mississippi, in accordance with
2266 the provisions of law with respect to review of civil causes by
2267 certiorari.

2268 (vi) Past-due payments of amounts in lieu of
2269 contributions shall be subject to the same interest and penalties
2270 that, pursuant to Section 71-5-363, apply to past-due
2271 contributions.

2272 (c) Each employer that is liable for payments in lieu
2273 of contributions shall pay to the department for the fund the
2274 amount of regular benefits plus the amount of one-half (1/2) of
2275 extended benefits paid are attributable to service in the employ
2276 of such employer. If benefits paid to an individual are based on
2277 wages paid by more than one (1) employer and one or more of such



2278 employers are liable for payments in lieu of contributions, the
2279 amount payable to the fund by each employer that is liable for
2280 such payments shall be determined in accordance with the
2281 provisions of subparagraph (i) or subparagraph (ii) of this
2282 paragraph.

2283 (i) If benefits paid to an individual are based on
2284 wages paid by one or more employers that are liable for payment in
2285 lieu of contributions and on wages paid by one or more employers
2286 who are liable for contributions, the amount of benefits payable
2287 by each employer that is liable for payments in lieu of
2288 contributions shall be an amount which bears the same ratio to the
2289 total benefits paid to the individual as the total base period
2290 wages paid to the individual by such employer bear to the total
2291 base period wages paid to the individual by all of his base period
2292 employers.

2293 (ii) If benefits paid to an individual are based
2294 on wages paid by two (2) or more employers that are liable for
2295 payments in lieu of contributions, the amount of benefits payable
2296 by each such employer shall be an amount which bears the same
2297 ratio to the total benefits paid to the individual as the total
2298 base period wages paid to the individual by such employer bear to
2299 the total base period wages paid to the individual by all of his
2300 base period employers.

2301 (d) In the discretion of the department, any nonprofit
2302 organization that elects to become liable for payments in lieu of



2303 contributions shall be required to execute and file with the
2304 department a surety bond approved by the department, or it may
2305 elect instead to deposit with the department money or securities.
2306 The amount of such bond or deposit shall be determined in
2307 accordance with the provisions of this paragraph.

2308 (i) The amount of the bond or deposit required by
2309 paragraph (d) shall be equal to two and seven-tenths percent
2310 (2.7%) thereafter to December 31, 2010, and one and thirty-five
2311 one-hundredths percent (1.35%) thereafter, of the organization's
2312 taxable wages paid for employment as defined in Section 71-5-11,
2313 subsection I(4), for the four (4) calendar quarters immediately
2314 preceding the effective date of the election, the renewal date in
2315 the case of a bond, or the biennial anniversary of the effective
2316 date of election in the case of a deposit of money or securities,
2317 whichever date shall be most recent and applicable. If the
2318 nonprofit organization did not pay wages in each of such four (4)
2319 calendar quarters, the amount of the bond or deposit shall be as
2320 determined by the department.

2321 (ii) Any bond deposited under paragraph (d) shall
2322 be in force for a period of not less than two (2) tax years and
2323 shall be renewed with the approval of the department at such times
2324 as the department may prescribe, but not less frequently than at
2325 intervals of two (2) years as long as the organization continues
2326 to be liable for payments in lieu of contributions. The
2327 department shall require adjustments to be made in a previously



2328 filed bond as it deems appropriate. If the bond is to be
2329 increased, the adjusted bond shall be filed by the organization
2330 within thirty (30) days of the date notice of the required
2331 adjustment was delivered to it. Failure by any organization
2332 covered by such bond to pay the full amount of payments in lieu of
2333 contributions when due, together with any applicable interest and
2334 penalties provided in paragraph (b) (v) of this section, shall
2335 render the surety liable on the bond to the extent of the bond, as
2336 though the surety was such organization.

2337 (iii) Any deposit of money or securities in
2338 accordance with paragraph (d) shall be retained by the department
2339 in an escrow account until liability under the election is
2340 terminated, at which time it shall be returned to the
2341 organization, less any deductions as hereinafter provided. The
2342 department may deduct from the money deposited under paragraph (d)
2343 by a nonprofit organization, or sell the securities it has so
2344 deposited, to the extent necessary to satisfy any due and unpaid
2345 payments in lieu of contributions and any applicable interest and
2346 penalties provided for in paragraph (b) (v) of this section. The
2347 department shall require the organization, within thirty (30) days
2348 following any deduction from a money deposit or sale of deposited
2349 securities under the provisions hereof, to deposit sufficient
2350 additional money or securities to make whole the organization's
2351 deposit at the prior level. Any cash remaining from the sale of
2352 such securities shall be a part of the organization's escrow



2353 account. The department may, at any time, review the adequacy of
2354 the deposit made by any organization. If, as a result of such
2355 review, it determines that an adjustment is necessary, it shall
2356 require the organization to make additional deposit within thirty
2357 (30) days of notice of its determination or shall return to it
2358 such portion of the deposit as it no longer considers necessary,
2359 whichever action is appropriate. Disposition of income from
2360 securities held in escrow shall be governed by the applicable
2361 provisions of the state law.

2362 (iv) If any nonprofit organization fails to file a
2363 bond or make a deposit, or to file a bond in an increased amount,
2364 or to increase or make whole the amount of a previously made
2365 deposit as provided under this subparagraph, the department may
2366 terminate such organization's election to make payments in lieu of
2367 contributions, and such termination shall continue for not less
2368 than the four (4) consecutive calendar-quarter periods beginning
2369 with the quarter in which such termination becomes effective;
2370 however, the department may extend for good cause the applicable
2371 filing, deposit or adjustment period by not more than thirty (30)
2372 days.

2373 (v) Group account shall be established according
2374 to regulations prescribed by the department.

2375 (e) Any employer which elects to make payments in lieu
2376 of contributions into the Unemployment Compensation Fund as
2377 provided in this paragraph shall not be liable to make such



2378 payments with respect to the benefits paid to any individual whose
2379 base period wages include wages for previously uncovered services
2380 as defined in Section 71-5-511(e) to the extent that the
2381 Unemployment Compensation Fund is reimbursed for such benefits
2382 pursuant to Section 121 of Public Law 94-566.

2383 **SECTION 37.** Section 71-5-359, Mississippi Code of 1972, is
2384 reenacted and amended as follows:

2385 71-5-359. (1) The Department of Finance and Administration
2386 shall, in the manner provided in subsection (* * *2) of this
2387 section, pay, upon notice issued by the department, to the
2388 department for the Unemployment Compensation Fund an amount equal
2389 to the regular benefits and one-half (1/2) of the extended
2390 benefits paid that are attributable to service in the employ of a
2391 state agency. The amount required to be reimbursed by a certain
2392 agency shall be billed to the Department of Finance and
2393 Administration and shall be paid from the Employment Compensation
2394 Revolving Fund pursuant to subsection (* * *2) of this section
2395 not later than thirty (30) days after such bill was sent, unless
2396 there has been an application for review and redetermination in
2397 accordance with Section 71-5-357(b) (v) .

2398 * * *

2399 (* * *2) Each agency of state government shall deposit
2400 monthly for a period of twenty-four (24) months an amount equal to
2401 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand
2402 Dollars (\$6,000.00) paid to each employee thereof during the next



2403 preceding year into the Employment Compensation Revolving Fund
2404 that is created in the State Treasury. The Department of Finance
2405 and Administration shall determine the percentage to be applied to
2406 the amount of covered wages paid in order to maintain a balance in
2407 the revolving fund of not less than the amount determined by an
2408 actuary through an annual actuarial evaluation. The State
2409 Treasurer shall invest all funds in the Employment Compensation
2410 Revolving Fund and all interest earned shall be credited to the
2411 Employment Compensation Revolving Fund.

2412 The reimbursement of benefits paid by the Mississippi
2413 Department of Employment Security shall be paid by the Department
2414 of Finance and Administration from the Employment Compensation
2415 Revolving Fund upon notice from the department; and the Department
2416 of Finance and Administration shall issue warrants or may contract
2417 for the performance of the duties prescribed by * * * this
2418 subsection, and other duties necessarily related thereto.

2419 (* * *3) Any political subdivision of this state shall pay
2420 to the department for the unemployment compensation fund an amount
2421 equal to the regular benefits and the extended benefits paid that
2422 are attributable to service in the employ of such political
2423 subdivision unless it elects to make contributions to the
2424 unemployment fund as provided in subsection (* * *8) of this
2425 section. The amount required to be reimbursed shall be billed and
2426 shall be paid as provided in Section 71-5-357, with respect to
2427 similar payments for nonprofit organizations.



2428 (* * *4) Each political subdivision, unless it elects to
2429 make contributions to the unemployment compensation fund as
2430 provided in subsection (* * *8) of this section, shall establish
2431 a revolving fund and deposit an amount equal to two percent (2%)
2432 of the first Six Thousand Dollars (\$6,000.00) paid to each
2433 employee thereof during the next preceding year. However, the
2434 department shall by regulation establish a procedure to allow
2435 reimbursing political subdivisions to elect to maintain the
2436 balance in the revolving fund as required under this subsection or
2437 to annually execute a surety bond to be approved by the department
2438 in an amount not less than two percent (2%) of the covered wages
2439 paid during the next preceding year.

2440 (* * *5) In the event any political subdivision becomes
2441 delinquent in payments due under this chapter, upon due notice,
2442 and upon certification of the delinquency by the department to the
2443 Department of Finance and Administration, the Department of
2444 Revenue, the Department of Environmental Quality and the
2445 Department of Insurance, or any of them, or any other agencies of
2446 the State of Mississippi that may be indebted to such delinquent
2447 political subdivision, such agencies shall direct the issuance of
2448 warrants which in the aggregate shall be the amount of such
2449 delinquency payable to the department and drawn upon any funds in
2450 the State Treasury which may be available to such political
2451 subdivision in satisfaction of any such delinquency. This remedy



2452 shall be in addition to any other collection remedies in this
2453 chapter or otherwise provided by law.

2454 (* * *6) Payments made by any political subdivision under
2455 the provisions of this section shall not be deducted or
2456 deductible, in whole or in part, from the remuneration of
2457 individuals in the employ of the organization.

2458 (* * *7) Any governmental entity shall not be liable to
2459 make payments to the unemployment fund with respect to the
2460 benefits paid to any individual whose base period wages include
2461 wages for previously uncovered services as defined in Section
2462 71-5-511, subsection (e), to the extent that the Unemployment
2463 Compensation Fund is reimbursed for such benefits pursuant to
2464 Section 121 of Public Law 94-566.

2465 (* * *8) Any political subdivision of this state may elect
2466 to make contributions to the unemployment fund instead of making
2467 reimbursement for benefits paid as provided in subsections
2468 (* * *3) and (* * *4) of this section. A political subdivision
2469 which makes this election shall so notify the department, not
2470 later than three (3) months after it is officially organized or is
2471 otherwise established, and shall be subject to the provisions of
2472 Section 71-5-351, with regard to the payment of contributions. A
2473 political subdivision which makes this election shall pay
2474 contributions equal to two percent (2%) of taxable wages through
2475 calendar year 2010, and one percent (1%) of taxable wages
2476 thereafter paid by it during each calendar quarter it is subject



2477 to this chapter. The department shall by regulation establish a
2478 procedure to allow political subdivisions the option periodically
2479 to elect either the reimbursement or the contribution method of
2480 financing unemployment compensation coverage.

2481 **SECTION 38.** Section 71-5-451, Mississippi Code of 1972, is
2482 reenacted as follows:

2483 71-5-451. There is established as a special fund, separate
2484 and apart from all public monies or funds of this state, an
2485 Unemployment Compensation Fund, which shall be administered by the
2486 department exclusively for:

2487 (a) All contributions collected under this chapter;

2488 (b) Interest earned upon any monies in the fund;

2489 (c) Any property or securities acquired through the use
2490 of monies belonging to the fund;

2491 (d) All earnings of such property or securities;

2492 (e) All monies credited to this state's account in the
2493 Unemployment Trust Fund pursuant to the Social Security Act, 42
2494 USCS, Section 1104; and

2495 (f) By way of reimbursement in accordance with Section
2496 204 of the Federal-State Extended Unemployment Compensation Act of
2497 1970 (84 Stat. 711). All monies in the fund shall be mingled and
2498 undivided.

2499 **SECTION 39.** Section 71-5-457, Mississippi Code of 1972, is
2500 reenacted as follows:



2501 71-5-457. (1) Except as otherwise provided in subsection
2502 (5), money credited to the account of this state in the
2503 Unemployment Trust Fund by the Secretary of the Treasury of the
2504 United States of America pursuant to the Social Security Act, 42
2505 USCS Section 1103, may be requisitioned and used for the payment
2506 of expenses incurred for the administration of this law pursuant
2507 to a specific appropriation by the Legislature, provided that the
2508 expenses are incurred and the money is requisitioned after the
2509 enactment of an appropriation law which:

2510 (a) Specifies the purposes for which such money is
2511 appropriated and the amounts appropriated therefor;

2512 (b) Limits the period within which such money may be
2513 obligated to a period ending not more than two (2) years after the
2514 date of the enactment of the appropriation law; and

2515 (c) Limits the amount which may be obligated during a
2516 twelve-month period beginning on July 1 and ending on the next
2517 June 30 to an amount which does not exceed the amount by which:

2518 (i) The aggregate of the amounts credited to the
2519 account of this state pursuant to the Social Security Act, 42 USCS
2520 Section 1103, during the same twelve-month period and the
2521 thirty-four (34) preceding twelve-month periods exceeds.

2522 (ii) The aggregate of the amounts obligated
2523 pursuant to this section and charged against the amounts credited
2524 to the account of this state during such thirty-five (35)
2525 twelve-month periods.



2526 For the purposes of this section, amounts obligated during
2527 any such twelve-month period shall be charged against equivalent
2528 amounts which were first credited and which are not already so
2529 charged; except that no amount obligated for administration during
2530 any such twelve-month period may be charged against any amount
2531 credited during such a twelve-month period earlier than the
2532 thirty-fourth preceding such period.

2533 (2) Money credited to the account of this state pursuant to
2534 the Social Security Act, 42 USCS Section 1103, may not be
2535 withdrawn or used except for the payment of benefits and for the
2536 payment of expenses for the administration of this law and of
2537 public employment offices pursuant to this section.

2538 (3) Money appropriated as provided herein for the payment of
2539 expenses of administration shall be requisitioned as needed for
2540 the payment of obligations incurred under such appropriation and,
2541 upon requisition, shall be deposited in the Employment Security
2542 Administration Fund, from which such payments shall be made.
2543 Money so deposited shall, until expended, remain a part of the
2544 Unemployment Compensation Fund and, if it will not be expended,
2545 shall be returned promptly to the account of this state in the
2546 Unemployment Trust Fund.

2547 (4) The thirty-five-year limitation provided in this section
2548 is no longer in force, effective October 1, 1991.

2549 (5) Notwithstanding subsection (1), monies credited with
2550 respect to federal fiscal years 1999, 2000 and 2001 shall be used



2551 by the department solely for the administration of the
2552 unemployment compensation program.

2553 **SECTION 40.** Section 71-5-511, Mississippi Code of 1972, is
2554 reenacted as follows:

2555 71-5-511. An unemployed individual shall be eligible to
2556 receive benefits with respect to any week only if the department
2557 finds that:

2558 (a) (i) He has registered for work at and thereafter
2559 has continued to report to the department in accordance with such
2560 regulations as the department may prescribe; except that the
2561 department may, by regulation, waive or alter either or both of
2562 the requirements of this subparagraph as to such types of cases or
2563 situations with respect to which it finds that compliance with
2564 such requirements would be oppressive or would be inconsistent
2565 with the purposes of this chapter; and

2566 (ii) He participates in reemployment services,
2567 such as job search assistance services, if, in accordance with a
2568 profiling system established by the department, it has been
2569 determined that he is likely to exhaust regular benefits and needs
2570 reemployment services, unless the department determines that:

2571 1. The individual has completed such
2572 services; or

2573 2. There is justifiable cause for the
2574 claimant's failure to participate in such services.



2575 (b) He has made a claim for benefits in accordance with
2576 the provisions of Section 71-5-515 and in accordance with such
2577 regulations as the department may prescribe thereunder.

2578 (c) He is able to work, available for work and actively
2579 seeking work.

2580 (d) He has been unemployed for a waiting period of one
2581 (1) week. No week shall be counted as a week of unemployment for
2582 the purposes of this paragraph:

2583 (i) Unless it occurs within the benefit year which
2584 includes the week with respect to which he claims payment of
2585 benefits;

2586 (ii) If benefits have been paid with respect
2587 thereto;

2588 (iii) Unless the individual was eligible for
2589 benefits with respect thereto, as provided in Sections 71-5-511
2590 and 71-5-513, except for the requirements of this paragraph.

2591 (e) For weeks beginning on or before July 1, 1982, he
2592 has, during his base period, been paid wages for insured work
2593 equal to not less than thirty-six (36) times his weekly benefit
2594 amount; he has been paid wages for insured work during at least
2595 two (2) quarters of his base period; and he has, during that
2596 quarter of his base period in which his total wages were highest,
2597 been paid wages for insured work equal to not less than sixteen
2598 (16) times the minimum weekly benefit amount. For benefit years
2599 beginning after July 1, 1982, he has, during his base period, been



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

2613 (f) No individual may receive benefits in a benefit
2614 year unless, subsequent to the beginning of the next preceding
2615 benefit year during which he received benefits, he performed
2616 service in "employment" as defined in Section 71-5-11, subsection
2617 I, and earned remuneration for such service in an amount equal to
2618 not less than eight (8) times his weekly benefit amount applicable
2619 to his next preceding benefit year.

2620 (g) Benefits based on service in employment defined in
2621 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,
2622 subsection (4) shall be payable in the same amount, on the same
2623 terms, and subject to the same conditions as compensation payable
2624 on the basis of other service subject to this chapter, except that



2625 benefits based on service in an instructional, research or
2626 principal administrative capacity in an institution of higher
2627 learning (as defined in Section 71-5-11, subsection N) with
2628 respect to service performed prior to January 1, 1978, shall not
2629 be paid to an individual for any week of unemployment which begins
2630 during the period between two (2) successive academic years, or
2631 during a similar period between two (2) regular terms, whether or
2632 not successive, or during a period of paid sabbatical leave
2633 provided for in the individual's contract, if the individual has a
2634 contract or contracts to perform services in any such capacity for
2635 any institution or institutions of higher learning for both such
2636 academic years or both such terms.

2637 (h) Benefits based on service in employment defined in
2638 Section 71-5-11, subsection I(3) and I(4), shall be payable in the
2639 same amount, on the same terms and subject to the same conditions
2640 as compensation payable on the basis of other service subject to
2641 this chapter, except that:

2642 (i) With respect to service performed in an
2643 instructional, research or principal administrative capacity for
2644 an educational institution, benefits shall not be paid based on
2645 such services for any week of unemployment commencing during the
2646 period between two (2) successive academic years, or during a
2647 similar period between two (2) regular but not successive terms,
2648 or during a period of paid sabbatical leave provided for in the
2649 individual's contract, to any individual, if such individual



2650 performs such services in the first of such academic years or
2651 terms and if there is a contract or a reasonable assurance that
2652 such individual will perform services in any such capacity for any
2653 educational institution in the second of such academic years or
2654 terms, and provided that paragraph (g) of this section shall apply
2655 with respect to such services prior to January 1, 1978. In no
2656 event shall benefits be paid unless the individual employee was
2657 terminated by the employer.

2658 (ii) With respect to services performed in any
2659 other capacity for an educational institution, benefits shall not
2660 be paid on the basis of such services to any individual for any
2661 week which commences during a period between two (2) successive
2662 academic years or terms, if such individual performs such services
2663 in the first of such academic years or terms and there is a
2664 reasonable assurance that such individual will perform such
2665 services in the second of such academic years or terms, except
2666 that if compensation is denied to any individual under this
2667 subparagraph and such individual was not offered an opportunity to
2668 perform such services for the educational institution for the
2669 second of such academic years or terms, such individual shall be
2670 entitled to a retroactive payment of compensation for each week
2671 for which the individual filed a timely claim for compensation and
2672 for which compensation was denied solely by reason of this clause.
2673 In no event shall benefits be paid unless the individual employee
2674 was terminated by the employer.



2675 (iii) With respect to services described in
2676 subparagraphs (i) and (ii) of this paragraph (h), benefits shall
2677 not be payable on the basis of services in any such capacities to
2678 any individual for any week which commences during an established
2679 and customary vacation period or holiday recess if such individual
2680 performs such services in the first of such academic years or
2681 terms, or in the period immediately before such vacation period or
2682 holiday recess, and there is a reasonable assurance that such
2683 individual will perform such services in the period immediately
2684 following such vacation period or holiday recess.

2685 (iv) With respect to any services described in
2686 subparagraphs (i) and (ii) of this paragraph (h), benefits shall
2687 not be payable on the basis of services in any such capacities as
2688 specified in subparagraphs (i), (ii) and (iii) of this paragraph
2689 (h) to any individual who performed such services in an
2690 educational institution while in the employ of an educational
2691 service agency. For purposes of this paragraph, the term
2692 "educational service agency" means a governmental agency or
2693 governmental entity which is established and operated exclusively
2694 for the purpose of providing such services to one or more
2695 educational institutions.

2696 (v) With respect to services to which Sections
2697 71-5-357 and 71-5-359 apply, if such services are provided to or
2698 on behalf of an educational institution, benefits shall not be
2699 payable under the same circumstances and subject to the same terms



2700 and conditions as described in subparagraphs (i), (ii), (iii) and
2701 (iv) of this paragraph (h).

2702 (i) Subsequent to December 31, 1977, benefits shall not
2703 be paid to any individual on the basis of any services
2704 substantially all of which consist of participating in sports or
2705 athletic events or training or preparing to so participate, for
2706 any week which commences during the period between two (2)
2707 successive sports seasons (or similar periods) if such individual
2708 performs such services in the first of such seasons (or similar
2709 periods) and there is a reasonable assurance that such individual
2710 will perform such services in the later of such seasons (or
2711 similar periods).

2712 (j) (i) Subsequent to December 31, 1977, benefits
2713 shall not be payable on the basis of services performed by an
2714 alien, unless such alien is an individual who was lawfully
2715 admitted for permanent residence at the time such services were
2716 performed, was lawfully present for purposes of performing such
2717 services, or was permanently residing in the United States under
2718 color of law at the time such services were performed (including
2719 an alien who was lawfully present in the United States as a result
2720 of the application of the provisions of Section 203(a)(7) or
2721 Section 212(d)(5) of the Immigration and Nationality Act).

2722 (ii) Any data or information required of
2723 individuals applying for benefits to determine whether benefits



2724 are not payable to them because of their alien status shall be
2725 uniformly required from all applicants for benefits.

2726 (iii) In the case of an individual whose
2727 application for benefits would otherwise be approved, no
2728 determination that benefits to such individual are not payable
2729 because of his alien status shall be made, except upon a
2730 preponderance of the evidence.

2731 (k) An individual shall be deemed prima facie
2732 unavailable for work, and therefore ineligible to receive
2733 benefits, during any period which, with respect to his employment
2734 status, is found by the department to be a holiday or vacation
2735 period.

2736 (l) A temporary employee of a temporary help firm is
2737 considered to have left the employee's last work voluntarily
2738 without good cause connected with the work if the temporary
2739 employee does not contact the temporary help firm for reassignment
2740 on completion of an assignment. A temporary employee is not
2741 considered to have left work voluntarily without good cause
2742 connected with the work under this paragraph unless the temporary
2743 employee has been advised in writing:

2744 (i) That the temporary employee is obligated to
2745 contact the temporary help firm on completion of assignments; and

2746 (ii) That unemployment benefits may be denied if
2747 the temporary employee fails to do so.



2748 **SECTION 41.** Section 71-5-513, Mississippi Code of 1972, is
2749 reenacted as follows:

2750 71-5-513. A. An individual shall be disqualified for
2751 benefits:

2752 (1) (a) For the week, or fraction thereof, which
2753 immediately follows the day on which he left work voluntarily
2754 without good cause, if so found by the department, and for each
2755 week thereafter until he has earned remuneration for personal
2756 services performed for an employer, as in this chapter defined,
2757 equal to not less than eight (8) times his weekly benefit amount,
2758 as determined in each case; however, marital, filial and domestic
2759 circumstances and obligations shall not be deemed good cause
2760 within the meaning of this subsection. Pregnancy shall not be
2761 deemed to be a marital, filial or domestic circumstance for the
2762 purpose of this subsection.

2763 (b) For the week, or fraction thereof, which
2764 immediately follows the day on which he was discharged for
2765 misconduct connected with his work, if so found by the department,
2766 and for each week thereafter until he has earned remuneration for
2767 personal services performed for an employer, as in this chapter
2768 defined, equal to not less than eight (8) times his weekly benefit
2769 amount, as determined in each case.

2770 (c) The burden of proof of good cause for leaving
2771 work shall be on the claimant, and the burden of proof of
2772 misconduct shall be on the employer.



2773 (2) For the week, or fraction thereof, with respect to
2774 which he willfully makes a false statement, a false representation
2775 of fact, or willfully fails to disclose a material fact for the
2776 purpose of obtaining or increasing benefits under the provisions
2777 of this law, if so found by the department, and such individual's
2778 maximum benefit allowance shall be reduced by the amount of
2779 benefits so paid to him during any such week of disqualification;
2780 and additional disqualification shall be imposed for a period not
2781 exceeding fifty-two (52) weeks, the length of such period of
2782 disqualification and the time when such period begins to be
2783 determined by the department, in its discretion, according to the
2784 circumstances in each case.

2785 (3) If the department finds that he has failed, without
2786 good cause, either to apply for available suitable work when so
2787 directed by the employment office or the department, to accept
2788 suitable work when offered him, or to return to his customary
2789 self-employment (if any) when so directed by the department, such
2790 disqualification shall continue for the week in which such failure
2791 occurred and for not more than the twelve (12) weeks which
2792 immediately follow such week, as determined by the department
2793 according to the circumstances in each case.

2794 (a) In determining whether or not any work is
2795 suitable for an individual, the department shall consider among
2796 other factors the degree of risk involved to his health, safety
2797 and morals, his physical fitness and prior training, his



2798 experience and prior earnings, his length of unemployment and
2799 prospects for securing local work in his customary occupation, and
2800 the distance of the available work from his residence; however,
2801 offered employment paying the minimum wage or higher, if such
2802 minimum or higher wage is that prevailing for his customary
2803 occupation or similar work in the locality, shall be deemed to be
2804 suitable employment after benefits have been paid to the
2805 individual for a period of eight (8) weeks.

2806 (b) Notwithstanding any other provisions of this
2807 chapter, no work shall be deemed suitable and benefits shall not
2808 be denied under this chapter to any otherwise eligible individual
2809 for refusing to accept new work under any of the following
2810 conditions:

2811 (i) If the position offered is vacant due
2812 directly to a strike, lockout or other labor dispute;

2813 (ii) If the wages, hours or other conditions
2814 of the work offered are substantially unfavorable or unreasonable
2815 to the individual's work. The department shall have the sole
2816 discretion to determine whether or not there has been an
2817 unfavorable or unreasonable condition placed on the individual's
2818 work. Moreover, the department may consider, but shall not be
2819 limited to a consideration of, whether or not the unfavorable
2820 condition was applied by the employer to all workers in the same
2821 or similar class or merely to this individual;



2822 (iii) If as a condition of being employed the
2823 individual would be required to join a company union or to resign
2824 from or refrain from joining any bona fide labor organization;

2825 (iv) If unsatisfactory or hazardous working
2826 conditions exist that could result in a danger to the physical or
2827 mental well-being of the worker. In any such determination the
2828 department shall consider, but shall not be limited to a
2829 consideration of, the following: the safety measures used or the
2830 lack thereof and the condition of equipment or lack of proper
2831 equipment. No work shall be considered hazardous if the working
2832 conditions surrounding a worker's employment are the same or
2833 substantially the same as the working conditions generally
2834 prevailing among workers performing the same or similar work for
2835 other employers engaged in the same or similar type of activity.

2836 (c) Pursuant to Section 303(1) of the Social
2837 Security Act (42 USCS 503), the department may conduct drug tests
2838 of applicants for unemployment compensation for the unlawful use
2839 of controlled substances as a condition for receiving such
2840 compensation, if such applicant:

2841 (i) Was terminated from employment with the
2842 claimant's most recent employer, as defined by Mississippi law,
2843 because of the unlawful use of controlled substances; or

2844 (ii) Is an individual for whom suitable work,
2845 as defined by Mississippi law, is only available in an occupation



2846 (as determined under regulations issued by the U.S. Secretary of
2847 Labor) that requires drug testing.

2848 The department may deny unemployment compensation to any
2849 applicant based on the result of a drug test conducted by the
2850 department in accordance with this subsection. A positive drug
2851 test result shall be deemed by the department to be a failure to
2852 accept suitable work, and shall subject the applicant to the
2853 disqualification provisions set forth in this subsection A(3).
2854 During the disqualification period imposed by the department under
2855 this subsection, the individual may provide information to end the
2856 disqualification period early by submitting acceptable proof to
2857 the department of a negative test result from a testing facility
2858 approved by the department.

2859 (iii) Pursuant to the provisions set forth in
2860 this subsection A(3)(c), the department shall have the authority
2861 to institute a random drug testing program for all individuals who
2862 meet the requirements set forth in this section. Moreover, the
2863 department shall have the authority to create the necessary
2864 regulations, policies rules, guidelines and procedures to
2865 implement such a program.

2866 Any term or provision set forth in this subsection A(3)(c)
2867 that otherwise conflicts with federal or state law shall be
2868 disregarded but shall not, in any way, affect the remaining
2869 provisions.



2870 (4) For any week with respect to which the department
2871 finds that his total unemployment is due to a stoppage of work
2872 which exists because of a labor dispute at a factory,
2873 establishment or other premises at which he is or was last
2874 employed; however, this subsection shall not apply if it is shown
2875 to the satisfaction of the department:

2876 (a) He is unemployed due to a stoppage of work
2877 occasioned by an unjustified lockout, if such lockout was not
2878 occasioned or brought about by such individual acting alone or
2879 with other workers in concert; or

2880 (b) He is not participating in or directly
2881 interested in the labor dispute which caused the stoppage of work;
2882 and

2883 (c) He does not belong to a grade or class of
2884 workers of which, immediately before the commencement of stoppage,
2885 there were members employed at the premises at which the stoppage
2886 occurs, any of whom are participating in or directly interested in
2887 the dispute.

2888 If in any case separate branches of work which are commonly
2889 conducted as separate businesses in separate premises are
2890 conducted in separate departments of the same premises, each such
2891 department shall, for the purposes of this subsection, be deemed
2892 to be a separate factory, establishment or other premises.

2893 (5) For any week with respect to which he has received
2894 or is seeking unemployment compensation under an unemployment



2895 compensation law of another state or of the United States.
2896 However, if the appropriate agency of such other state or of the
2897 United States finally determines that he is not entitled to such
2898 unemployment compensation benefits, this disqualification shall
2899 not apply. Nothing in this subsection contained shall be
2900 construed to include within its terms any law of the United States
2901 providing unemployment compensation or allowances for honorably
2902 discharged members of the Armed Forces.

2903 (6) For any week with respect to which he is receiving
2904 or has received remuneration in the form of payments under any
2905 governmental or private retirement or pension plan, system or
2906 policy which a base-period employer is maintaining or contributing
2907 to or has maintained or contributed to on behalf of the
2908 individual; however, if the amount payable with respect to any
2909 week is less than the benefits which would otherwise be due under
2910 Section 71-5-501, he shall be entitled to receive for such week,
2911 if otherwise eligible, benefits reduced by the amount of such
2912 remuneration. However, on or after the first Sunday immediately
2913 following July 1, 2001, no social security payments, to which the
2914 employee has made contributions, shall be deducted from
2915 unemployment benefits paid for any period of unemployment
2916 beginning on or after the first Sunday following July 1, 2001.
2917 This one hundred percent (100%) exclusion shall not apply to any
2918 other governmental or private retirement or pension plan, system
2919 or policy. If benefits payable under this section, after being



2920 reduced by the amount of such remuneration, are not a multiple of
2921 One Dollar (\$1.00), they shall be adjusted to the next lower
2922 multiple of One Dollar (\$1.00).

2923 (7) For any week with respect to which he is receiving
2924 or has received remuneration in the form of a back pay award, or
2925 other compensation allocable to any week, whether by settlement or
2926 otherwise. Any benefits previously paid for weeks of unemployment
2927 with respect to which back pay awards, or other such compensation,
2928 are made shall constitute an overpayment and such amounts shall be
2929 deducted from the award by the employer prior to payment to the
2930 employee, and shall be transmitted promptly to the department by
2931 the employer for application against the overpayment and credit to
2932 the claimant's maximum benefit amount and prompt deposit into the
2933 fund; however, the removal of any charges made against the
2934 employer as a result of such previously paid benefits shall be
2935 applied to the calendar year and the calendar quarter in which the
2936 overpayment is transmitted to the department, and no attempt shall
2937 be made to relate such a credit to the period to which the award
2938 applies. Any amount of overpayment so deducted by the employer
2939 and not transmitted to the department shall be subject to the same
2940 procedures for collection as is provided for contributions by
2941 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
2942 deducted by the employer shall be established as an overpayment
2943 against the claimant and collected as provided above. It is the



2944 purpose of this paragraph to assure equity in the situations to
2945 which it applies, and it shall be construed accordingly.

2946 B. Notwithstanding any other provision in this chapter, no
2947 otherwise eligible individual shall be denied benefits for any
2948 week because he is in training with the approval of the
2949 department; nor shall such individual be denied benefits with
2950 respect to any week in which he is in training with the approval
2951 of the department by reason of the application of provisions in
2952 Section 71-5-511, subsection (c), relating to availability for
2953 work, or the provisions of subsection A(3) of this section,
2954 relating to failure to apply for, or a refusal to accept, suitable
2955 work.

2956 C. Notwithstanding any other provisions of this chapter, no
2957 otherwise eligible individual shall be denied benefits for any
2958 week because he or she is in training approved under Section
2959 236(a)(1) of the Trade Act of 1974, nor shall such individual be
2960 denied benefits by reason of leaving work to enter such training,
2961 provided the work left is not suitable employment, or because of
2962 the application to any such week in training of provisions in this
2963 law (or any applicable federal unemployment compensation law),
2964 relating to availability for work, active search for work or
2965 refusal to accept work.

2966 For purposes of this section, the term "suitable employment"
2967 means with respect to an individual, work of a substantially equal
2968 or higher skill level than the individual's past adversely



2969 affected employment (as defined for purposes of the Trade Act of
2970 1974), and wages for such work at not less than eighty percent
2971 (80%) of the individual's average weekly wage as determined for
2972 the purposes of the Trade Act of 1974.

2973 D. Notwithstanding any other provisions of this chapter, no
2974 otherwise eligible individual shall be denied benefits for any
2975 week in which they are engaged in the Self-Employment Assistance
2976 Program established in Section 71-5-545 by reason of the
2977 application of Section 71-5-511(c), relating to availability for
2978 work, or the provisions of subsection A(3) of this section,
2979 relating to failure to apply for, or a refusal to accept, suitable
2980 work.

2981 E. Any individual who is receiving benefits may participate
2982 in an approved training program under the Mississippi Employment
2983 Security Law to gain skills that may lead to employment while
2984 continuing to receive benefits. Authorization for participation
2985 of a recipient of unemployment benefits in such a program must be
2986 granted by the department and continuation of participation must
2987 be certified weekly by the participant recipient. While
2988 participating in such program approved by the department,
2989 availability and work search requirements will be waived. No
2990 individual will be allowed to participate in this program for more
2991 than twelve (12) weeks in any benefit year. Such participation
2992 shall not be considered employment for any purposes and shall not
2993 accrue benefits or wage credits. Participation in this training



2994 program shall meet the definition set forth in the U.S. Fair Labor
2995 Standards Act.

2996 **SECTION 42.** Section 71-5-517, Mississippi Code of 1972, is
2997 reenacted as follows:

2998 71-5-517. Upon the taking of a claim by the department, an
2999 initial determination thereon shall be made promptly and shall
3000 include a determination with respect to whether or not benefits
3001 are payable, the week with respect to which benefits shall
3002 commence, the weekly benefit amount payable and the maximum
3003 duration of benefits. In any case in which the payment or denial
3004 of benefits will be determined by the provisions of subsection
3005 A(4) of Section 71-5-513, the examiner shall promptly transmit all
3006 the evidence with respect to that subsection to the department,
3007 which, on the basis of evidence so submitted and such additional
3008 evidence as it may require, shall make an initial determination
3009 with respect thereto. An initial determination may for good cause
3010 be reconsidered. The claimant, his most recent employing unit and
3011 all employers whose experience-rating record would be charged with
3012 benefits pursuant to such determination shall be promptly notified
3013 of such initial determination or any amended initial determination
3014 and the reason therefor. Benefits shall be denied or, if the
3015 claimant is otherwise eligible, promptly paid in accordance with
3016 the initial determination or amended initial determination. The
3017 jurisdiction of the department over benefit claims which have not
3018 been appealed shall be continuous. The claimant or any party to



3019 the initial determination or amended initial determination may
3020 file an appeal from such initial determination or amended initial
3021 determination within fourteen (14) days after notification
3022 thereof, or after the date such notification was sent to his last
3023 known address.

3024 Notwithstanding any other provision of this section, benefits
3025 shall be paid promptly in accordance with a determination or
3026 redetermination, or the decision of an appeal tribunal, the Board
3027 of Review or a reviewing court upon the issuance of such
3028 determination, redetermination or decision in favor of the
3029 claimant (regardless of the pendency of the period to apply for
3030 reconsideration, file an appeal, or petition for judicial review,
3031 as the case may be, or the pendency of any such application,
3032 filing or petition), unless and until such determination,
3033 redetermination or decision has been modified or reversed by a
3034 subsequent redetermination or decision, in which event benefits
3035 shall be paid or denied in accordance with such modifying or
3036 reversing redetermination or decision. Any benefits finally
3037 determined to have been erroneously paid may be set up as an
3038 overpayment to the claimant and must be liquidated before any
3039 future benefits can be paid to the claimant. If, subsequent to
3040 such initial determination or amended initial determination,
3041 benefits with respect to any week for which a claim has been filed
3042 are denied for reasons other than matters included in the initial
3043 determination or amended initial determination, the claimant shall



3044 be promptly notified of the denial and the reason therefor and may
3045 appeal therefrom in accordance with the procedure herein described
3046 for appeals from initial determination or amended initial
3047 determination.

3048 **SECTION 43.** Section 71-5-519, Mississippi Code of 1972, is
3049 reenacted as follows:

3050 71-5-519. Unless such appeal is withdrawn, an appeal
3051 tribunal appointed by the executive director, after affording the
3052 parties reasonable opportunity for fair hearing, shall affirm,
3053 modify or reverse the findings of fact and initial determination
3054 or amended initial determination. The parties shall be duly
3055 notified of such tribunal's decision, together with its reasons
3056 therefor, which shall be deemed to be the final decision of the
3057 executive director unless, within fourteen (14) days after the
3058 date of notification of such decision, further appeal is initiated
3059 pursuant to Section 71-5-523.

3060 **SECTION 44.** Section 71-5-523, Mississippi Code of 1972, is
3061 reenacted as follows:

3062 71-5-523. The Board of Review may on its own motion affirm,
3063 modify, or set aside any decision of an appeal tribunal on the
3064 basis of the evidence previously submitted in such case, or direct
3065 the taking of additional evidence, or may permit any of the
3066 parties to such decision to initiate further appeals before it.
3067 The Board of Review shall permit such further appeal by any of the
3068 parties to a decision of an appeal tribunal which is not



3069 unanimous, and by the examiner whose decision has been overruled
3070 or modified by an appeal tribunal. The Board of Review may remove
3071 to itself or transfer to another appeal tribunal the proceedings
3072 on any claim pending before an appeal tribunal. Any proceedings
3073 so removed to the Board of Review shall be heard by a quorum
3074 thereof in accordance with the requirements of Section 71-5-519
3075 and within fifteen (15) days after notice of appeal has been
3076 received by the executive director. No notice of appeal shall be
3077 deemed to be received by the executive director, within the
3078 meaning of this section, until all prior appeals pending before
3079 the Board of Review have been heard. The Board of Review shall,
3080 within four (4) days after its decision, so notify the parties to
3081 any proceeding of its findings and decision.

3082 **SECTION 45.** Section 71-5-525, Mississippi Code of 1972, is
3083 reenacted as follows:

3084 71-5-525. The manner in which appealed claims shall be
3085 presented and the conduct of hearings and appeals shall be in
3086 accordance with regulations prescribed by the Board of Review for
3087 determining the rights of the parties, whether or not such
3088 regulations conform to common law or statutory rules of evidence
3089 and other technical rules of procedure. A full and complete
3090 record shall be kept of all proceedings in connection with an
3091 appealed claim. The department's entire file relative to the
3092 appealed claim shall be a part of such record and shall be
3093 considered as evidence. All testimony at any hearing upon an



3094 appealed claim shall be recorded, but need not be transcribed
3095 unless the claim is further appealed.

3096 **SECTION 46.** Section 71-5-529, Mississippi Code of 1972, is
3097 reenacted as follows:

3098 71-5-529. Any decision of the Board of Review, in the
3099 absence of an appeal therefrom as herein provided, shall become
3100 final ten (10) days after the date of notification; and judicial
3101 review thereof shall be permitted only after any party claiming to
3102 be aggrieved thereby has exhausted his administrative remedies as
3103 provided by this chapter. The department shall be deemed to be a
3104 party to any judicial action involving any such decision, and may
3105 be represented in any such judicial action by any qualified
3106 attorney employed by the department and designated by it for that
3107 purpose or, at the department's request, by the Attorney General.

3108 **SECTION 47.** Section 71-5-531, Mississippi Code of 1972, is
3109 reenacted as follows:

3110 71-5-531. Within ten (10) days after the decision of the
3111 Board of Review has become final, any party aggrieved thereby may
3112 secure judicial review thereof by commencing an action, in the
3113 circuit court of the county in which the plaintiff resides,
3114 against the department for the review of such decision, in which
3115 action any other party to the proceeding before the Board of
3116 Review shall be made a defendant. In cases wherein the plaintiff
3117 is not a resident of the State of Mississippi, such action may be
3118 filed in the circuit court of the county in which the employer



3119 resides, the county in which the cause of action arose, or in the
3120 county of employment. In such action, a petition which need not
3121 be verified, but which shall state the grounds upon which a review
3122 is sought, shall be served upon the department or upon such person
3123 as the department may designate, and such service shall be deemed
3124 completed service on all parties; but there shall be left with the
3125 party so served as many copies of the petition as there are
3126 defendants, and the department shall forthwith mail one (1) such
3127 copy to each such defendant. With its answer, the department
3128 shall certify and file with said court all documents and papers
3129 and a transcript of all testimony taken in the matter, together
3130 with the Board of Review's findings of fact and decision therein.
3131 The department may also, in its discretion, certify to such court
3132 questions of law involved in any decision. In any judicial
3133 proceedings under this section, the findings of the Board of
3134 Review as to the facts, if supported by evidence and in the
3135 absence of fraud, shall be conclusive, and the jurisdiction of the
3136 court shall be confined to questions of law. Such actions, and
3137 the questions so certified, shall be heard in a summary manner and
3138 shall be given precedence over all other civil cases. An appeal
3139 may be taken from the decision of the circuit court of the county
3140 in which the plaintiff resides to the Supreme Court of
3141 Mississippi, in the same manner, but not inconsistent with the
3142 provisions of this chapter, as is provided in civil cases. It
3143 shall not be necessary, in any judicial proceeding under this



3144 section, to enter exceptions to the rulings of the Board of
3145 Review, and no bond shall be required for entering such appeal.
3146 Upon the final determination of such judicial proceeding, the
3147 Board of Review shall enter an order in accordance with such
3148 determination. A petition for judicial review shall not act as a
3149 supersedeas or stay unless the Board of Review shall so order.

3150 **SECTION 48.** Section 71-5-541, Mississippi Code of 1972, is
3151 reenacted as follows:

3152 71-5-541. A. (1) In the administration of this chapter,
3153 the department shall cooperate with the Department of Labor to the
3154 fullest extent consistent with the provisions of this chapter and
3155 shall take such action, through the adoption of appropriate rules,
3156 regulations, administrative methods and standards, as may be
3157 necessary to secure to this state and its citizens all advantages
3158 available under the provisions of the Social Security Act that
3159 relate to unemployment compensation, the Federal Unemployment Tax
3160 Act, the Wagner-Peyser Act and the Federal-State Extended
3161 Unemployment Compensation Act of 1970, all as amended.

3162 (2) In the administration of the provisions of this
3163 section, which are enacted to conform with the requirements of the
3164 Federal-State Extended Unemployment Compensation Act of 1970, as
3165 amended, the department shall take such actions as may be
3166 necessary:

3167 (a) To ensure that the provisions are so
3168 interpreted and applied as to meet the requirements of such



3169 federal act as interpreted by the United States Department of
3170 Labor; and

3171 (b) To secure to this state the full reimbursement
3172 of the federal share of extended benefits paid under this chapter
3173 that are reimbursable under the federal act; and also

3174 (c) To limit the amount of extended benefits paid
3175 as may be necessary so that the reimbursement of the federal share
3176 of extended benefits paid shall remain at one-half (1/2) of the
3177 total extended benefits paid.

3178 B. As used in this section, unless the context clearly
3179 requires otherwise:

3180 (1) "Extended benefit period" means a period which:

3181 (a) Begins with the third week after a week for
3182 which there is a state "on" indicator; and

3183 (b) Ends with either of the following weeks,
3184 whichever occurs later:

3185 (i) The third week after the first week for
3186 which there is a state "off" indicator; or

3187 (ii) The thirteenth consecutive week of such
3188 period.

3189 No extended benefit period may begin by reason of a state
3190 "on" indicator before the fourteenth week following the end of a
3191 prior extended benefit period which was in effect with respect to
3192 this state.



3193 (2) For weeks beginning after September 25, 1982, there
3194 is a "state 'on' indicator" for a week if the rate of insured
3195 unemployment under this chapter for the period consisting of such
3196 week and the immediately preceding twelve (12) weeks:

3197 (a) Equaled or exceeded one hundred twenty percent
3198 (120%) of the average of such rates for the corresponding period
3199 of thirteen (13) weeks ending in each of the preceding two (2)
3200 calendar years; and

3201 (b) Equaled or exceeded five percent (5%).

3202 The determination of whether there has been a state "on" or
3203 "off" indicator beginning or ending any extended benefit period
3204 shall be made under this subsection as if (i) paragraph (2) did
3205 not contain subparagraph (a) thereof, and (ii) the figure "5"
3206 contained in subparagraph (b) thereof were "6"; except that,
3207 notwithstanding any such provision of this subsection, any week
3208 for which there would otherwise be a "state 'on' indicator" shall
3209 continue to be such week and shall not be determined to be a week
3210 for which there is a "state 'off' indicator."

3211 (3) There is a "state 'off' indicator" for a week if,
3212 for the period consisting of such week and the immediately
3213 preceding twelve (12) weeks, either subparagraph (a) or (b) of
3214 paragraph (2) was not satisfied.

3215 (4) "Rate of insured unemployment," for purposes of
3216 paragraphs (2) and (3) of this subsection, means the percentage
3217 derived by dividing:



3218 (a) The average number of continued weeks claimed
3219 for regular state compensation in this state for weeks of
3220 unemployment with respect to the most recent period of thirteen
3221 (13) consecutive weeks, as determined by the department on the
3222 basis of its reports to the United States Secretary of Labor; by

3223 (b) The average monthly employment covered under
3224 this chapter for the first four (4) of the most recent six (6)
3225 completed calendar quarters ending before the end of such period
3226 of thirteen (13) weeks.

3227 (5) "Regular benefits" means benefits payable to an
3228 individual under this chapter or under any other state law
3229 (including benefits payable to federal civilian employees and to
3230 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than
3231 extended benefits.

3232 (6) "Extended benefits" means benefits (including
3233 benefits payable to federal civilian employees and to
3234 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an
3235 individual under the provisions of this section for weeks of
3236 unemployment in his eligibility period.

3237 (7) "Eligibility period" of an individual means the
3238 period consisting of the weeks in his benefit year which begin in
3239 an extended benefit period and, if his benefit year ends within
3240 such extended benefit period, any weeks thereafter which begin in
3241 such period.



3242 (8) "Exhaustee" means an individual who, with respect
3243 to any week of unemployment in his eligibility period:

3244 (a) Has received, prior to such week, all of the
3245 regular benefits that were available to him under this chapter or
3246 any other state law (including dependents' allowances and benefits
3247 payable to federal civilian employees and ex-servicemen under 5
3248 USCS Section 8501-8525) in his current benefit year that includes
3249 such week.

3250 For the purposes of this subparagraph, an individual shall be
3251 deemed to have received all of the regular benefits that were
3252 available to him although, as a result of a pending appeal with
3253 respect to wages that were not considered in the original monetary
3254 determination in his benefit year, he may subsequently be
3255 determined to be entitled to added regular benefits; or

3256 (b) Has no, or insufficient, wages on the basis of
3257 which he could establish a new benefit year that would include
3258 such week, his benefit year having expired prior to such week; and

3259 (c) (i) Has no right to unemployment benefits or
3260 allowances, as the case may be, under the Railroad Unemployment
3261 Insurance Act, the Trade Expansion Act of 1962, the Automotive
3262 Products Trade Act of 1965, and such other federal laws as are
3263 specified in regulations issued by the United States Secretary of
3264 Labor; and

3265 (ii) Has not received and is not seeking
3266 unemployment benefits under the Unemployment Compensation Law of



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

3275 (9) "State law" means the unemployment insurance law of
3276 any state, approved by the United States Secretary of Labor under
3277 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section
3278 3304).

3279 C. Except when the result would be inconsistent with the
3280 other provisions of this section, as provided in the regulations
3281 of the department, the provisions of this chapter which apply to
3282 claims for, or the payment of, regular benefits shall apply to
3283 claims for, and the payment of, extended benefits.

3284 D. An individual shall be eligible to receive extended
3285 benefits with respect to any week of unemployment in his
3286 eligibility period only if the department finds that with respect
3287 to such week:

3288 (1) He is an "exhaustee" as defined in subsection B(8)
3289 of this section.

3290 (2) He has satisfied the requirements of this chapter
3291 for the receipt of regular benefits that are applicable to



3292 individuals claiming extended benefits, including not being
3293 subject to a disqualification for the receipt of benefits.

3294 (3) For a week beginning after September 25, 1982, he
3295 has, during his base period, been paid wages for insured work
3296 equal to not less than forty (40) times his weekly benefit amount;
3297 he has been paid wages for insured work during at least two (2)
3298 quarters of his base period, and he has, during that quarter of
3299 his base period in which his total wages were highest, been paid
3300 wages for insured work equal to not less than twenty-six (26)
3301 times the minimum weekly benefit amount.

3302 E. The weekly extended benefit amount payable to an
3303 individual for a week of total unemployment in his eligibility
3304 period shall be an amount equal to the weekly benefit amount
3305 payable to him during his applicable benefit year; however,
3306 benefits paid to individuals during eligibility periods beginning
3307 before October 1, 1983, shall be computed to the next higher
3308 multiple of One Dollar (\$1.00), if not a multiple of One Dollar
3309 (\$1.00); and benefits paid to individuals during eligibility
3310 periods beginning on or after October 1, 1983, shall be computed
3311 to the next lower multiple of One Dollar (\$1.00), if not a
3312 multiple of One Dollar (\$1.00). In no event shall the weekly
3313 extended benefit amount payable to an individual be more than two
3314 (2) times the amount of the reimbursement of the federal share of
3315 extended benefits paid.



3316 F. (1) The total extended benefit amount payable to any
3317 eligible individual with respect to his applicable benefit year
3318 shall be the least of the following amounts:

3319 (a) Fifty percent (50%) of the total amount of
3320 regular benefits which were payable to him under this chapter in
3321 his applicable benefit year; however, benefits paid to individuals
3322 during eligibility periods beginning before October 1, 1983, shall
3323 be computed to the next higher multiple of One Dollar (\$1.00), if
3324 not a multiple of One Dollar (\$1.00), and benefits paid to
3325 individuals during eligibility periods beginning on or after
3326 October 1, 1983, shall be computed to the next lower multiple of
3327 One Dollar (\$1.00), if not a multiple of One Dollar (\$1.00); or

3328 (b) Thirteen (13) times his weekly benefit amount
3329 which was payable to him under this chapter for a week of total
3330 unemployment in the applicable benefit year.

3331 (2) The total extended benefits otherwise payable to an
3332 individual who is filing an interstate claim under the interstate
3333 benefit payment plan shall not exceed two (2) weeks whenever an
3334 extended benefit period is not in effect for such week in the
3335 state where the claim is filed.

3336 (3) In no event shall the total extended benefit amount
3337 payable to any eligible individual with respect to his applicable
3338 benefit year be more than two (2) times the amount of the
3339 reimbursement of the federal share of extended benefits paid.



3340 G. (1) Whenever an extended benefit period is to become
3341 effective in this state as a result of a state "on" indicator, or
3342 an extended benefit period is to be terminated in this state as a
3343 result of state "off" indicators, the department shall make an
3344 appropriate public announcement.

3345 (2) Computations required by the provisions of
3346 subsection B(4) shall be made by the department, in accordance
3347 with regulations prescribed by the United States Secretary of
3348 Labor.

3349 H. Extended benefits paid under the provisions of this
3350 section which are not reimbursable from federal funds shall be
3351 charged to the experience-rating record of base period employers.

3352 I. (1) Notwithstanding the provisions of subsections C and
3353 D of this section, an individual shall be disqualified for receipt
3354 of extended benefits if the department finds that during any week
3355 of his eligibility period:

3356 (a) He has failed either to apply for or to accept
3357 an offer of suitable work (as defined under paragraph (3)) to
3358 which he was referred by the department; or

3359 (b) He has failed to furnish tangible evidence
3360 that he has actively engaged in a systematic and sustained effort
3361 to find work, unless such individual is not actively engaged in
3362 seeking work because such individual is:



3363 (i) Before any court of the United States or
3364 any state pursuant to a lawfully issued summons to appear for jury
3365 duty;

3366 (ii) Hospitalized for treatment of an
3367 emergency or a life-threatening condition.

3368 The entitlement to benefits of any individual who is
3369 determined not to be actively engaged in seeking work in any week
3370 for the foregoing reasons shall be decided pursuant to the able
3371 and available requirements in Section 71-5-511 without regard to
3372 the disqualification provisions otherwise applicable under Section
3373 71-5-541. The conditions prescribed in clauses (i) and (ii) of
3374 this subparagraph (b) must be applied in the same manner to
3375 individuals filing claims for regular benefits.

3376 (2) Such disqualification shall begin with the week in
3377 which such failure occurred and shall continue until he has been
3378 employed in each of eight (8) subsequent weeks (whether or not
3379 consecutive) and has earned remuneration for personal services
3380 performed for an employer, as in this chapter defined, equal to
3381 not less than eight (8) times his weekly extended benefit amount.

3382 (3) For the purpose of subparagraph (a) of paragraph
3383 (1) the term "suitable work" means any work which is within the
3384 individual's capabilities to perform, if:

3385 (a) The gross average weekly remuneration payable
3386 for the work exceeds the sum of the individual's weekly extended
3387 benefit amount plus the amount, if any, of supplemental



3388 unemployment benefits (as defined in Section 501(c)(17)(D) of the
3389 Internal Revenue Code of 1954) payable to such individual for such
3390 week;

3391 (b) The wages payable for the work equal the
3392 higher of the minimum wages provided by Section 6(a)(1) of the
3393 Fair Labor Standards Act of 1938 (without regard to any
3394 exemption), or the state or local minimum wage; and

3395 (c) The position was offered to the individual in
3396 writing or was listed with the state employment service; and

3397 (d) Such work otherwise meets the definition of
3398 "suitable work" for regular benefits contained in Section
3399 71-5-513A(4) to the extent that such criteria of suitability are
3400 not inconsistent with the provisions of this paragraph (3); and

3401 (e) The individual cannot furnish satisfactory
3402 evidence to the department that his prospects for obtaining work
3403 in his customary occupation within a reasonably short period are
3404 good. If such evidence is deemed satisfactory for this purpose,
3405 the determination of whether any work is suitable with respect to
3406 such individual shall be made in accordance with the definition of
3407 suitable work contained in Section 71-5-513A(4) without regard to
3408 the definition specified by this paragraph (3).

3409 (4) Notwithstanding any provisions of subsection I to
3410 the contrary, no work shall be deemed to be suitable work for an
3411 individual which does not accord with the labor standard
3412 provisions set forth herein under Section 71-5-513A(4).



3413 (5) The employment service shall refer any claimant
3414 entitled to extended benefits under this section to any suitable
3415 work which meets the criteria prescribed in paragraph (3).

3416 (6) An individual shall be disqualified for extended
3417 benefits for the week, or fraction thereof, which immediately
3418 follows the day on which he left work voluntarily without good
3419 cause (as defined in Section 71-5-513A(1)), was discharged for
3420 misconduct connected with his work, or refused suitable work
3421 (except as provided in subsection I of this section), and for each
3422 week thereafter until he has earned remuneration for personal
3423 services performed for an employer, as in this chapter defined,
3424 equal to not less than eight (8) times his weekly benefit amount,
3425 as determined in each case.

3426 (7) The provisions of paragraphs I(1) through (6) of
3427 this section shall not apply to claims for weeks of unemployment
3428 beginning after March 6, 1993, and before January 1, 1995, and
3429 during that period the provisions of this chapter applicable to
3430 claims for regular compensation shall apply.

3431 J. Notwithstanding any other provisions of this chapter, if
3432 the benefit year of any individual ends within an extended benefit
3433 period, the remaining balance of extended benefits that such
3434 individual would, but for this section, be entitled to receive in
3435 that extended benefit period, with respect to weeks of
3436 unemployment beginning after the end of the benefit year, shall be
3437 reduced (but not below zero) by the product of the number of weeks



3438 for which the individual received any amounts as trade
3439 readjustment allowances within that benefit year, multiplied by
3440 the individual's weekly benefit amount for extended benefits.

3441 **SECTION 49.** Section 73-30-25, Mississippi Code of 1972, is
3442 reenacted as follows:

3443 73-30-25. It is not the intent of this article to regulate
3444 against members of other duly regulated professions in this state
3445 who do counseling in the normal course of the practice of their
3446 own profession. This article does not apply to:

3447 (a) Any person registered, certified or licensed by the
3448 state to practice any other occupation or profession while
3449 rendering counseling services in the performance of the occupation
3450 or profession for which he or she is registered, certified or
3451 licensed;

3452 (b) Certified school counselors when they are
3453 practicing counseling within the scope of their employment;

3454 (c) Certified vocational counselors when they are
3455 practicing vocational counseling within the scope of their
3456 employment;

3457 (d) [Deleted]

3458 (e) Student interns or trainees in counseling pursuing
3459 a course of study in counseling in a regionally or nationally
3460 accredited institution of higher learning or training institution
3461 if activities and services constitute a part of the supervised



3462 course of study, provided that such persons be designated a
3463 counselor intern;

3464 (f) [Deleted]

3465 (g) [Deleted]

3466 (h) Duly ordained ministers or clergy while functioning
3467 in their ministerial capacity and duly accredited Christian
3468 Science practitioners;

3469 (i) Professional employees of regional mental health
3470 centers, state mental hospitals, vocational rehabilitation
3471 institutions, youth court counselors and employees of the
3472 Mississippi Department of Employment Security or other
3473 governmental agency so long as they practice within the scope of
3474 their employment;

3475 (j) Professional employees of alcohol or drug abuse
3476 centers or treatment facilities, whether privately or publicly
3477 funded, so long as they practice within the scope of their
3478 employment;

3479 (k) Private employment counselors;

3480 (l) Any nonresident temporarily employed in this state
3481 to render counseling services for not more than thirty (30) days
3482 in any year, if in the opinion of the board the person would
3483 qualify for a license under this article and if the person holds
3484 any license required for counselors in his or her home state or
3485 country; and

3486 (m) [Deleted]



3487 **SECTION 50.** Section 43-1-30, Mississippi Code of 1972, is
3488 reenacted as follows:

3489 43-1-30. (1) There is created the Mississippi TANF
3490 Implementation Council. It shall serve as the independent, single
3491 state advisory and review council for assuring Mississippi's
3492 compliance with the federal Personal Responsibility and Work
3493 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as
3494 amended. The council shall further cooperation between
3495 government, education and the private sector in meeting the needs
3496 of the TANF program. It shall also further cooperation between
3497 the business and labor communities, education and training
3498 delivery systems, and between businesses in developing highly
3499 skilled workers for high skill, high paying jobs in Mississippi.

3500 (2) The council shall be comprised of thirteen (13) public
3501 members and certain ex officio nonvoting members. All public
3502 members of the council shall be appointed as follows by the
3503 Governor:

3504 Ten (10) members shall be representatives from business and
3505 industry, provided that no fewer than five (5) members are from
3506 the manufacturing and industry sector who are also serving as
3507 members of private industry councils established within the state,
3508 and one (1) member may be a representative of a nonprofit
3509 organization. Three (3) members shall be recipients or former
3510 recipients of TANF assistance appointed from the state at large.



3511 The ex officio nonvoting members of the council shall consist
3512 of the following, or their designees:

3513 (a) The Executive Director of the Mississippi
3514 Department of Human Services;

3515 (b) The Executive Director of the Mississippi
3516 Department of Employment Security;

3517 (c) The Executive Director of the Mississippi
3518 Development Authority;

3519 (d) The State Superintendent of Public Education;

3520 (e) The Director of the Mississippi Community College
3521 Board;

3522 (f) The Executive Director of the Division of Medicaid;

3523 (g) The Commissioner of the Mississippi Department of
3524 Corrections; and

3525 (h) The Director of the Mississippi Cooperative
3526 Extension Service.

3527 (3) The Governor shall designate one (1) public member to
3528 serve as chairman of the council for a term of two (2) years and
3529 until a successor as chairman is appointed and qualified.

3530 (4) The term of office for public members appointed by the
3531 Governor shall be four (4) years and until their successors are
3532 appointed and qualified.

3533 (5) Any vacancy shall be filled for the unexpired term by
3534 the Governor in the manner of the original appointment, unless
3535 otherwise specified in this section.



3536 (6) Public members shall receive a per diem as authorized in
3537 Section 25-3-69, for each day actually engaged in meetings of the
3538 council, and shall be reimbursed for mileage and necessary
3539 expenses incurred in the performance of their duties, as provided
3540 in Section 25-3-41.

3541 (7) The council shall:

3542 (a) Annually review and recommend policies and programs
3543 to the Governor and the Legislature that will implement and meet
3544 federal requirements under the TANF program.

3545 (b) Annually review and recommend policies and programs
3546 to the Governor and to the Legislature that will enable citizens
3547 of Mississippi to acquire the skills necessary to maximize their
3548 economic self-sufficiency.

3549 (c) Review the provision of services and the use of
3550 funds and resources under the TANF program, and under all
3551 state-financed job training and job retraining programs, and
3552 advise the Governor and the Legislature on methods of coordinating
3553 such provision of services and use of funds and resources
3554 consistent with the laws and regulations governing such programs.

3555 (d) Assist in developing outcome and output measures to
3556 measure the success of the Department of Human Services' efforts
3557 in implementing the TANF program. These recommendations shall be
3558 made to the Department of Human Services at such times as required
3559 in the event that the department implements new programs to comply
3560 with the TANF program requirements.



3561 (e) Collaborate with the Mississippi Development
3562 Authority, local planning and development districts and local
3563 industrial development boards, and shall develop an economic
3564 development plan for the creation of manufacturing jobs in each of
3565 the counties in the state that has an unemployment rate of ten
3566 percent (10%) or more, which shall include, but not be limited to,
3567 procedures for business development, entrepreneurship and
3568 financial and technical assistance.

3569 (8) A majority of the members of the council shall
3570 constitute a quorum for the conduct of meetings and all actions of
3571 the council shall be by a majority of the members present at a
3572 meeting.

3573 (9) The council shall adopt rules and regulations as it
3574 deems necessary to carry out its responsibilities under this
3575 section and under applicable federal human resources programs.

3576 (10) The council may make and enter into contracts and
3577 interagency agreements as may be necessary and proper.

3578 (11) The council is authorized to commit and expend monies
3579 appropriated to it by the Legislature for its authorized purposes.
3580 The council is authorized to solicit, accept and expend public and
3581 private gifts, grants, awards and contributions related to
3582 furtherance of its statutory duties.

3583 (12) Funds for the operations of the council shall be
3584 derived from federal funds for the operation of state councils



3585 pursuant to applicable federal human resources programs and from
3586 such other monies appropriated to it by the Legislature.

3587 **SECTION 51.** Section 43-17-5, Mississippi Code of 1972, is
3588 reenacted as follows:

3589 43-17-5. (1) The amount of Temporary Assistance for Needy
3590 Families (TANF) benefits which may be granted for any dependent
3591 child and a needy caretaker relative shall be determined by the
3592 county department with due regard to the resources and necessary
3593 expenditures of the family and the conditions existing in each
3594 case, and in accordance with the rules and regulations made by the
3595 Department of Human Services which shall not be less than the
3596 Standard of Need in effect for 1988, and shall be sufficient when
3597 added to all other income (except that any income specified in the
3598 federal Social Security Act, as amended, may be disregarded) and
3599 support available to the child to provide such child with a
3600 reasonable subsistence compatible with decency and health. The
3601 first family member in the dependent child's budget may receive an
3602 amount not to exceed Two Hundred Dollars (\$200.00) per month; the
3603 second family member in the dependent child's budget may receive
3604 an amount not to exceed Thirty-six Dollars (\$36.00) per month; and
3605 each additional family member in the dependent child's budget an
3606 amount not to exceed Twenty-four Dollars (\$24.00) per month. The
3607 maximum for any individual family member in the dependent child's
3608 budget may be exceeded for foster or medical care or in cases of
3609 children with an intellectual disability or a physical disability.



3610 TANF benefits granted shall be specifically limited only (a) to
3611 children existing or conceived at the time the caretaker relative
3612 initially applies and qualifies for such assistance, unless this
3613 limitation is specifically waived by the department, or (b) to a
3614 child born following a twelve-consecutive-month period of
3615 discontinued benefits by the caretaker relative.

3616 (2) TANF benefits in Mississippi shall be provided to the
3617 recipient family by an online electronic benefits transfer system.

3618 (3) The Department of Human Services shall deny TANF
3619 benefits to the following categories of individuals, except for
3620 individuals and families specifically exempt or excluded for good
3621 cause as allowed by federal statute or regulation:

3622 (a) Families without a minor child residing with the
3623 custodial parent or other adult caretaker relative of the child;

3624 (b) Families which include an adult who has received
3625 TANF assistance for sixty (60) months after the commencement of
3626 the Mississippi TANF program, whether or not such period of time
3627 is consecutive;

3628 (c) Families not assigning to the state any rights a
3629 family member may have, on behalf of the family member or of any
3630 other person for whom the family member has applied for or is
3631 receiving such assistance, to support from any other person, as
3632 required by law;

3633 (d) Families who fail to cooperate in establishing
3634 paternity or obtaining child support, as required by law;



3635 (e) Any individual who has not attained eighteen (18)
3636 years of age, is not married to the head of household, has a minor
3637 child at least twelve (12) weeks of age in his or her care, and
3638 has not successfully completed a high school education or its
3639 equivalent, if such individual does not participate in educational
3640 activities directed toward the attainment of a high school diploma
3641 or its equivalent, or an alternative educational or training
3642 program approved by the department;

3643 (f) Any individual who has not attained eighteen (18)
3644 years of age, is not married, has a minor child in his or her
3645 care, and does not reside in a place or residence maintained by a
3646 parent, legal guardian or other adult relative or the individual
3647 as such parent's, guardian's or adult relative's own home;

3648 (g) Any minor child who has been, or is expected by a
3649 parent or other caretaker relative of the child to be, absent from
3650 the home for a period of more than thirty (30) days;

3651 (h) Any individual who is a parent or other caretaker
3652 relative of a minor child who fails to notify the department of
3653 the absence of the minor child from the home for the thirty-day
3654 period specified in paragraph (g), by the end of the five-day
3655 period that begins with the date that it becomes clear to the
3656 individual that the minor child will be absent for the thirty-day
3657 period;

3658 (i) Any individual who fails to comply with the
3659 provisions of the Employability Development Plan signed by the



3660 individual which prescribe those activities designed to help the
3661 individual become and remain employed, or to participate
3662 satisfactorily in the assigned work activity, as authorized under
3663 subsection (6) (c) and (d), or who does not engage in applicant job
3664 search activities within the thirty-day period for TANF
3665 application approval after receiving the advice and consultation
3666 of eligibility workers and/or caseworkers of the department
3667 providing a detailed description of available job search venues in
3668 the individual's county of residence or the surrounding counties;

3669 (j) A parent or caretaker relative who has not engaged
3670 in an allowable work activity once the department determines the
3671 parent or caretaker relative is ready to engage in work, or once
3672 the parent or caretaker relative has received TANF assistance
3673 under the program for twenty-four (24) months, whether or not
3674 consecutive, whichever is earlier;

3675 (k) Any individual who is fleeing to avoid prosecution,
3676 or custody or confinement after conviction, under the laws of the
3677 jurisdiction from which the individual flees, for a crime, or an
3678 attempt to commit a crime, which is a felony under the laws of the
3679 place from which the individual flees, or who is violating a
3680 condition of probation or parole imposed under federal or state
3681 law;

3682 (l) Aliens who are not qualified under federal law;

3683 (m) For a period of ten (10) years following
3684 conviction, individuals convicted in federal or state court of



3685 having made a fraudulent statement or representation with respect
3686 to the individual's place of residence in order to receive TANF,
3687 food stamps or Supplemental Security Income (SSI) assistance under
3688 Title XVI or Title XIX simultaneously from two (2) or more states;

3689 (n) Individuals who are recipients of federal
3690 Supplemental Security Income (SSI) assistance; and

3691 (o) Individuals who are eighteen (18) years of age or
3692 older who are not in compliance with the drug testing and
3693 substance use disorder treatment requirements of Section 43-17-6.

3694 (4) (a) Any person who is otherwise eligible for TANF
3695 benefits, including custodial and noncustodial parents, shall be
3696 required to attend school and meet the monthly attendance
3697 requirement as provided in this subsection if all of the following
3698 apply:

3699 (i) The person is under age twenty (20);

3700 (ii) The person has not graduated from a public or
3701 private high school or obtained a High School Equivalency Diploma
3702 equivalent;

3703 (iii) The person is physically able to attend
3704 school and is not excused from attending school; and

3705 (iv) If the person is a parent or caretaker
3706 relative with whom a dependent child is living, child care is
3707 available for the child.

3708 The monthly attendance requirement under this subsection
3709 shall be attendance at the school in which the person is enrolled



3710 for each day during a month that the school conducts classes in
3711 which the person is enrolled, with not more than two (2) absences
3712 during the month for reasons other than the reasons listed in
3713 paragraph (e)(iv) of this subsection. Persons who fail to meet
3714 participation requirements in this subsection shall be subject to
3715 sanctions as provided in paragraph (f) of this subsection.

3716 (b) As used in this subsection, "school" means any one
3717 (1) of the following:

3718 (i) A school as defined in Section 37-13-91(2);

3719 (ii) A vocational, technical and adult education
3720 program; or

3721 (iii) A course of study meeting the standards
3722 established by the State Department of Education for the granting
3723 of a declaration of equivalency of high school graduation.

3724 (c) If any compulsory-school-age child, as defined in
3725 Section 37-13-91(2), to which TANF eligibility requirements apply
3726 is not in compliance with the compulsory school attendance
3727 requirements of Section 37-13-91(6), the superintendent of schools
3728 of the school district in which the child is enrolled or eligible
3729 to attend shall notify the county department of human services of
3730 the child's noncompliance. The Department of Human Services shall
3731 review school attendance information as provided under this
3732 paragraph at all initial eligibility determinations and upon
3733 subsequent report of unsatisfactory attendance.



3734 (d) The signature of a person on an application for
3735 TANF benefits constitutes permission for the release of school
3736 attendance records for that person or for any child residing with
3737 that person. The department shall request information from the
3738 child's school district about the child's attendance in the school
3739 district's most recently completed semester of attendance. If
3740 information about the child's previous school attendance is not
3741 available or cannot be verified, the department shall require the
3742 child to meet the monthly attendance requirement for one (1)
3743 semester or until the information is obtained. The department
3744 shall use the attendance information provided by a school district
3745 to verify attendance for a child. The department shall review
3746 with the parent or caretaker relative a child's claim that he or
3747 she has a good cause for not attending school.

3748 A school district shall provide information to the department
3749 about the attendance of a child who is enrolled in a public school
3750 in the district within five (5) working days of the receipt of a
3751 written request for that information from the department. The
3752 school district shall define how many hours of attendance count as
3753 a full day and shall provide that information, upon request, to
3754 the department. In reporting attendance, the school district may
3755 add partial days' absence together to constitute a full day's
3756 absence.

3757 If a school district fails to provide to the department the
3758 information about the school attendance of any child within



3759 fifteen (15) working days after a written request, the department
3760 shall notify the Department of Audit within three (3) working days
3761 of the school district's failure to comply with that requirement.
3762 The Department of Audit shall begin audit proceedings within five
3763 (5) working days of notification by the Department of Human
3764 Services to determine the school district's compliance with the
3765 requirements of this subsection (4). If the Department of Audit
3766 finds that the school district is not in compliance with the
3767 requirements of this subsection, the school district shall be
3768 penalized as follows: The Department of Audit shall notify the
3769 State Department of Education of the school district's
3770 noncompliance, and the Department of Education shall reduce the
3771 calculation of the school district's average daily attendance
3772 (ADA) that is used to determine the allocation of Mississippi
3773 Adequate Education Program funds by the number of children for
3774 which the district has failed to provide to the Department of
3775 Human Services the required information about the school
3776 attendance of those children. The reduction in the calculation of
3777 the school district's ADA under this paragraph shall be effective
3778 for a period of one (1) year.

3779 (e) A child who is required to attend school to meet
3780 the requirements under this subsection shall comply except when
3781 there is good cause, which shall be demonstrated by any of the
3782 following circumstances:



3783 (i) The minor parent is the caretaker of a child
3784 less than twelve (12) weeks old; or

3785 (ii) The department determines that child care
3786 services are necessary for the minor parent to attend school and
3787 there is no child care available; or

3788 (iii) The child is prohibited by the school
3789 district from attending school and an expulsion is pending. This
3790 exemption no longer applies once the teenager has been expelled;
3791 however, a teenager who has been expelled and is making
3792 satisfactory progress towards obtaining a High School Equivalency
3793 Diploma equivalent shall be eligible for TANF benefits; or

3794 (iv) The child failed to attend school for one or
3795 more of the following reasons:

3796 1. Illness, injury or incapacity of the child
3797 or the minor parent's child;

3798 2. Court-required appearances or temporary
3799 incarceration;

3800 3. Medical or dental appointments for the
3801 child or minor parent's child;

3802 4. Death of a close relative;

3803 5. Observance of a religious holiday;

3804 6. Family emergency;

3805 7. Breakdown in transportation;

3806 8. Suspension; or



3807 9. Any other circumstance beyond the control
3808 of the child, as defined in regulations of the department.

3809 (f) Upon determination that a child has failed without
3810 good cause to attend school as required, the department shall
3811 provide written notice to the parent or caretaker relative
3812 (whoever is the primary recipient of the TANF benefits) that
3813 specifies:

3814 (i) That the family will be sanctioned in the next
3815 possible payment month because the child who is required to attend
3816 school has failed to meet the attendance requirement of this
3817 subsection;

3818 (ii) The beginning date of the sanction, and the
3819 child to whom the sanction applies;

3820 (iii) The right of the child's parents or
3821 caretaker relative (whoever is the primary recipient of the TANF
3822 benefits) to request a fair hearing under this subsection.

3823 The child's parent or caretaker relative (whoever is the
3824 primary recipient of the TANF benefits) may request a fair hearing
3825 on the department's determination that the child has not been
3826 attending school. If the child's parents or caretaker relative
3827 does not request a fair hearing under this subsection, or if,
3828 after a fair hearing has been held, the hearing officer finds that
3829 the child without good cause has failed to meet the monthly
3830 attendance requirement, the department shall discontinue or deny
3831 TANF benefits to the child thirteen (13) years old, or older, in



3832 the next possible payment month. The department shall discontinue
3833 or deny twenty-five percent (25%) of the family grant when a child
3834 six (6) through twelve (12) years of age without good cause has
3835 failed to meet the monthly attendance requirement. Both the child
3836 and family sanction may apply when children in both age groups
3837 fail to meet the attendance requirement without good cause. A
3838 sanction applied under this subsection shall be effective for one
3839 (1) month for each month that the child failed to meet the monthly
3840 attendance requirement. In the case of a dropout, the sanction
3841 shall remain in force until the parent or caretaker relative
3842 provides written proof from the school district that the child has
3843 reenrolled and met the monthly attendance requirement for one (1)
3844 calendar month. Any month in which school is in session for at
3845 least ten (10) days during the month may be used to meet the
3846 attendance requirement under this subsection. This includes
3847 attendance at summer school. The sanction shall be removed the
3848 next possible payment month.

3849 (5) All parents or caretaker relatives shall have their
3850 dependent children receive vaccinations and booster vaccinations
3851 against those diseases specified by the State Health Officer under
3852 Section 41-23-37 in accordance with the vaccination and booster
3853 vaccination schedule prescribed by the State Health Officer for
3854 children of that age, in order for the parents or caretaker
3855 relatives to be eligible or remain eligible to receive TANF
3856 benefits. Proof of having received such vaccinations and booster



3857 vaccinations shall be given by presenting the certificates of
3858 vaccination issued by any health care provider licensed to
3859 administer vaccinations, and submitted on forms specified by the
3860 State Board of Health. If the parents without good cause do not
3861 have their dependent children receive the vaccinations and booster
3862 vaccinations as required by this subsection and they fail to
3863 comply after thirty (30) days' notice, the department shall
3864 sanction the family's TANF benefits by twenty-five percent (25%)
3865 for the next payment month and each subsequent payment month until
3866 the requirements of this subsection are met.

3867 (6) (a) If the parent or caretaker relative applying for
3868 TANF assistance is work eligible, as determined by the Department
3869 of Human Services, the person shall be required to engage in an
3870 allowable work activity once the department determines the parent
3871 or caretaker relative is determined work eligible, or once the
3872 parent or caretaker relative has received TANF assistance under
3873 the program for twenty-four (24) months, whether or not
3874 consecutive, whichever is earlier. No TANF benefits shall be
3875 given to any person to whom this section applies who fails without
3876 good cause to comply with the Employability Development Plan
3877 prepared by the department for the person, or who has refused to
3878 accept a referral or offer of employment, training or education in
3879 which he or she is able to engage, subject to the penalties
3880 prescribed in paragraph (e) of this subsection. A person shall be



3881 deemed to have refused to accept a referral or offer of
3882 employment, training or education if he or she:

3883 (i) Willfully fails to report for an interview
3884 with respect to employment when requested to do so by the
3885 department; or

3886 (ii) Willfully fails to report to the department
3887 the result of a referral to employment; or

3888 (iii) Willfully fails to report for allowable work
3889 activities as prescribed in paragraphs (c) and (d) of this
3890 subsection.

3891 (b) The Department of Human Services shall operate a
3892 statewide work program for TANF recipients to provide work
3893 activities and supportive services to enable families to become
3894 self-sufficient and improve their competitive position in the
3895 workforce in accordance with the requirements of the federal
3896 Personal Responsibility and Work Opportunity Reconciliation Act of
3897 1996 (Public Law 104-193), as amended, and the regulations
3898 promulgated thereunder, and the Deficit Reduction Act of 2005
3899 (Public Law 109-171), as amended. Within sixty (60) days after
3900 the initial application for TANF benefits, the TANF recipient must
3901 participate in a job search skills training workshop or a job
3902 readiness program, which shall include resume writing, job search
3903 skills, employability skills and, if available at no charge, the
3904 General Aptitude Test Battery or its equivalent. All adults who
3905 are not specifically exempt shall be referred by the department



3906 for allowable work activities. An adult may be exempt from the
3907 mandatory work activity requirement for the following reasons:

3908 (i) Incapacity;

3909 (ii) Temporary illness or injury, verified by
3910 physician's certificate;

3911 (iii) Is in the third trimester of pregnancy, and
3912 there are complications verified by the certificate of a
3913 physician, nurse practitioner, physician assistant, or any other
3914 licensed health care professional practicing under a protocol with
3915 a licensed physician;

3916 (iv) Caretaker of a child under twelve (12)
3917 months, for not more than twelve (12) months of the sixty-month
3918 maximum benefit period;

3919 (v) Caretaker of an ill or incapacitated person,
3920 as verified by physician's certificate;

3921 (vi) Age, if over sixty (60) or under eighteen
3922 (18) years of age;

3923 (vii) Receiving treatment for substance abuse, if
3924 the person is in compliance with the substance abuse treatment
3925 plan;

3926 (viii) In a two-parent family, the caretaker of a
3927 severely disabled child, as verified by a physician's certificate;
3928 or

3929 (ix) History of having been a victim of domestic
3930 violence, which has been reported as required by state law and is



3931 substantiated by police reports or court records, and being at
3932 risk of further domestic violence, shall be exempt for a period as
3933 deemed necessary by the department but not to exceed a total of
3934 twelve (12) months, which need not be consecutive, in the
3935 sixty-month maximum benefit period. For the purposes of this
3936 subparagraph (ix), "domestic violence" means that an individual
3937 has been subjected to:

3938 1. Physical acts that resulted in, or
3939 threatened to result in, physical injury to the individual;

3940 2. Sexual abuse;

3941 3. Sexual activity involving a dependent
3942 child;

3943 4. Being forced as the caretaker relative of
3944 a dependent child to engage in nonconsensual sexual acts or
3945 activities;

3946 5. Threats of, or attempts at, physical or
3947 sexual abuse;

3948 6. Mental abuse; or

3949 7. Neglect or deprivation of medical care.

3950 (c) For all families, all adults who are not
3951 specifically exempt shall be required to participate in work
3952 activities for at least the minimum average number of hours per
3953 week specified by federal law or regulation, not fewer than twenty
3954 (20) hours per week (thirty-five (35) hours per week for



3955 two-parent families) of which are attributable to the following
3956 allowable work activities:

- 3957 (i) Unsubsidized employment;
- 3958 (ii) Subsidized private employment;
- 3959 (iii) Subsidized public employment;
- 3960 (iv) Work experience (including work associated
3961 with the refurbishing of publicly assisted housing), if sufficient
3962 private employment is not available;
- 3963 (v) On-the-job training;
- 3964 (vi) Job search and job readiness assistance
3965 consistent with federal TANF regulations;
- 3966 (vii) Community service programs;
- 3967 (viii) Vocational educational training (not to
3968 exceed twelve (12) months with respect to any individual);
- 3969 (ix) The provision of child care services to an
3970 individual who is participating in a community service program;
- 3971 (x) Satisfactory attendance at high school or in a
3972 course of study leading to a high school equivalency certificate,
3973 for heads of household under age twenty (20) who have not
3974 completed high school or received such certificate;
- 3975 (xi) Education directly related to employment, for
3976 heads of household under age twenty (20) who have not completed
3977 high school or received such equivalency certificate.



3978 (d) The following are allowable work activities which
3979 may be attributable to hours in excess of the minimum specified in
3980 paragraph (c) of this subsection:

3981 (i) Job skills training directly related to
3982 employment;

3983 (ii) Education directly related to employment for
3984 individuals who have not completed high school or received a high
3985 school equivalency certificate;

3986 (iii) Satisfactory attendance at high school or in
3987 a course of study leading to a high school equivalency, for
3988 individuals who have not completed high school or received such
3989 equivalency certificate;

3990 (iv) Job search and job readiness assistance
3991 consistent with federal TANF regulations.

3992 (e) If any adult or caretaker relative refuses to
3993 participate in allowable work activity as required under this
3994 subsection (6), the following full family TANF benefit penalty
3995 will apply, subject to due process to include notification,
3996 conciliation and a hearing if requested by the recipient:

3997 (i) For the first violation, the department shall
3998 terminate the TANF assistance otherwise payable to the family for
3999 a two-month period or until the person has complied with the
4000 required work activity, whichever is longer;

4001 (ii) For the second violation, the department
4002 shall terminate the TANF assistance otherwise payable to the



4003 family for a six-month period or until the person has complied
4004 with the required work activity, whichever is longer;

4005 (iii) For the third violation, the department
4006 shall terminate the TANF assistance otherwise payable to the
4007 family for a twelve-month period or until the person has complied
4008 with the required work activity, whichever is longer;

4009 (iv) For the fourth violation, the person shall be
4010 permanently disqualified.

4011 For a two-parent family, unless prohibited by state or
4012 federal law, Medicaid assistance shall be terminated only for the
4013 person whose failure to participate in allowable work activity
4014 caused the family's TANF assistance to be sanctioned under this
4015 paragraph (e), unless an individual is pregnant, but shall not be
4016 terminated for any other person in the family who is meeting that
4017 person's applicable work requirement or who is not required to
4018 work. Minor children shall continue to be eligible for Medicaid
4019 benefits regardless of the disqualification of their parent or
4020 caretaker relative for TANF assistance under this subsection (6),
4021 unless prohibited by state or federal law.

4022 (f) Any person enrolled in a two-year or four-year
4023 college program who meets the eligibility requirements to receive
4024 TANF benefits, and who is meeting the applicable work requirements
4025 and all other applicable requirements of the TANF program, shall
4026 continue to be eligible for TANF benefits while enrolled in the



4027 college program for as long as the person meets the requirements
4028 of the TANF program, unless prohibited by federal law.

4029 (g) No adult in a work activity required under this
4030 subsection (6) shall be employed or assigned (i) when any other
4031 individual is on layoff from the same or any substantially
4032 equivalent job within six (6) months before the date of the TANF
4033 recipient's employment or assignment; or (ii) if the employer has
4034 terminated the employment of any regular employee or otherwise
4035 caused an involuntary reduction of its workforce in order to fill
4036 the vacancy so created with an adult receiving TANF assistance.
4037 The Mississippi Department of Employment Security, established
4038 under Section 71-5-101, shall appoint one or more impartial
4039 hearing officers to hear and decide claims by employees of
4040 violations of this paragraph (g). The hearing officer shall hear
4041 all the evidence with respect to any claim made hereunder and such
4042 additional evidence as he may require and shall make a
4043 determination and the reason therefor. The claimant shall be
4044 promptly notified of the decision of the hearing officer and the
4045 reason therefor. Within ten (10) days after the decision of the
4046 hearing officer has become final, any party aggrieved thereby may
4047 secure judicial review thereof by commencing an action, in the
4048 circuit court of the county in which the claimant resides, against
4049 the department for the review of such decision, in which action
4050 any other party to the proceeding before the hearing officer shall
4051 be made a defendant. Any such appeal shall be on the record which



4052 shall be certified to the court by the department in the manner
4053 provided in Section 71-5-531, and the jurisdiction of the court
4054 shall be confined to questions of law which shall render its
4055 decision as provided in that section.

4056 (7) The Department of Human Services may provide child care
4057 for eligible participants who require such care so that they may
4058 accept employment or remain employed. The department may also
4059 provide child care for those participating in the TANF program
4060 when it is determined that they are satisfactorily involved in
4061 education, training or other allowable work activities. The
4062 department may contract with Head Start agencies to provide child
4063 care services to TANF recipients. The department may also arrange
4064 for child care by use of contract or vouchers, provide vouchers in
4065 advance to a caretaker relative, reimburse a child care provider,
4066 or use any other arrangement deemed appropriate by the department,
4067 and may establish different reimbursement rates for child care
4068 services depending on the category of the facility or home. Any
4069 center-based or group home child care facility under this
4070 subsection shall be licensed by the State Department of Health
4071 pursuant to law. When child care is being provided in the child's
4072 own home, in the home of a relative of the child, or in any other
4073 unlicensed setting, the provision of such child care may be
4074 monitored on a random basis by the Department of Human Services or
4075 the State Department of Health. Transitional child care
4076 assistance may be continued if it is necessary for parents to



4077 maintain employment once support has ended, unless prohibited
4078 under state or federal law. Transitional child care assistance
4079 may be provided for up to twenty-four (24) months after the last
4080 month during which the family was eligible for TANF assistance, if
4081 federal funds are available for such child care assistance.

4082 (8) The Department of Human Services may provide
4083 transportation or provide reasonable reimbursement for
4084 transportation expenses that are necessary for individuals to be
4085 able to participate in allowable work activity under the TANF
4086 program.

4087 (9) Medicaid assistance shall be provided to a family of
4088 TANF program participants for up to twenty-four (24) consecutive
4089 calendar months following the month in which the participating
4090 family would be ineligible for TANF benefits because of increased
4091 income, expiration of earned income disregards, or increased hours
4092 of employment of the caretaker relative; however, Medicaid
4093 assistance for more than twelve (12) months may be provided only
4094 if a federal waiver is obtained to provide such assistance for
4095 more than twelve (12) months and federal and state funds are
4096 available to provide such assistance.

4097 (10) The department shall require applicants for and
4098 recipients of public assistance from the department to sign a
4099 personal responsibility contract that will require the applicant
4100 or recipient to acknowledge his or her responsibilities to the
4101 state.



4102 (11) The department shall enter into an agreement with the
4103 State Personnel Board and other state agencies that will allow
4104 those TANF participants who qualify for vacant jobs within state
4105 agencies to be placed in state jobs. State agencies participating
4106 in the TANF work program shall receive any and all benefits
4107 received by employers in the private sector for hiring TANF
4108 recipients. This subsection (11) shall be effective only if the
4109 state obtains any necessary federal waiver or approval and if
4110 federal funds are available therefor. Not later than September 1,
4111 2021, the department shall prepare a report, which shall be
4112 provided to the Chairmen of the House and Senate Public Health
4113 Committees and to any other member of the Legislature upon
4114 request, on the history, status, outcomes and effectiveness of the
4115 agreements required under this subsection.

4116 (12) Any unspent TANF funds remaining from the prior fiscal
4117 year may be expended for any TANF allowable activities.

4118 (13) The Mississippi Department of Human Services shall
4119 provide TANF applicants information and referral to programs that
4120 provide information about birth control, prenatal health care,
4121 abstinence education, marriage education, family preservation and
4122 fatherhood. Not later than September 1, 2021, the department
4123 shall prepare a report, which shall be provided to the Chairmen of
4124 the House and Senate Public Health Committees and to any other
4125 member of the Legislature upon request, on the history, status,



4126 outcomes and effectiveness of the information and referral
4127 requirements under this subsection.

4128 (14) No new TANF program requirement or restriction
4129 affecting a person's eligibility for TANF assistance, or allowable
4130 work activity, which is not mandated by federal law or regulation
4131 may be implemented by the Department of Human Services after July
4132 1, 2004, unless such is specifically authorized by an amendment to
4133 this section by the Legislature.

4134 **SECTION 52.** Section 43-19-45, Mississippi Code of 1972, is
4135 reenacted as follows:

4136 43-19-45. (1) The Child Support Unit shall establish a
4137 state parent locator service for the purpose of locating absent
4138 and nonsupporting parents and alleged parents, which will utilize
4139 all appropriate public and private locator sources. In order to
4140 carry out the responsibilities imposed under Sections 43-19-31
4141 through 43-19-53, the Child Support Unit may secure, by
4142 administrative subpoena from the customer records of public
4143 utilities and cable television companies, the names and addresses
4144 of individuals and the names and addresses of employers of such
4145 individuals that would enable the location of parents or alleged
4146 parents who have a duty to provide support and maintenance for
4147 their children. The Child Support Unit may also administratively
4148 subpoena any and all financial information, including account
4149 numbers, names and social security numbers of record for assets,
4150 accounts, and account balances from any individual, financial



4151 institution, business or other entity, public or private, needed
4152 to establish, modify or enforce a support order. No entity
4153 complying with an administrative subpoena to supply the requested
4154 information of whatever nature shall be liable in any civil action
4155 or proceeding on account of such compliance. Full faith and
4156 credit shall be given to all uniform administrative subpoenas
4157 issued by other state child support units. The recipient of an
4158 administrative subpoena shall supply the Child Support Unit, other
4159 state and federal IV-D agencies, its attorneys, investigators,
4160 probation officers, county or district attorneys in this state,
4161 all information relative to the location, employment,
4162 employment-related benefits including, but not limited to,
4163 availability of medical insurance, income and property of such
4164 parents and alleged parents and with all information on hand
4165 relative to the location and prosecution of any person who has, by
4166 means of a false statement or misrepresentation or by
4167 impersonation or other fraudulent device, obtained Temporary
4168 Assistance for Needy Families (TANF) to which he or she was not
4169 entitled, notwithstanding any provision of law making such
4170 information confidential. The Mississippi Department of
4171 Information Technology Services and any other agency in this state
4172 using the facilities of the Mississippi Department of Information
4173 Technology Services are directed to permit the Child Support Unit
4174 access to their files, inclusive of those maintained for other
4175 state agencies, for the purpose of locating absent and



4176 nonsupporting parents and alleged parents, except to the extent
4177 that any such access would violate any valid federal statute or
4178 regulation issued pursuant thereto. The Child Support Unit, other
4179 state and federal IV-D agencies, its attorneys, investigators,
4180 probation officers, or county or district attorneys, shall use
4181 such information only for the purpose of investigating or
4182 enforcing the support liability of such absent parents or alleged
4183 parents or for the prosecution of other persons mentioned herein.
4184 Neither the Child Support Unit nor those authorities shall use the
4185 information, or disclose it, for any other purpose. All records
4186 maintained pursuant to the provisions of Sections 43-19-31 through
4187 43-19-53 shall be confidential and shall be available only to the
4188 Child Support Unit, other state and federal IV-D agencies, the
4189 attorneys, investigators and other staff employed or under
4190 contract under Sections 43-19-31 through 43-19-53, district or
4191 county attorneys, probation departments, child support units in
4192 other states, and courts having jurisdiction in paternity, support
4193 or abandonment proceedings. The Child Support Unit may release to
4194 the public the name, photo, last-known address, arrearage amount
4195 and other necessary information of a parent who has a judgment
4196 against him for child support and is currently in arrears in the
4197 payment of this support. Such release may be included in a "Most
4198 Wanted List" or other media in order to solicit assistance.

4199 (2) The Child Support Unit shall have the authority to
4200 secure information from the records of the Mississippi Department



4201 of Employment Security that may be necessary to locate absent and
4202 nonsupporting parents and alleged parents under the provisions of
4203 Sections 43-19-31 through 43-19-53. Upon request of the Child
4204 Support Unit, all departments, boards, bureaus and agencies of the
4205 state shall provide to the Child Support Unit verification of
4206 employment or payment and the address and social security number
4207 of any person designated as an absent or nonsupporting parent or
4208 alleged parent. In addition, upon request of the Child Support
4209 Unit, the Mississippi Department of Employment Security, or any
4210 private employer or payor of any income to a person designated as
4211 an absent or nonsupporting parent or alleged parent, shall provide
4212 to the Child Support Unit verification of employment or payment
4213 and the address and social security number of the person so
4214 designated. Full faith and credit shall be given to such notices
4215 issued by child support units in other states. All such records
4216 and information shall be confidential and shall not be used for
4217 any purposes other than those specified by Sections 43-19-31
4218 through 43-19-53. The violation of the provisions of this
4219 subsection shall be unlawful and any person convicted of violating
4220 the provisions of this subsection shall be guilty of a misdemeanor
4221 and shall pay a fine of not more than Two Hundred Dollars
4222 (\$200.00).

4223 (3) Federal and state IV-D agencies shall have access to the
4224 state parent locator service and any system used by the Child
4225 Support Unit to locate an individual for purposes relating to



4226 motor vehicles or law enforcement. No employer or other source of
4227 income who complies with this section shall be liable in any civil
4228 action or proceeding brought by the obligor or obligee on account
4229 of such compliance.

4230 **SECTION 53.** Section 43-19-46, Mississippi Code of 1972, is
4231 reenacted as follows:

4232 43-19-46. (1) Each employer paying wages, salary or
4233 commission and doing business in Mississippi shall report to the
4234 Directory of New Hires within the Mississippi Department of Human
4235 Services:

4236 (a) The hiring of any person who resides or works in
4237 this state to whom the employer anticipates paying wages, salary
4238 or commission; and

4239 (b) The hiring or return to work of any employee who
4240 was laid off, furloughed, separated, granted leave without pay or
4241 was terminated from employment.

4242 (2) Employers shall report, by mailing or by other means
4243 authorized by the Department of Human Services, a copy of the
4244 employee's W-4 form or its equivalent that will result in timely
4245 reporting. Each employer shall submit reports within fifteen (15)
4246 days of the hiring, rehiring or return to work of the employee.
4247 The report shall contain:

4248 (a) The employee's name, address, social security
4249 number and the date of birth;



4250 (b) The employer's name, address, and federal and state
4251 withholding tax identification numbers; and

4252 (c) The date upon which the employee began or resumed
4253 employment, or is scheduled to begin or otherwise resume
4254 employment.

4255 (3) The department shall retain the information, which shall
4256 be forwarded to the federal registry of new hires.

4257 (4) The Department of Human Services may operate the
4258 program, may enter into a mutual agreement with the Mississippi
4259 Department of Employment Security or the Department of Revenue, or
4260 both, for the operation of the Directory of New Hires Program, or
4261 the Department of Human Services may contract for that service, in
4262 which case the department shall maintain administrative control of
4263 the program.

4264 (5) In cases in which an employer fails to report
4265 information, as required by this section, an administratively
4266 levied civil penalty in an amount not to exceed Five Hundred
4267 Dollars (\$500.00) shall apply if the failure is the result of a
4268 conspiracy between the employer and employee to not supply the
4269 required report or to supply a false or incomplete report. The
4270 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).
4271 Appeal shall be as provided in Section 43-19-58.

4272 **SECTION 54.** Section 57-62-5, Mississippi Code of 1972, is
4273 reenacted as follows:



4274 **[For businesses or industries that received or applied for**
4275 **incentive payments prior to July 1, 2005, this section shall read**
4276 **as follows:]**

4277 57-62-5. As used in this chapter, the following words and
4278 phrases shall have the meanings ascribed in this section unless
4279 the context clearly indicates otherwise:

4280 (a) "Qualified business or industry" means any
4281 corporation, limited liability company, partnership, sole
4282 proprietorship, business trust or other legal entity and subunits
4283 or affiliates thereof, pursuant to rules and regulations of the
4284 MDA, which provides an average annual salary, excluding benefits
4285 which are not subject to Mississippi income taxes, of at least one
4286 hundred twenty-five percent (125%) of the most recently published
4287 state average annual wage or the most recently published average
4288 annual wage of the county in which the qualified business or
4289 industry is located as determined by the Mississippi Department of
4290 Employment Security, whichever is the lesser. An establishment
4291 shall not be considered to be a qualified business or industry
4292 unless it offers, or will offer within one hundred eighty (180)
4293 days of the date it receives the first incentive payment pursuant
4294 to the provisions of this chapter, a basic health benefits plan to
4295 the individuals it employs in new direct jobs in this state which
4296 is approved by the MDA. Qualified business or industry does not
4297 include retail business or gaming business;



4298 (b) "New direct job" means full-time employment in this
4299 state in a qualified business or industry that has qualified to
4300 receive an incentive payment pursuant to this chapter, which
4301 employment did not exist in this state before the date of approval
4302 by the MDA of the application of the qualified business or
4303 industry pursuant to the provisions of this chapter. "New direct
4304 job" shall include full-time employment in this state of employees
4305 who are employed by an entity other than the establishment that
4306 has qualified to receive an incentive payment and who are leased
4307 to the qualified business or industry, if such employment did not
4308 exist in this state before the date of approval by the MDA of the
4309 application of the establishment;

4310 (c) "Full-time job" means a job of at least thirty-five
4311 (35) hours per week;

4312 (d) "Estimated direct state benefits" means the tax
4313 revenues projected by the MDA to accrue to the state as a result
4314 of the qualified business or industry;

4315 (e) "Estimated direct state costs" means the costs
4316 projected by the MDA to accrue to the state as a result of the
4317 qualified business or industry;

4318 (f) "Estimated net direct state benefits" means the
4319 estimated direct state benefits less the estimated direct state
4320 costs;



4321 (g) "Net benefit rate" means the estimated net direct
4322 state benefits computed as a percentage of gross payroll, provided
4323 that:

4324 (i) Except as otherwise provided in this paragraph
4325 (g), the net benefit rate may be variable and shall not exceed
4326 four percent (4%) of the gross payroll; and shall be set in the
4327 sole discretion of the MDA;

4328 (ii) In no event shall incentive payments,
4329 cumulatively, exceed the estimated net direct state benefits;

4330 (h) "Gross payroll" means wages for new direct jobs of
4331 the qualified business or industry; and

4332 (i) "MDA" means the Mississippi Development Authority.

4333 **[For businesses or industries that received or applied for**
4334 **incentive payments from and after July 1, 2005, but prior to July**
4335 **1, 2010, this section shall read as follows:]**

4336 57-62-5. As used in this chapter, the following words and
4337 phrases shall have the meanings ascribed in this section unless
4338 the context clearly indicates otherwise:

4339 (a) "Qualified business or industry" means any
4340 corporation, limited liability company, partnership, sole
4341 proprietorship, business trust or other legal entity and subunits
4342 or affiliates thereof, pursuant to rules and regulations of the
4343 MDA, which:

4344 (i) Is a data/information processing enterprise
4345 meeting minimum criteria established by the MDA that provides an



4346 average annual salary, excluding benefits which are not subject to
4347 Mississippi income taxes, of at least one hundred percent (100%)
4348 of the most recently published state average annual wage or the
4349 most recently published average annual wage of the county in which
4350 the qualified business or industry is located as determined by the
4351 Mississippi Department of Employment Security, whichever is the
4352 lesser, and creates not less than two hundred (200) new direct
4353 jobs if the enterprise is located in a Tier One or Tier Two area
4354 (as such areas are designated in accordance with Section
4355 57-73-21), or which creates not less than one hundred (100) new
4356 jobs if the enterprise is located in a Tier Three area (as such
4357 areas are designated in accordance with Section 57-73-21);

4358 (ii) Is a manufacturing or distribution enterprise
4359 meeting minimum criteria established by the MDA that provides an
4360 average annual salary, excluding benefits which are not subject to
4361 Mississippi income taxes, of at least one hundred ten percent
4362 (110%) of the most recently published state average annual wage or
4363 the most recently published average annual wage of the county in
4364 which the qualified business or industry is located as determined
4365 by the Mississippi Department of Employment Security, whichever is
4366 the lesser, invests not less than Twenty Million Dollars
4367 (\$20,000,000.00) in land, buildings and equipment, and creates not
4368 less than fifty (50) new direct jobs if the enterprise is located
4369 in a Tier One or Tier Two area (as such areas are designated in
4370 accordance with Section 57-73-21), or which creates not less than



4371 twenty (20) new jobs if the enterprise is located in a Tier Three
4372 area (as such areas are designated in accordance with Section
4373 57-73-21);

4374 (iii) Is a corporation, limited liability company,
4375 partnership, sole proprietorship, business trust or other legal
4376 entity and subunits or affiliates thereof, pursuant to rules and
4377 regulations of the MDA, which provides an average annual salary,
4378 excluding benefits which are not subject to Mississippi income
4379 taxes, of at least one hundred twenty-five percent (125%) of the
4380 most recently published state average annual wage or the most
4381 recently published average annual wage of the county in which the
4382 qualified business or industry is located as determined by the
4383 Mississippi Department of Employment Security, whichever is the
4384 lesser, and creates not less than twenty-five (25) new direct jobs
4385 if the enterprise is located in a Tier One or Tier Two area (as
4386 such areas are designated in accordance with Section 57-73-21), or
4387 which creates not less than ten (10) new jobs if the enterprise is
4388 located in a Tier Three area (as such areas are designated in
4389 accordance with Section 57-73-21). An establishment shall not be
4390 considered to be a qualified business or industry unless it
4391 offers, or will offer within one hundred eighty (180) days of the
4392 date it receives the first incentive payment pursuant to the
4393 provisions of this chapter, a basic health benefits plan to the
4394 individuals it employs in new direct jobs in this state which is



4395 approved by the MDA. Qualified business or industry does not
4396 include retail business or gaming business; or
4397 (iv) Is a research and development or a technology
4398 intensive enterprise meeting minimum criteria established by the
4399 MDA that provides an average annual salary, excluding benefits
4400 which are not subject to Mississippi income taxes, of at least one
4401 hundred fifty percent (150%) of the most recently published state
4402 average annual wage or the most recently published average annual
4403 wage of the county in which the qualified business or industry is
4404 located as determined by the Mississippi Department of Employment
4405 Security, whichever is the lesser, and creates not less than ten
4406 (10) new direct jobs.

4407 An establishment shall not be considered to be a qualified
4408 business or industry unless it offers, or will offer within one
4409 hundred eighty (180) days of the date it receives the first
4410 incentive payment pursuant to the provisions of this chapter, a
4411 basic health benefits plan to the individuals it employs in new
4412 direct jobs in this state which is approved by the MDA. Qualified
4413 business or industry does not include retail business or gaming
4414 business.

4415 (b) "New direct job" means full-time employment in this
4416 state in a qualified business or industry that has qualified to
4417 receive an incentive payment pursuant to this chapter, which
4418 employment did not exist in this state before the date of approval
4419 by the MDA of the application of the qualified business or



4420 industry pursuant to the provisions of this chapter. "New direct
4421 job" shall include full-time employment in this state of employees
4422 who are employed by an entity other than the establishment that
4423 has qualified to receive an incentive payment and who are leased
4424 to the qualified business or industry, if such employment did not
4425 exist in this state before the date of approval by the MDA of the
4426 application of the establishment.

4427 (c) "Full-time job" or "full-time employment" means a
4428 job of at least thirty-five (35) hours per week.

4429 (d) "Estimated direct state benefits" means the tax
4430 revenues projected by the MDA to accrue to the state as a result
4431 of the qualified business or industry.

4432 (e) "Estimated direct state costs" means the costs
4433 projected by the MDA to accrue to the state as a result of the
4434 qualified business or industry.

4435 (f) "Estimated net direct state benefits" means the
4436 estimated direct state benefits less the estimated direct state
4437 costs.

4438 (g) "Net benefit rate" means the estimated net direct
4439 state benefits computed as a percentage of gross payroll, provided
4440 that:

4441 (i) Except as otherwise provided in this paragraph
4442 (g), the net benefit rate may be variable and shall not exceed
4443 four percent (4%) of the gross payroll; and shall be set in the
4444 sole discretion of the MDA;



4445 (ii) In no event shall incentive payments,
4446 cumulatively, exceed the estimated net direct state benefits.

4447 (h) "Gross payroll" means wages for new direct jobs of
4448 the qualified business or industry.

4449 (i) "MDA" means the Mississippi Development Authority.

4450 **[For businesses or industries that apply for incentive**
4451 **payments from and after July 1, 2010, this section shall read as**
4452 **follows:]**

4453 57-62-5. As used in this chapter, the following words and
4454 phrases shall have the meanings ascribed in this section unless
4455 the context clearly indicates otherwise:

4456 (a) "Qualified business or industry" means any
4457 corporation, limited liability company, partnership, sole
4458 proprietorship, business trust or other legal entity and subunits
4459 or affiliates thereof, pursuant to rules and regulations of the
4460 MDA, which:

4461 (i) Is a data/information processing enterprise
4462 meeting minimum criteria established by the MDA that provides an
4463 average annual salary, excluding benefits which are not subject to
4464 Mississippi income taxes, of at least one hundred percent (100%)
4465 of the most recently published state average annual wage or the
4466 most recently published average annual wage of the county in which
4467 the qualified business or industry is located as determined by the
4468 Mississippi Department of Employment Security, whichever is the



4469 lesser, and creates not less than two hundred (200) new direct
4470 jobs;

4471 (ii) Is a corporation, limited liability company,
4472 partnership, sole proprietorship, business trust or other legal
4473 entity and subunits or affiliates thereof, pursuant to rules and
4474 regulations of the MDA, which provides an average annual salary,
4475 excluding benefits which are not subject to Mississippi income
4476 taxes, of at least one hundred ten percent (110%) of the most
4477 recently published state average annual wage or the most recently
4478 published average annual wage of the county in which the qualified
4479 business or industry is located as determined by the Mississippi
4480 Department of Employment Security, whichever is the lesser, and
4481 creates not less than twenty-five (25) new direct jobs; or

4482 (iii) Is a corporation, limited liability company,
4483 partnership, sole proprietorship, business trust or other legal
4484 entity and subunits or affiliates thereof, pursuant to rules and
4485 regulations of the MDA, which is a manufacturer that:

4486 1. Provides an average annual salary,
4487 excluding benefits which are not subject to Mississippi income
4488 taxes, of at least one hundred ten percent (110%) of the most
4489 recently published state average annual wage or the most recently
4490 published average annual wage of the county in which the qualified
4491 business or industry is located as determined by the Mississippi
4492 Department of Employment Security, whichever is the lesser;



4493 2. Has a minimum of five thousand (5,000)
4494 existing employees as of the last day of the previous calendar
4495 year; and

4496 3. MDA determines will create not less than
4497 three thousand (3,000) new direct jobs within forty-eight (48)
4498 months of the date the MDA determines that the applicant is
4499 qualified to receive incentive payments.

4500 An establishment shall not be considered to be a qualified
4501 business or industry unless it offers, or will offer within one
4502 hundred eighty (180) days of the date it receives the first
4503 incentive payment pursuant to the provisions of this chapter, a
4504 basic health benefits plan to the individuals it employs in new
4505 direct jobs in this state which is approved by the MDA. Qualified
4506 business or industry does not include retail business or gaming
4507 business, or any medical cannabis establishment as defined in the
4508 Mississippi Medical Cannabis Act.

4509 (b) "New direct job" means full-time employment in this
4510 state in a qualified business or industry that has qualified to
4511 receive an incentive payment pursuant to this chapter, which
4512 employment did not exist in this state:

4513 (i) Before the date of approval by the MDA of the
4514 application of the qualified business or industry pursuant to the
4515 provisions of this chapter; or

4516 (ii) Solely with respect to any farm equipment
4517 manufacturer that locates its North American headquarters to



4518 Mississippi between January 1, 2018, and December 31, 2020, before
4519 a specific date determined by the MDA that falls on or after the
4520 date that the MDA first issues to such farm equipment manufacturer
4521 one or more written commitments or offers of any incentives in
4522 connection with the new headquarters project and related
4523 facilities expected to result in the creation of such new job.

4524 "New direct job" shall include full-time employment in this
4525 state of employees who are employed by an entity other than the
4526 establishment that has qualified to receive an incentive payment
4527 and who are leased to the qualified business or industry, if such
4528 employment did not exist in this state before the date of approval
4529 by the MDA of the application of the establishment.

4530 (c) "Full-time job" or "full-time employment" means a
4531 job of at least thirty-five (35) hours per week.

4532 (d) "Gross payroll" means wages for new direct jobs of
4533 the qualified business or industry.

4534 (e) "MDA" means the Mississippi Development Authority.

4535 **SECTION 55.** Section 57-62-9, Mississippi Code of 1972, is
4536 reenacted as follows:

4537 **[For businesses or industries that received or applied for**
4538 **incentive payments prior to July 1, 2005, this section shall read**
4539 **as follows:]**

4540 57-62-9. (1) Except as otherwise provided in this section,
4541 a qualified business or industry that meets the qualifications
4542 specified in this chapter may receive quarterly incentive payments



4543 for a period not to exceed ten (10) years from the Department of
4544 Revenue pursuant to the provisions of this chapter in an amount
4545 which shall be equal to the net benefit rate multiplied by the
4546 actual gross payroll of new direct jobs for a calendar quarter as
4547 verified by the Mississippi Department of Employment Security, but
4548 not to exceed the amount of money previously paid into the fund by
4549 the employer. A qualified business or industry that is a project
4550 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4551 which the ten-year period will begin. Such date may not be later
4552 than sixty (60) months after the date the business or industry
4553 applied for incentive payments.

4554 (2) (a) A qualified business or industry that is a project
4555 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4556 receive incentive payments for an additional period not to exceed
4557 five (5) years beyond the expiration date of the initial ten-year
4558 period if:

4559 (i) The qualified business or industry creates at
4560 least three thousand (3,000) new direct jobs within five (5) years
4561 after the date the business or industry commences commercial
4562 production;

4563 (ii) Within five (5) years after the date the
4564 business or industry commences commercial production, the average
4565 annual wage of the jobs is at least one hundred fifty percent
4566 (150%) of the most recently published state average annual wage or
4567 the most recently published average annual wage of the county in



4568 which the qualified business or industry is located as determined
4569 by the Mississippi Department of Employment Security, whichever is
4570 the lesser. The criteria for the average annual wage requirement
4571 shall be based upon the state average annual wage or the average
4572 annual wage of the county whichever is appropriate, at the time of
4573 creation of the minimum number of jobs, and the threshold
4574 established at that time will remain constant for the duration of
4575 the additional period; and

4576 (iii) The qualified business or industry meets and
4577 maintains the job and wage requirements of subparagraphs (i) and
4578 (ii) of this paragraph (a) for four (4) consecutive calendar
4579 quarters.

4580 (b) A qualified business or industry that is a project
4581 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4582 incentive payments for the additional period provided in paragraph
4583 (a) of this subsection (2) may apply to the MDA to receive
4584 incentive payments for an additional period not to exceed ten (10)
4585 years beyond the expiration date of the additional period provided
4586 in paragraph (a) of this subsection (2) if:

4587 (i) The qualified business or industry creates at
4588 least four thousand (4,000) new direct jobs after qualifying for
4589 the additional incentive period provided in paragraph (a) of this
4590 subsection (2) but before the expiration of the additional period.
4591 For purposes of determining whether the business or industry meets
4592 the minimum jobs requirement of this subparagraph (i), the number



4593 of jobs the business or industry created in order to meet the
4594 minimum jobs requirement of paragraph (a) of this subsection (2)
4595 shall be subtracted from the minimum jobs requirement of this
4596 subparagraph (i);

4597 (ii) The average annual wage of the jobs is at
4598 least one hundred fifty percent (150%) of the most recently
4599 published state average annual wage or the most recently published
4600 average annual wage of the county in which the qualified business
4601 or industry is located as determined by the Mississippi Department
4602 of Employment Security, whichever is the lesser. The criteria for
4603 the average annual wage requirement shall be based upon the state
4604 average annual wage or the average annual wage of the county
4605 whichever is appropriate, at the time of creation of the minimum
4606 number of jobs, and the threshold established at that time will
4607 remain constant for the duration of the additional period; and

4608 (iii) The qualified business or industry meets and
4609 maintains the job and wage requirements of subparagraphs (i) and
4610 (ii) of this paragraph (b) for four (4) consecutive calendar
4611 quarters.

4612 (3) In order to receive incentive payments, an establishment
4613 shall apply to the MDA. The application shall be on a form
4614 prescribed by the MDA and shall contain such information as may be
4615 required by the MDA to determine if the applicant is qualified.

4616 (4) In order to qualify to receive such payments, the
4617 establishment applying shall be required to:



4618 (a) Be engaged in a qualified business or industry;

4619 (b) Provide an average salary, excluding benefits which
4620 are not subject to Mississippi income taxes, of at least one
4621 hundred twenty-five percent (125%) of the most recently published
4622 state average annual wage or the most recently published average
4623 annual wage of the county in which the qualified business or
4624 industry is located as determined by the Mississippi Department of
4625 Employment Security, whichever is the lesser. The criteria for
4626 this requirement shall be based upon the state average annual wage
4627 or the average annual wage of the county whichever is appropriate,
4628 at the time of application, and the threshold established upon
4629 application will remain constant for the duration of the project;

4630 (c) The business or industry must create and maintain a
4631 minimum of ten (10) full-time jobs in counties that have an
4632 average unemployment rate over the previous twelve-month period
4633 which is at least one hundred fifty percent (150%) of the most
4634 recently published state unemployment rate, as determined by the
4635 Mississippi Department of Employment Security or in Tier Three
4636 counties as determined under Section 57-73-21. In all other
4637 counties, the business or industry must create and maintain a
4638 minimum of twenty-five (25) full-time jobs. The criteria for this
4639 requirement shall be based on the designation of the county at the
4640 time of the application. The threshold established upon the
4641 application will remain constant for the duration of the project.
4642 The business or industry must meet its job creation commitment



4643 within twenty-four (24) months of the application approval.
4644 However, if the qualified business or industry is applying for
4645 incentive payments for an additional period under subsection (2)
4646 of this section, the business or industry must comply with the
4647 applicable job and wage requirements of subsection (2) of this
4648 section.

4649 (5) The MDA shall determine if the applicant is qualified to
4650 receive incentive payments. If the applicant is determined to be
4651 qualified by the MDA, the MDA shall conduct a cost/benefit
4652 analysis to determine the estimated net direct state benefits and
4653 the net benefit rate applicable for a period not to exceed ten
4654 (10) years and to estimate the amount of gross payroll for the
4655 period. If the applicant is determined to be qualified to receive
4656 incentive payments for an additional period under subsection (2)
4657 of this section, the MDA shall conduct a cost/benefit analysis to
4658 determine the estimated net direct state benefits and the net
4659 benefit rate applicable for the appropriate additional period and
4660 to estimate the amount of gross payroll for the additional period.
4661 In conducting such cost/benefit analysis, the MDA shall consider
4662 quantitative factors, such as the anticipated level of new tax
4663 revenues to the state along with the cost to the state of the
4664 qualified business or industry, and such other criteria as deemed
4665 appropriate by the MDA, including the adequacy of retirement
4666 benefits that the business or industry provides to individuals it
4667 employs in new direct jobs in this state. In no event shall



4668 incentive payments, cumulatively, exceed the estimated net direct
4669 state benefits. Once the qualified business or industry is
4670 approved by the MDA, an agreement shall be deemed to exist between
4671 the qualified business or industry and the State of Mississippi,
4672 requiring the continued incentive payment, together with any
4673 amount due pursuant to subsection (8) of this section, if
4674 applicable, to be made as long as the qualified business or
4675 industry retains its eligibility.

4676 (6) Upon approval of such an application, the MDA shall
4677 notify the Department of Revenue and shall provide it with a copy
4678 of the approved application and the estimated net direct state
4679 benefits. The Department of Revenue may require the qualified
4680 business or industry to submit such additional information as may
4681 be necessary to administer the provisions of this chapter. The
4682 qualified business or industry shall report to the Department of
4683 Revenue periodically to show its continued eligibility for
4684 incentive payments. The qualified business or industry may be
4685 audited by the Department of Revenue to verify such eligibility.
4686 In addition, the State Auditor may conduct performance and
4687 compliance audits under this chapter according to Section
4688 7-7-211(o) and may bill the oversight agency.

4689 (7) If the qualified business or industry is located in an
4690 area that has been declared by the Governor to be a disaster area
4691 and as a result of the disaster the business or industry is unable
4692 to create or maintain the full-time jobs required by this section:



4693 (a) The Commissioner of Revenue may extend the period
4694 of time that the business or industry may receive incentive
4695 payments for a period of time not to exceed two (2) years;

4696 (b) The Commissioner of Revenue may waive the
4697 requirement that a certain number of jobs be maintained for a
4698 period of time not to exceed twenty-four (24) months; and

4699 (c) The MDA may extend the period of time within which
4700 the jobs must be created for a period of time not to exceed
4701 twenty-four (24) months.

4702 (8) Notwithstanding any other provision of this section to
4703 the contrary, from and after January 1, 2023, if the amount of the
4704 incentive payment that a qualified business or industry is
4705 eligible to receive under this chapter is less than the amount
4706 that the incentive payment would have been if the payment had been
4707 calculated using any applicable income tax rates in Section 27-7-5
4708 that were in effect before January 1, 2023, then the qualified
4709 business or industry also shall receive a grant equal to the
4710 difference between such two (2) amounts. Further, the term
4711 "incentive payment," as such term is used in this chapter, shall
4712 be deemed to not refer to or otherwise include any grant payment
4713 payable to a qualified business or industry pursuant to this
4714 subsection.

4715 **[For businesses or industries that received or applied for**
4716 **incentive payments from and after July 1, 2005, but prior to July**
4717 **1, 2010, this section shall read as follows:]**



4718 57-62-9. (1) (a) Except as otherwise provided in this
4719 section, a qualified business or industry that meets the
4720 qualifications specified in this chapter may receive quarterly
4721 incentive payments for a period not to exceed ten (10) years from
4722 the Department of Revenue pursuant to the provisions of this
4723 chapter in an amount which shall be equal to the net benefit rate
4724 multiplied by the actual gross payroll of new direct jobs for a
4725 calendar quarter as verified by the Mississippi Department of
4726 Employment Security, but not to exceed:

4727 (i) Ninety percent (90%) of the amount of money
4728 previously paid into the fund by the employer if the employer
4729 provides an average annual salary, excluding benefits which are
4730 not subject to Mississippi income taxes, of at least one hundred
4731 seventy-five percent (175%) of the most recently published state
4732 average annual wage or the most recently published average annual
4733 wage of the county in which the qualified business or industry is
4734 located as determined by the Mississippi Department of Employment
4735 Security, whichever is the lesser;

4736 (ii) Eighty percent (80%) of the amount of money
4737 previously paid into the fund by the employer if the employer
4738 provides an average annual salary, excluding benefits which are
4739 not subject to Mississippi income taxes, of at least one hundred
4740 twenty-five percent (125%) but less than one hundred seventy-five
4741 percent (175%) of the most recently published state average annual
4742 wage or the most recently published average annual wage of the



4743 county in which the qualified business or industry is located as
4744 determined by the Mississippi Department of Employment Security,
4745 whichever is the lesser; or

4746 (iii) Seventy percent (70%) of the amount of money
4747 previously paid into the fund by the employer if the employer
4748 provides an average annual salary, excluding benefits which are
4749 not subject to Mississippi income taxes, of less than one hundred
4750 twenty-five percent (125%) of the most recently published state
4751 average annual wage or the most recently published average annual
4752 wage of the county in which the qualified business or industry is
4753 located as determined by the Mississippi Department of Employment
4754 Security, whichever is the lesser.

4755 (b) A qualified business or industry that is a project
4756 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4757 which the ten-year period will begin. Such date may not be later
4758 than sixty (60) months after the date the business or industry
4759 applied for incentive payments.

4760 (2) (a) A qualified business or industry that is a project
4761 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4762 receive incentive payments for an additional period not to exceed
4763 five (5) years beyond the expiration date of the initial ten-year
4764 period if:

4765 (i) The qualified business or industry creates at
4766 least three thousand (3,000) new direct jobs within five (5) years



4767 after the date the business or industry commences commercial
4768 production;

4769 (ii) Within five (5) years after the date the
4770 business or industry commences commercial production, the average
4771 annual wage of the jobs is at least one hundred fifty percent
4772 (150%) of the most recently published state average annual wage or
4773 the most recently published average annual wage of the county in
4774 which the qualified business or industry is located as determined
4775 by the Mississippi Department of Employment Security, whichever is
4776 the lesser. The criteria for the average annual wage requirement
4777 shall be based upon the state average annual wage or the average
4778 annual wage of the county whichever is appropriate, at the time of
4779 creation of the minimum number of jobs, and the threshold
4780 established at that time will remain constant for the duration of
4781 the additional period; and

4782 (iii) The qualified business or industry meets and
4783 maintains the job and wage requirements of subparagraphs (i) and
4784 (ii) of this paragraph (a) for four (4) consecutive calendar
4785 quarters.

4786 (b) A qualified business or industry that is a project
4787 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4788 incentive payments for the additional period provided in paragraph
4789 (a) of this subsection (2) may apply to the MDA to receive
4790 incentive payments for an additional period not to exceed ten (10)



4791 years beyond the expiration date of the additional period provided
4792 in paragraph (a) of this subsection (2) if:

4793 (i) The qualified business or industry creates at
4794 least four thousand (4,000) new direct jobs after qualifying for
4795 the additional incentive period provided in paragraph (a) of this
4796 subsection (2) but before the expiration of the additional period.
4797 For purposes of determining whether the business or industry meets
4798 the minimum jobs requirement of this subparagraph (i), the number
4799 of jobs the business or industry created in order to meet the
4800 minimum jobs requirement of paragraph (a) of this subsection (2)
4801 shall be subtracted from the minimum jobs requirement of this
4802 subparagraph (i);

4803 (ii) The average annual wage of the jobs is at
4804 least one hundred fifty percent (150%) of the most recently
4805 published state average annual wage or the most recently published
4806 average annual wage of the county in which the qualified business
4807 or industry is located as determined by the Mississippi Department
4808 of Employment Security, whichever is the lesser. The criteria for
4809 the average annual wage requirement shall be based upon the state
4810 average annual wage or the average annual wage of the county
4811 whichever is appropriate, at the time of creation of the minimum
4812 number of jobs, and the threshold established at that time will
4813 remain constant for the duration of the additional period; and

4814 (iii) The qualified business or industry meets and
4815 maintains the job and wage requirements of subparagraphs (i) and



4816 (ii) of this paragraph (b) for four (4) consecutive calendar
4817 quarters.

4818 (3) In order to receive incentive payments, an establishment
4819 shall apply to the MDA. The application shall be on a form
4820 prescribed by the MDA and shall contain such information as may be
4821 required by the MDA to determine if the applicant is qualified.

4822 (4) (a) In order to qualify to receive such payments, the
4823 establishment applying shall be required to meet the definition of
4824 the term "qualified business or industry";

4825 (b) The criteria for the average annual salary
4826 requirement shall be based upon the state average annual wage or
4827 the average annual wage of the county whichever is appropriate, at
4828 the time of application, and the threshold established upon
4829 application will remain constant for the duration of the project;

4830 (c) The business or industry must meet its job creation
4831 commitment within twenty-four (24) months of the application
4832 approval. However, if the qualified business or industry is
4833 applying for incentive payments for an additional period under
4834 subsection (2) of this section, the business or industry must
4835 comply with the applicable job and wage requirements of subsection
4836 (2) of this section.

4837 (5) (a) The MDA shall determine if the applicant is
4838 qualified to receive incentive payments.

4839 (b) If the applicant is determined to be qualified to
4840 receive incentive payments for an additional period under



4841 subsection (2) of this section, the MDA shall conduct a
4842 cost/benefit analysis to determine the estimated net direct state
4843 benefits and the net benefit rate applicable for the appropriate
4844 additional period and to estimate the amount of gross payroll for
4845 the additional period. In conducting such cost/benefit analysis,
4846 the MDA shall consider quantitative factors, such as the
4847 anticipated level of new tax revenues to the state along with the
4848 cost to the state of the qualified business or industry, and such
4849 other criteria as deemed appropriate by the MDA, including the
4850 adequacy of retirement benefits that the business or industry
4851 provides to individuals it employs in new direct jobs in this
4852 state. In no event shall incentive payments, cumulatively, exceed
4853 the estimated net direct state benefits. Once the qualified
4854 business or industry is approved by the MDA, an agreement shall be
4855 deemed to exist between the qualified business or industry and the
4856 State of Mississippi, requiring the continued incentive payment,
4857 together with any amount due pursuant to subsection (8) of this
4858 section, if applicable, to be made as long as the qualified
4859 business or industry retains its eligibility.

4860 (6) Upon approval of such an application, the MDA shall
4861 notify the Department of Revenue and shall provide it with a copy
4862 of the approved application and the estimated net direct state
4863 benefits. The Department of Revenue may require the qualified
4864 business or industry to submit such additional information as may
4865 be necessary to administer the provisions of this chapter. The



4866 qualified business or industry shall report to the Department of
4867 Revenue periodically to show its continued eligibility for
4868 incentive payments. The qualified business or industry may be
4869 audited by the Department of Revenue to verify such eligibility.
4870 In addition, the State Auditor may conduct performance and
4871 compliance audits under this chapter according to Section
4872 7-7-211(o) and may bill the oversight agency.

4873 (7) If the qualified business or industry is located in an
4874 area that has been declared by the Governor to be a disaster area
4875 and as a result of the disaster the business or industry is unable
4876 to create or maintain the full-time jobs required by this section:

4877 (a) The Commissioner of Revenue may extend the period
4878 of time that the business or industry may receive incentive
4879 payments for a period of time not to exceed two (2) years;

4880 (b) The Commissioner of Revenue may waive the
4881 requirement that a certain number of jobs be maintained for a
4882 period of time not to exceed twenty-four (24) months; and

4883 (c) The MDA may extend the period of time within which
4884 the jobs must be created for a period of time not to exceed
4885 twenty-four (24) months.

4886 (8) Notwithstanding any other provision of this section to
4887 the contrary, from and after January 1, 2023, if the amount of the
4888 incentive payment that a qualified business or industry is
4889 eligible to receive under this chapter is less than the amount
4890 that the incentive payment would have been if the payment had been



4891 calculated using any applicable income tax rates in Section 27-7-5
4892 that were in effect before January 1, 2023, then the qualified
4893 business or industry also shall receive a grant equal to the
4894 difference between such two (2) amounts. Further, the term
4895 "incentive payment," as such term is used in this chapter, shall
4896 be deemed to not refer to or otherwise include any grant payment
4897 payable to a qualified business or industry pursuant to this
4898 subsection.

4899 **[For businesses or industries that apply for incentive**
4900 **payments from and after July 1, 2010, this section shall read as**
4901 **follows:]**

4902 57-62-9. (1) (a) Except as otherwise provided in this
4903 section, a qualified business or industry that meets the
4904 qualifications specified in this chapter may receive quarterly
4905 incentive payments for a period not to exceed ten (10) years from
4906 the Department of Revenue pursuant to the provisions of this
4907 chapter in an amount which shall be equal to ninety percent (90%)
4908 of the amount of actual income tax withheld for employees with new
4909 direct jobs, but in no event more than four percent (4%) of the
4910 total annual salary paid for new direct jobs during such period,
4911 excluding benefits which are not subject to Mississippi income
4912 taxes.

4913 (b) A qualified business or industry that is a project
4914 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4915 which the ten-year period will begin. Such date may not be later



4916 than sixty (60) months after the date the business or industry
4917 applied for incentive payments.

4918 (c) A qualified business or industry as defined in
4919 Section 57-62-5(a)(iii) may elect the date upon which the ten-year
4920 period will begin and may elect to begin receiving incentive
4921 payments as early as the second quarter after that date.

4922 Incentive payments will be calculated on all jobs above the
4923 existing number of jobs as of the date the MDA determines that the
4924 applicant is qualified to receive incentive payments. In the
4925 event that the qualified business or industry falls below the
4926 number of existing jobs at the time of determination that the
4927 applicant is qualified to receive the incentive payment, the
4928 incentive payment shall cease until the qualified business or
4929 industry once again exceeds that number. If after forty-eight
4930 (48) months, the qualified business or industry has failed to
4931 create at least three thousand (3,000) new direct jobs, incentive
4932 payments shall cease and the qualified business or industry shall
4933 not be qualified to receive further incentive payments.

4934 (2) (a) A qualified business or industry that is a project
4935 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4936 receive incentive payments for an additional period not to exceed
4937 five (5) years beyond the expiration date of the initial ten-year
4938 period if:

4939 (i) The qualified business or industry creates at
4940 least three thousand (3,000) new direct jobs within five (5) years



4941 after the date the business or industry commences commercial
4942 production;

4943 (ii) Within five (5) years after the date the
4944 business or industry commences commercial production, the average
4945 annual wage of the jobs is at least one hundred fifty percent
4946 (150%) of the most recently published state average annual wage or
4947 the most recently published average annual wage of the county in
4948 which the qualified business or industry is located as determined
4949 by the Mississippi Department of Employment Security, whichever is
4950 the lesser. The criteria for the average annual wage requirement
4951 shall be based upon the state average annual wage or the average
4952 annual wage of the county whichever is appropriate, at the time of
4953 creation of the minimum number of jobs, and the threshold
4954 established at that time will remain constant for the duration of
4955 the additional period; and

4956 (iii) The qualified business or industry meets and
4957 maintains the job and wage requirements of subparagraphs (i) and
4958 (ii) of this paragraph (a) for four (4) consecutive calendar
4959 quarters.

4960 (b) A qualified business or industry that is a project
4961 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4962 incentive payments for the additional period provided in paragraph
4963 (a) of this subsection (2) may apply to the MDA to receive
4964 incentive payments for an additional period not to exceed ten (10)



4965 years beyond the expiration date of the additional period provided
4966 in paragraph (a) of this subsection (2) if:

4967 (i) The qualified business or industry creates at
4968 least four thousand (4,000) new direct jobs after qualifying for
4969 the additional incentive period provided in paragraph (a) of this
4970 subsection (2) but before the expiration of the additional period.
4971 For purposes of determining whether the business or industry meets
4972 the minimum jobs requirement of this subparagraph (i), the number
4973 of jobs the business or industry created in order to meet the
4974 minimum jobs requirement of paragraph (a) of this subsection (2)
4975 shall be subtracted from the minimum jobs requirement of this
4976 subparagraph (i);

4977 (ii) The average annual wage of the jobs is at
4978 least one hundred fifty percent (150%) of the most recently
4979 published state average annual wage or the most recently published
4980 average annual wage of the county in which the qualified business
4981 or industry is located as determined by the Mississippi Department
4982 of Employment Security, whichever is the lesser. The criteria for
4983 the average annual wage requirement shall be based upon the state
4984 average annual wage or the average annual wage of the county
4985 whichever is appropriate, at the time of creation of the minimum
4986 number of jobs, and the threshold established at that time will
4987 remain constant for the duration of the additional period; and

4988 (iii) The qualified business or industry meets and
4989 maintains the job and wage requirements of subparagraphs (i) and



4990 (ii) of this paragraph (b) for four (4) consecutive calendar
4991 quarters.

4992 (3) In order to receive incentive payments, an establishment
4993 shall apply to the MDA. The application shall be on a form
4994 prescribed by the MDA and shall contain such information as may be
4995 required by the MDA to determine if the applicant is qualified.

4996 (4) (a) In order to qualify to receive such payments, the
4997 establishment applying shall be required to meet the definition of
4998 the term "qualified business or industry";

4999 (b) The criteria for the average annual salary
5000 requirement shall be based upon the state average annual wage or
5001 the average annual wage of the county whichever is appropriate, at
5002 the time of application, and the threshold established upon
5003 application will remain constant for the duration of the project;

5004 (c) Except as otherwise provided for a qualified
5005 business or industry as defined in Section 57-62-5(a)(iii), the
5006 business or industry must meet its job creation commitment within
5007 twenty-four (24) months of the application approval. However, if
5008 the qualified business or industry is applying for incentive
5009 payments for an additional period under subsection (2) of this
5010 section, the business or industry must comply with the applicable
5011 job and wage requirements of subsection (2) of this section.

5012 (5) (a) The MDA shall determine if the applicant is
5013 qualified to receive incentive payments.



5014 (b) If the applicant is determined to be qualified to
5015 receive incentive payments for an additional period under
5016 subsection (2) of this section, the MDA shall conduct an analysis
5017 to estimate the amount of gross payroll for the appropriate
5018 additional period. Incentive payments, cumulatively, shall not
5019 exceed ninety percent (90%) of the amount of actual income tax
5020 withheld for employees with new direct jobs, but in no event more
5021 than four percent (4%) of the total annual salary paid for new
5022 direct jobs during the additional period, excluding benefits which
5023 are not subject to Mississippi income taxes. Once the qualified
5024 business or industry is approved by the MDA, an agreement shall be
5025 deemed to exist between the qualified business or industry and the
5026 State of Mississippi, requiring the continued incentive payment,
5027 together with any amount due pursuant to subsection (8) of this
5028 section, if applicable, to be made as long as the qualified
5029 business or industry retains its eligibility.

5030 (6) Upon approval of such an application, the MDA shall
5031 notify the Department of Revenue and shall provide it with a copy
5032 of the approved application and the minimum job and salary
5033 requirements. The Department of Revenue may require the qualified
5034 business or industry to submit such additional information as may
5035 be necessary to administer the provisions of this chapter. The
5036 qualified business or industry shall report to the Department of
5037 Revenue periodically to show its continued eligibility for
5038 incentive payments. The qualified business or industry may be



5039 audited by the Department of Revenue to verify such eligibility.
5040 In addition, the State Auditor may conduct performance and
5041 compliance audits under this chapter according to Section
5042 7-7-211(o) and may bill the oversight agency.

5043 (7) If the qualified business or industry is located in an
5044 area that has been declared by the Governor to be a disaster area
5045 and as a result of the disaster the business or industry is unable
5046 to create or maintain the full-time jobs required by this section:

5047 (a) The Commissioner of Revenue may extend the period
5048 of time that the business or industry may receive incentive
5049 payments for a period of time not to exceed two (2) years;

5050 (b) The Commissioner of Revenue may waive the
5051 requirement that a certain number of jobs be maintained for a
5052 period of time not to exceed twenty-four (24) months; and

5053 (c) The MDA may extend the period of time within which
5054 the jobs must be created for a period of time not to exceed
5055 twenty-four (24) months.

5056 (8) Notwithstanding any other provision of this section to
5057 the contrary, from and after January 1, 2023, if the amount of the
5058 incentive payment that a qualified business or industry is
5059 eligible to receive under this chapter is less than the amount
5060 that the incentive payment would have been if the payment had been
5061 calculated using any applicable income tax rates in Section 27-7-5
5062 that were in effect before January 1, 2023, then the qualified
5063 business or industry also shall receive a grant equal to the



5064 difference between such two (2) amounts. Further, the term
5065 "incentive payment," as such term is used in this chapter, shall
5066 be deemed to not refer to or otherwise include any grant payment
5067 payable to a qualified business or industry pursuant to this
5068 subsection.

5069 **SECTION 56.** Section 57-75-5, Mississippi Code of 1972, is
5070 reenacted as follows:

5071 57-75-5. Words and phrases used in this chapter shall have
5072 meanings as follows, unless the context clearly indicates a
5073 different meaning:

5074 (a) "Act" means the Mississippi Major Economic Impact
5075 Act as originally enacted or as hereafter amended.

5076 (b) "Authority" means the Mississippi Major Economic
5077 Impact Authority created pursuant to the act.

5078 (c) "Bonds" means general obligation bonds, interim
5079 notes and other evidences of debt of the State of Mississippi
5080 issued pursuant to this chapter.

5081 (d) "Facility related to the project" means and
5082 includes any of the following, as the same may pertain to the
5083 project within the project area: (i) facilities to provide
5084 potable and industrial water supply systems, sewage and waste
5085 disposal systems and water, natural gas and electric transmission
5086 systems to the site of the project; (ii) airports, airfields and
5087 air terminals; (iii) rail lines; (iv) port facilities; (v)
5088 highways, streets and other roadways; (vi) public school



5089 buildings, classrooms and instructional facilities, training
5090 facilities and equipment, including any functionally related
5091 facilities; (vii) parks, outdoor recreation facilities and
5092 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
5093 art centers, cultural centers, folklore centers and other public
5094 facilities; (ix) health care facilities, public or private; and
5095 (x) fire protection facilities, equipment and elevated water
5096 tanks.

5097 (e) "Person" means any natural person, corporation,
5098 association, partnership, limited liability company, receiver,
5099 trustee, guardian, executor, administrator, fiduciary,
5100 governmental unit, public agency, political subdivision, or any
5101 other group acting as a unit, and the plural as well as the
5102 singular.

5103 (f) "Project" means:

5104 (i) Any industrial, commercial, research and
5105 development, warehousing, distribution, transportation,
5106 processing, mining, United States government or tourism enterprise
5107 together with all real property required for construction,
5108 maintenance and operation of the enterprise with an initial
5109 capital investment of not less than Three Hundred Million Dollars
5110 (\$300,000,000.00) from private or United States government sources
5111 together with all buildings, and other supporting land and
5112 facilities, structures or improvements of whatever kind required
5113 or useful for construction, maintenance and operation of the



5114 enterprise; or with an initial capital investment of not less than
5115 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
5116 or United States government sources together with all buildings
5117 and other supporting land and facilities, structures or
5118 improvements of whatever kind required or useful for construction,
5119 maintenance and operation of the enterprise and which creates at
5120 least one thousand (1,000) net new full-time jobs; or which
5121 creates at least one thousand (1,000) net new full-time jobs which
5122 provides an average salary, excluding benefits which are not
5123 subject to Mississippi income taxation, of at least one hundred
5124 twenty-five percent (125%) of the most recently published average
5125 annual wage of the state as determined by the Mississippi
5126 Department of Employment Security. "Project" shall include any
5127 addition to or expansion of an existing enterprise if such
5128 addition or expansion has an initial capital investment of not
5129 less than Three Hundred Million Dollars (\$300,000,000.00) from
5130 private or United States government sources, or has an initial
5131 capital investment of not less than One Hundred Fifty Million
5132 Dollars (\$150,000,000.00) from private or United States government
5133 sources together with all buildings and other supporting land and
5134 facilities, structures or improvements of whatever kind required
5135 or useful for construction, maintenance and operation of the
5136 enterprise and which creates at least one thousand (1,000) net new
5137 full-time jobs; or which creates at least one thousand (1,000) net
5138 new full-time jobs which provides an average salary, excluding



5139 benefits which are not subject to Mississippi income taxation, of
5140 at least one hundred twenty-five percent (125%) of the most
5141 recently published average annual wage of the state as determined
5142 by the Mississippi Department of Employment Security. "Project"
5143 shall also include any ancillary development or business resulting
5144 from the enterprise, of which the authority is notified, within
5145 three (3) years from the date that the enterprise entered into
5146 commercial production, that the project area has been selected as
5147 the site for the ancillary development or business.

5148 (ii) 1. Any major capital project designed to
5149 improve, expand or otherwise enhance any active duty or reserve
5150 United States armed services bases and facilities or any major
5151 Mississippi National Guard training installations, their support
5152 areas or their military operations, upon designation by the
5153 authority that any such base was or is at risk to be recommended
5154 for closure or realignment pursuant to the Defense Base Closure
5155 and Realignment Act of 1990, as amended, or other applicable
5156 federal law; or any major development project determined by the
5157 authority to be necessary to acquire or improve base properties
5158 and to provide employment opportunities through construction of
5159 projects as defined in Section 57-3-5, which shall be located on
5160 or provide direct support service or access to such military
5161 installation property in the event of closure or reduction of
5162 military operations at the installation.



5163 2. Any major study or investigation related
5164 to such a facility, installation or base, upon a determination by
5165 the authority that the study or investigation is critical to the
5166 expansion, retention or reuse of the facility, installation or
5167 base.

5168 3. Any project as defined in Section 57-3-5,
5169 any business or enterprise determined to be in the furtherance of
5170 the public purposes of this act as determined by the authority or
5171 any facility related to such project each of which shall be,
5172 directly or indirectly, related to any military base or other
5173 military-related facility no longer operated by the United States
5174 armed services or the Mississippi National Guard.

5175 (iii) Any enterprise to be maintained, improved or
5176 constructed in Tishomingo County by or for a National Aeronautics
5177 and Space Administration facility in such county.

5178 (iv) 1. Any major capital project with an initial
5179 capital investment from private sources of not less than Seven
5180 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
5181 at least three thousand (3,000) jobs meeting criteria established
5182 by the Mississippi Development Authority.

5183 2. "Project" shall also include any ancillary
5184 development or business resulting from an enterprise operating a
5185 project as defined in item 1 of this paragraph (f) (iv), of which
5186 the authority is notified, within three (3) years from the date
5187 that the enterprise entered into commercial production, that the



5188 state has been selected as the site for the ancillary development
5189 or business.

5190 (v) Any manufacturing, processing or industrial
5191 project determined by the authority, in its sole discretion, to
5192 contribute uniquely and significantly to the economic growth and
5193 development of the state, and which meets the following criteria:

5194 1. The project shall create at least two
5195 thousand (2,000) net new full-time jobs meeting criteria
5196 established by the authority, which criteria shall include, but
5197 not be limited to, the requirement that such jobs must be held by
5198 persons eligible for employment in the United States under
5199 applicable state and federal law.

5200 2. The project and any facility related to
5201 the project shall include a total investment from private sources
5202 of not less than Sixty Million Dollars (\$60,000,000.00), or from
5203 any combination of sources of not less than Eighty Million Dollars
5204 (\$80,000,000.00).

5205 (vi) Any real property owned or controlled by the
5206 National Aeronautics and Space Administration, the United States
5207 government, or any agency thereof, which is legally conveyed to
5208 the State of Mississippi or to the State of Mississippi for the
5209 benefit of the Mississippi Major Economic Impact Authority, its
5210 successors and assigns pursuant to Section 212 of Public Law
5211 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).



5212 (vii) Any major capital project related to the
5213 establishment, improvement, expansion and/or other enhancement of
5214 any active duty military installation and having a minimum capital
5215 investment from any source or combination of sources other than
5216 the State of Mississippi of at least Forty Million Dollars
5217 (\$40,000,000.00), and which will create at least four hundred
5218 (400) military installation related full-time jobs, which jobs may
5219 be military jobs, civilian jobs or a combination of military and
5220 civilian jobs. The authority shall require that binding
5221 commitments be entered into requiring that the minimum
5222 requirements for the project provided for in this subparagraph
5223 shall be met not later than July 1, 2008.

5224 (viii) Any major capital project with an initial
5225 capital investment from any source or combination of sources of
5226 not less than Ten Million Dollars (\$10,000,000.00) which will
5227 create at least eighty (80) full-time jobs which provide an
5228 average annual salary, excluding benefits which are not subject to
5229 Mississippi income taxes, of at least one hundred thirty-five
5230 percent (135%) of the most recently published average annual wage
5231 of the state or the most recently published average annual wage of
5232 the county in which the project is located as determined by the
5233 Mississippi Department of Employment Security, whichever is the
5234 lesser. The authority shall require that binding commitments be
5235 entered into requiring that:



5236 1. The minimum requirements for the project
5237 provided for in this subparagraph shall be met; and

5238 2. That if such commitments are not met, all
5239 or a portion of the funds provided by the state for the project as
5240 determined by the authority shall be repaid.

5241 (ix) Any regional retail shopping mall with an
5242 initial capital investment from private sources in excess of One
5243 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
5244 footage in excess of eight hundred thousand (800,000) square feet,
5245 which will create at least seven hundred (700) full-time jobs with
5246 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
5247 authority shall require that binding commitments be entered into
5248 requiring that:

5249 1. The minimum requirements for the project
5250 provided for in this subparagraph shall be met; and

5251 2. That if such commitments are not met, all
5252 or a portion of the funds provided by the state for the project as
5253 determined by the authority shall be repaid.

5254 (x) Any major capital project with an initial
5255 capital investment from any source or combination of sources of
5256 not less than Seventy-five Million Dollars (\$75,000,000.00) which
5257 will create at least one hundred twenty-five (125) full-time jobs
5258 which provide an average annual salary, excluding benefits which
5259 are not subject to Mississippi income taxes, of at least one
5260 hundred thirty-five percent (135%) of the most recently published



5261 average annual wage of the state or the most recently published
5262 average annual wage of the county in which the project is located
5263 as determined by the Mississippi Department of Employment
5264 Security, whichever is the greater. The authority shall require
5265 that binding commitments be entered into requiring that:

5266 1. The minimum requirements for the project
5267 provided for in this subparagraph shall be met; and

5268 2. That if such commitments are not met, all
5269 or a portion of the funds provided by the state for the project as
5270 determined by the authority shall be repaid.

5271 (xi) Any potential major capital project that the
5272 authority has determined is feasible to recruit.

5273 (xii) Any project built according to the
5274 specifications and federal provisions set forth by the National
5275 Aeronautics and Space Administration Center Operations Directorate
5276 at Stennis Space Center for the purpose of consolidating common
5277 services from National Aeronautics and Space Administration
5278 centers in human resources, procurement, financial management and
5279 information technology located on land owned or controlled by the
5280 National Aeronautics and Space Administration, which will create
5281 at least four hundred seventy (470) full-time jobs.

5282 (xiii) Any major capital project with an initial
5283 capital investment from any source or combination of sources of
5284 not less than Ten Million Dollars (\$10,000,000.00) which will
5285 create at least two hundred fifty (250) full-time jobs. The



5286 authority shall require that binding commitments be entered into
5287 requiring that:

5288 1. The minimum requirements for the project
5289 provided for in this subparagraph shall be met; and

5290 2. That if such commitments are not met, all
5291 or a portion of the funds provided by the state for the project as
5292 determined by the authority shall be repaid.

5293 (xiv) Any major pharmaceutical facility with a
5294 capital investment of not less than Fifty Million Dollars
5295 (\$50,000,000.00) made after July 1, 2002, through four (4) years
5296 after the initial date of any loan or grant made by the authority
5297 for such project, which will maintain at least seven hundred fifty
5298 (750) full-time employees. The authority shall require that
5299 binding commitments be entered into requiring that:

5300 1. The minimum requirements for the project
5301 provided for in this subparagraph shall be met; and

5302 2. That if such commitments are not met, all
5303 or a portion of the funds provided by the state for the project as
5304 determined by the authority shall be repaid.

5305 (xv) Any pharmaceutical manufacturing, packaging
5306 and distribution facility with an initial capital investment from
5307 any local or federal sources of not less than Five Hundred
5308 Thousand Dollars (\$500,000.00) which will create at least ninety
5309 (90) full-time jobs. The authority shall require that binding
5310 commitments be entered into requiring that:



5311 1. The minimum requirements for the project
5312 provided for in this subparagraph shall be met; and

5313 2. That if such commitments are not met, all
5314 or a portion of the funds provided by the state for the project as
5315 determined by the authority shall be repaid.

5316 (xvi) Any major industrial wood processing
5317 facility with an initial capital investment of not less than One
5318 Hundred Million Dollars (\$100,000,000.00) which will create at
5319 least one hundred twenty-five (125) full-time jobs which provide
5320 an average annual salary, excluding benefits which are not subject
5321 to Mississippi income taxes, of at least Thirty Thousand Dollars
5322 (\$30,000.00). The authority shall require that binding
5323 commitments be entered into requiring that:

5324 1. The minimum requirements for the project
5325 provided for in this subparagraph shall be met; and

5326 2. That if such commitments are not met, all
5327 or a portion of the funds provided by the state for the project as
5328 determined by the authority shall be repaid.

5329 (xvii) Any technical, engineering,
5330 manufacturing-logistic service provider with an initial capital
5331 investment of not less than One Million Dollars (\$1,000,000.00)
5332 which will create at least ninety (90) full-time jobs. The
5333 authority shall require that binding commitments be entered into
5334 requiring that:



5335 1. The minimum requirements for the project
5336 provided for in this subparagraph shall be met; and

5337 2. That if such commitments are not met, all
5338 or a portion of the funds provided by the state for the project as
5339 determined by the authority shall be repaid.

5340 (xviii) Any major capital project with an initial
5341 capital investment from any source or combination of sources other
5342 than the State of Mississippi of not less than Six Hundred Million
5343 Dollars (\$600,000,000.00) which will create at least four hundred
5344 fifty (450) full-time jobs with an average annual salary,
5345 excluding benefits which are not subject to Mississippi income
5346 taxes, of at least Seventy Thousand Dollars (\$70,000.00). The
5347 authority shall require that binding commitments be entered into
5348 requiring that:

5349 1. The minimum requirements for the project
5350 provided for in this subparagraph shall be met; and

5351 2. That if such commitments are not met, all
5352 or a portion of the funds provided by the state for the project as
5353 determined by the authority shall be repaid.

5354 (xix) Any major coal and/or petroleum coke
5355 gasification project with an initial capital investment from any
5356 source or combination of sources other than the State of
5357 Mississippi of not less than Eight Hundred Million Dollars
5358 (\$800,000,000.00), which will create at least two hundred (200)
5359 full-time jobs with an average annual salary, excluding benefits



5360 which are not subject to Mississippi income taxes, of at least
5361 Forty-five Thousand Dollars (\$45,000.00). The authority shall
5362 require that binding commitments be entered into requiring that:

5363 1. The minimum requirements for the project
5364 provided for in this subparagraph shall be met; and

5365 2. That if such commitments are not met, all
5366 or a portion of the funds provided by the state for the project as
5367 determined by the authority shall be repaid.

5368 (xx) Any planned mixed use development located on
5369 not less than four thousand (4,000) acres of land that will
5370 consist of commercial, recreational, resort, tourism and
5371 residential development with a capital investment from private
5372 sources of not less than Four Hundred Seventy-five Million Dollars
5373 (\$475,000,000.00) in the aggregate in any one (1) or any
5374 combination of tourism projects that will create at least three
5375 thousand five hundred (3,500) jobs in the aggregate. For the
5376 purposes of this paragraph (f) (xx), the term "tourism project"
5377 means and has the same definition as that term has in Section
5378 57-28-1. In order to meet the minimum capital investment required
5379 under this paragraph (f) (xx), at least Two Hundred Thirty-seven
5380 Million Five Hundred Thousand Dollars (\$237,500,000.00) of such
5381 investment must be made not later than June 1, 2015, and the
5382 remainder of the minimum capital investment must be made not later
5383 than June 1, 2017. In order to meet the minimum number of jobs
5384 required to be created under this paragraph (f) (xx), at least one



5385 thousand seven hundred fifty (1,750) of such jobs must be created
5386 not later than June 1, 2015, and the remainder of the jobs must be
5387 created not later than June 1, 2017. The authority shall require
5388 that binding commitments be entered into requiring that:

5389 1. The minimum requirements for the project
5390 provided for in this subparagraph shall be met; and

5391 2. That if such commitments are not met, all
5392 or a portion of the funds provided by the state for the project as
5393 determined by the authority shall be repaid.

5394 (xxi) Any enterprise owning or operating an
5395 automotive manufacturing and assembly plant and its affiliates for
5396 which construction begins after March 2, 2007, and not later than
5397 December 1, 2007, with an initial capital investment from private
5398 sources of not less than Five Hundred Million Dollars
5399 (\$500,000,000.00) which will create at least one thousand five
5400 hundred (1,500) jobs meeting criteria established by the
5401 authority, which criteria shall include, but not be limited to,
5402 the requirement that such jobs must be held by persons eligible
5403 for employment in the United States under applicable state and
5404 federal law. The authority shall require that binding commitments
5405 be entered into requiring that:

5406 1. The minimum requirements for the project
5407 provided for in this subparagraph shall be met; and



5408 2. That if such commitments are not met, all
5409 or a portion of the funds provided by the state for the project as
5410 determined by the authority shall be repaid.

5411 (xxii) Any enterprise owning or operating a major
5412 powertrain component manufacturing and assembly plant for which
5413 construction begins after May 11, 2007, and not later than
5414 December 1, 2007, with an initial capital investment from private
5415 sources of not less than Three Hundred Million Dollars
5416 (\$300,000,000.00) which will create at least five hundred (500)
5417 new full-time jobs meeting criteria established by the authority,
5418 which criteria shall include, but not be limited to, the
5419 requirement that such jobs must be held by persons eligible for
5420 employment in the United States under applicable state and federal
5421 law, and the requirement that the average annual wages and taxable
5422 benefits of such jobs shall be at least one hundred twenty-five
5423 percent (125%) of the most recently published average annual wage
5424 of the state or the most recently published average annual wage of
5425 the county in which the project is located as determined by the
5426 Mississippi Department of Employment Security, whichever is the
5427 lesser. The authority shall require that binding commitments be
5428 entered into requiring that:

5429 1. The minimum requirements for the project
5430 provided for in this subparagraph shall be met; and



5431 2. That if such commitments are not met, all
5432 or a portion of the funds provided by the state for the project as
5433 determined by the authority shall be repaid.

5434 (xxiii) Any biological and agricultural defense
5435 project operated by an agency of the government of the United
5436 States with an initial capital investment of not less than Four
5437 Hundred Fifty Million Dollars (\$450,000,000.00) from any source
5438 other than the State of Mississippi and its subdivisions, which
5439 will create at least two hundred fifty (250) new full-time jobs.
5440 All jobs created by the project must be held by persons eligible
5441 for employment in the United States under applicable state and
5442 federal law.

5443 (xxiv) Any enterprise owning or operating an
5444 existing tire manufacturing plant which adds to such plant capital
5445 assets of not less than Twenty-five Million Dollars
5446 (\$25,000,000.00) after January 1, 2009, and that maintains at
5447 least one thousand two hundred (1,200) full-time jobs in this
5448 state at one (1) location with an average annual salary, excluding
5449 benefits which are not subject to Mississippi income taxes, of at
5450 least Forty-five Thousand Dollars (\$45,000.00). The authority
5451 shall require that binding commitments be entered into requiring
5452 that:

5453 1. The minimum requirements for the project
5454 provided for in this subparagraph shall be met; and



5455 2. That if such commitments are not met, all
5456 or a portion of the funds provided by the state for the project as
5457 determined by the authority shall be repaid.

5458 (xxv) Any enterprise owning or operating a
5459 facility for the manufacture of composite components for the
5460 aerospace industry which will have an investment from private
5461 sources of not less than One Hundred Seventy-five Million Dollars
5462 (\$175,000,000.00) by not later than December 31, 2015, and which
5463 will result in the full-time employment at the project site of not
5464 less than two hundred seventy-five (275) persons by December 31,
5465 2011, and not less than four hundred twenty-five (425) persons by
5466 December 31, 2013, and not less than eight hundred (800) persons
5467 by December 31, 2017, all with an average annual compensation,
5468 excluding benefits which are not subject to Mississippi income
5469 taxes, of at least Fifty-three Thousand Dollars (\$53,000.00). The
5470 authority shall require that binding commitments be entered into
5471 requiring that:

5472 1. The minimum requirements for the project
5473 provided for in this subparagraph shall be met; and

5474 2. That if such commitments are not met, all
5475 or a portion of the funds provided by the state for the project as
5476 determined by the authority shall be repaid.

5477 (xxvi) Any enterprise owning or operating a
5478 facility for the manufacture of pipe which will have an investment
5479 from any source other than the State of Mississippi and its



5480 subdivisions of not less than Three Hundred Million Dollars
5481 (\$300,000,000.00) by not later than December 31, 2015, and which
5482 will create at least five hundred (500) new full-time jobs within
5483 five (5) years after the start of commercial production and
5484 maintain such jobs for at least ten (10) years, all with an
5485 average annual compensation, excluding benefits which are not
5486 subject to Mississippi income taxes, of at least Thirty-two
5487 Thousand Dollars (\$32,000.00). The authority shall require that
5488 binding commitments be entered into requiring that:

5489 1. The minimum requirements for the project
5490 provided for in this subparagraph shall be met; and

5491 2. That if such commitments are not met, all
5492 or a portion of the funds provided by the state for the project as
5493 determined by the authority shall be repaid.

5494 (xxvii) Any enterprise owning or operating a
5495 facility for the manufacture of solar panels which will have an
5496 investment from any source other than the State of Mississippi and
5497 its subdivisions of not less than One Hundred Thirty-two Million
5498 Dollars (\$132,000,000.00) by not later than December 31, 2015, and
5499 which will create at least five hundred (500) new full-time jobs
5500 within five (5) years after the start of commercial production and
5501 maintain such jobs for at least ten (10) years, all with an
5502 average annual compensation, excluding benefits which are not
5503 subject to Mississippi income taxes, of at least Thirty-four



5504 Thousand Dollars (\$34,000.00). The authority shall require that
5505 binding commitments be entered into requiring that:

5506 1. The minimum requirements for the project
5507 provided for in this subparagraph shall be met; and

5508 2. That if such commitments are not met, all
5509 or a portion of the funds provided by the state for the project as
5510 determined by the authority shall be repaid.

5511 (xxviii) 1. Any enterprise owning or operating an
5512 automotive parts manufacturing plant and its affiliates for which
5513 construction begins after June 1, 2013, and not later than June
5514 30, 2014, with an initial capital investment of not less than
5515 Three Hundred Million Dollars (\$300,000,000.00) which will create
5516 at least five hundred (500) new full-time jobs meeting criteria
5517 established by the authority, which criteria shall include, but
5518 not be limited to, the requirement that such jobs must be held by
5519 persons eligible for employment in the United States under
5520 applicable state and federal law, and the requirement that the
5521 average annual wages and taxable benefits of such jobs shall be at
5522 least one hundred ten percent (110%) of the most recently
5523 published average annual wage of the state or the most recently
5524 published average annual wage of the county in which the project
5525 is located as determined by the Mississippi Department of
5526 Employment Security, whichever is the lesser. The authority shall
5527 require that binding commitments be entered into requiring that:



5528 a. The minimum requirements for the
5529 project provided for in this subparagraph shall be met; and
5530 b. That if such commitments are not met,
5531 all or a portion of the funds provided by the state for the
5532 project as determined by the authority shall be repaid.

5533 2. It is anticipated that the project defined
5534 in this subparagraph (xxviii) will expand in three (3) additional
5535 phases, will create an additional five hundred (500) full-time
5536 jobs meeting the above criteria in each phase, and will invest an
5537 additional Three Hundred Million Dollars (\$300,000,000.00) per
5538 phase.

5539 (xxix) Any enterprise engaged in the manufacture
5540 of tires or other related rubber or automotive products for which
5541 construction of a plant begins after January 1, 2016, and is
5542 substantially completed no later than December 31, 2022, and for
5543 which such enterprise commits to an aggregate capital investment
5544 by such enterprise and its affiliates of not less than One Billion
5545 Four Hundred Fifty Million Dollars (\$1,450,000,000.00) and the
5546 creation thereby of at least two thousand five hundred (2,500) new
5547 full-time jobs meeting criteria established by the authority,
5548 which criteria shall include, but not be limited to, the
5549 requirement that such jobs must be held by persons eligible for
5550 employment in the United States under applicable state and federal
5551 law, and the requirement that the average annual salary or wage,
5552 excluding the value of any benefits which are not subject to



5553 Mississippi income tax, of such jobs shall be at least Forty
5554 Thousand Dollars (\$40,000.00). The authority shall require that
5555 binding commitments be entered into requiring that:

5556 1. Minimum requirements for investment and
5557 jobs for the project shall be met; and

5558 2. If such requirements are not met, all or a
5559 portion of the funds provided by the state for the project may, as
5560 determined by the authority, be subject to repayment by such
5561 enterprise and/or its affiliates, together with any penalties or
5562 damages required by the authority in connection therewith.

5563 (xxx) Any enterprise owning or operating a
5564 maritime fabrication and assembly facility for which construction
5565 begins after February 1, 2016, and concludes not later than
5566 December 31, 2018, with an initial capital investment in land,
5567 buildings and equipment not less than Sixty-eight Million Dollars
5568 (\$68,000,000.00) and will create not less than one thousand
5569 (1,000) new full-time jobs meeting criteria established by the
5570 authority, which criteria shall include, but not be limited to,
5571 the requirement that such jobs must be held by persons eligible
5572 for employment in the United States under applicable state and
5573 federal law, and the requirement that the average annual
5574 compensation, excluding benefits which are not subject to
5575 Mississippi income taxes, of at least Forty Thousand Dollars
5576 (\$40,000.00). The authority shall require that binding
5577 commitments be entered into requiring that:



5578 1. The minimum requirements for the project
5579 provided for in this subparagraph shall be met; and

5580 2. If such commitments are not met, all or a
5581 portion of the funds provided by the state for the project may, as
5582 determined by the authority, be subject to repayment by such
5583 enterprise, together with any penalties or damages required by the
5584 authority in connection therewith.

5585 (xxxi) Each of the projects defined in this
5586 paragraph (f)(xxxi)1 and 2 that are undertaken by affiliated
5587 enterprises, together with any or all of the projects defined in
5588 this paragraph (f)(xxxi)3 and/or 4 if they are undertaken by the
5589 same or other enterprises affiliated with those enterprises that
5590 undertake projects defined in this paragraph (f)(xxxi)1 and 2:

5591 1. An enterprise engaged in the manufacturing
5592 and production of recycled flat-rolled aluminum or related
5593 products for which construction of recycled aluminum flat-rolled
5594 mill begins after January 1, 2023, and is substantially completed
5595 no later than December 31, 2026; and

5596 2. An enterprise engaged in the manufacturing
5597 and production of biocarbon from biomass for which construction of
5598 the biocarbon manufacturing facility begins after December 1,
5599 2022, and is substantially completed no later than December 31,
5600 2026; provided that such series of projects may additionally, but
5601 shall not be required to, include:



5602 3. Any other affiliated enterprise that
5603 undertakes the development and operation of a new industrial or
5604 commercial facility in the state, excluding any area or areas
5605 designated by the authority in a written agreement between such
5606 enterprise or any affiliate thereof, for which the construction of
5607 any such facility begins after January 1, 2023, and is
5608 substantially completed no later than December 31, 2029; and/or

5609 4. An enterprise engaged in the development
5610 and operation of port activities (e.g., the loading and unloading
5611 of barges, rail cars and trucks, the storage and handling of
5612 materials, and other port-related operations) in support of all or
5613 any of the enterprises enumerated in this paragraph (f)(xxxi)1, 2
5614 and 3, or otherwise in support of an existing electric arc furnace
5615 steel mill producing flat-rolled steel and related products; and
5616 for which the parent enterprise of such affiliated enterprises
5617 enumerated in this paragraph (f)(xxxi)1, 2, 3 and/or 4 commits to
5618 an aggregate, collective capital investment by one or more or any
5619 combination of such enterprises and their affiliates, as well as
5620 by any co-located customers, of not less than Two Billion Five
5621 Hundred Million Dollars (\$2,500,000,000.00) and the creation
5622 thereby of at least one thousand (1,000) new full-time jobs
5623 meeting criteria established by the authority, which criteria
5624 shall include, but not be limited to, the requirement that such
5625 jobs must be held by persons eligible for employment in the United
5626 States under applicable state and federal law, and the requirement



5627 that the average annual salary or wage, excluding the value of any
5628 benefits which are not subject to Mississippi income tax, of such
5629 jobs shall be at least Ninety-three Thousand Dollars (\$93,000.00).
5630 The authority shall require that binding commitments be entered
5631 into requiring that:

5632 a. Minimum requirements for investment
5633 and jobs for such affiliated projects shall be met; and

5634 b. If such requirements are not
5635 collectively met, all or a portion of the funds provided by the
5636 state for such affiliated projects may, as determined by the
5637 authority, be subject to repayment by such enterprises and/or
5638 their affiliates, together with any penalties or damages required
5639 by the authority in connection therewith.

5640 For purposes of this paragraph (f)(xxxi), A. a co-located
5641 customer shall mean a person who locates and operates any new
5642 manufacturing, processing, warehousing and/or distribution
5643 facility within the project area for the project defined in this
5644 paragraph (f)(xxxi)1 and utilizes, directly or indirectly, in its
5645 operations any aluminum or related products produced by such
5646 project, and B. an affiliated enterprise or an affiliate means a
5647 related business entity which shares a common direct or indirect
5648 ownership with the enterprise owning or operating a project as
5649 defined in this paragraph (f)(xxxi)1, 2, 3 or 4. References in
5650 the act to a project, as defined by this paragraph (f)(xxxi) shall



5651 mean any one of, any combination or all of the projects as defined
5652 in this paragraph (f) (xxxi)1, 2, 3 or 4.

5653 (g) (i) "Project area" means the project site,
5654 together with any area or territory within the state lying within
5655 sixty-five (65) miles of any portion of the project site whether
5656 or not such area or territory be contiguous; however, for the
5657 project defined in paragraph (f) (iv) of this section the term
5658 "project area" means any area or territory within the state. The
5659 project area shall also include all territory within a county if
5660 any portion of such county lies within sixty-five (65) miles of
5661 any portion of the project site. "Project site" means the real
5662 property on which the principal facilities of the enterprise will
5663 operate. The provisions of this subparagraph (i) shall not apply
5664 to a project as defined in paragraph (f) (xxi) of this section.

5665 (ii) For the purposes of a project as defined in
5666 paragraph (f) (xxi) of this section, the term "project area" means
5667 the acreage authorized in the certificate of convenience and
5668 necessity issued by the Mississippi Development Authority to a
5669 regional economic development alliance under Section 57-64-1 et
5670 seq.

5671 (iii) For the purposes of a project as defined in
5672 paragraph (f) (xxxi)1 of this section, the term "project area"
5673 means the acreage specified by the authority in written agreement
5674 with the enterprise undertaking such project and/or an affiliate
5675 thereof.



5676 (h) "Public agency" means:
5677 (i) Any department, board, commission, institution
5678 or other agency or instrumentality of the state;
5679 (ii) Any city, town, county, political
5680 subdivision, school district or other district created or existing
5681 under the laws of the state or any public agency of any such city,
5682 town, county, political subdivision or district or any other
5683 public entity created or existing under local and private
5684 legislation;
5685 (iii) Any department, commission, agency or
5686 instrumentality of the United States of America; and
5687 (iv) Any other state of the United States of
5688 America which may be cooperating with respect to location of the
5689 project within the state, or any agency thereof.
5690 (i) "State" means State of Mississippi.
5691 (j) "Fee-in-lieu" means a negotiated fee to be paid by
5692 the project in lieu of any franchise taxes imposed on the project
5693 by Chapter 13, Title 27, Mississippi Code of 1972. The
5694 fee-in-lieu shall not be less than Twenty-five Thousand Dollars
5695 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an
5696 enterprise operating an existing project defined in paragraph
5697 (f)(iv)¹ of this section; however, a fee-in-lieu shall not be
5698 negotiated for other existing enterprises that fall within the
5699 definition of the term "project."



5700 (k) (i) "Affiliate" means a subsidiary or related
5701 business entity which shares a common direct or indirect ownership
5702 with the enterprise owning or operating a project as defined in
5703 paragraph (f)(xxi), paragraph (f)(xxviii) or paragraph (f)(xxix)
5704 of this section. The subsidiary or related business must provide
5705 services directly related to the core activities of the project.

5706 (ii) For the purposes of a project as defined in
5707 paragraph (f)(xxxii) of this section, an "affiliated enterprise" or
5708 an "affiliate" means a related business entity which shares a
5709 common direct or indirect ownership with the enterprise owning or
5710 operating a project as defined in paragraph (f)(xxxii)1, 2, 3 or 4
5711 of this section.

5712 (l) "Tier One supplier" means a supplier of a project
5713 as defined in paragraph (f)(xxi) of this section that is certified
5714 by the enterprise owning the project and creates a minimum of
5715 fifty (50) new full-time jobs.

5716 **SECTION 57.** Section 57-80-7, Mississippi Code of 1972, is
5717 reenacted as follows:

5718 57-80-7. (1) From and after December 31, 2000, the
5719 following counties may apply to the MDA for the issuance of a
5720 certificate of public convenience and necessity:

5721 (a) Any county of this state which has an annualized
5722 unemployment rate that is at least two hundred percent (200%) of
5723 the state's unemployment rate as of December 31 of any year after



5724 December 31, 2000, as determined by the Mississippi Department of
5725 Employment Security's most recently published data;

5726 (b) Any county of this state in which thirty percent
5727 (30%) or more of the population of the county is at or below the
5728 federal poverty level according to the official data compiled by
5729 the United States Census Bureau as of August 30, 2000, for
5730 counties that apply before December 31, 2002, or the most recent
5731 official data compiled by the United States Census Bureau for
5732 counties that apply from and after December 31, 2002; or

5733 (c) Any county of this state having an eligible
5734 supervisors district.

5735 (2) The application, at a minimum, must contain (a) the
5736 Mississippi Department of Employment Security's most recently
5737 published figures that reflect the annualized unemployment rate of
5738 the applying county as of December 31 or the most recent official
5739 data by the United States Census Bureau required by subsection (1)
5740 of this section, as the case may be, and (b) an order or
5741 resolution of the county consenting to the designation of the
5742 county as a growth and prosperity county.

5743 (3) Any municipality of a designated growth and prosperity
5744 county or within an eligible supervisors district and not more
5745 than eight (8) miles from the boundary of the county that meets
5746 the criteria of subsection (1)(b) of this section may by order or
5747 resolution of the municipality consent to participation in the
5748 Growth and Prosperity Program.



5749 (4) No incentive or tax exemption shall be given under this
5750 chapter without the consent of the affected county or
5751 municipality.

5752 **SECTION 58.** Section 69-2-5, Mississippi Code of 1972, is
5753 reenacted as follows:

5754 69-2-5. (1) The Mississippi Cooperative Extension Service
5755 shall act as a clearinghouse for the dissemination of information
5756 regarding programs and services which may be available to help
5757 those persons and businesses which have been adversely affected by
5758 the present emergency in the agricultural community. The
5759 Cooperative Extension Service shall develop a plan of assistance
5760 which shall identify all programs and services available within
5761 the state which can be of assistance to those affected by the
5762 present emergency. The Department of Agriculture and Commerce,
5763 Department of Finance and Administration, Department of Human
5764 Services, Department of Mental Health, State Department of Health,
5765 Board of Trustees of State Institutions of Higher Learning,
5766 Mississippi Community College Board, Research and Development
5767 Center, Mississippi Development Authority, Department of
5768 Employment Security, Office of the Governor, Board of Vocational
5769 and Technical Education, Mississippi Authority for Educational
5770 Television, and other agencies of the state which have programs
5771 and services that can be of assistance to those affected by the
5772 present emergency, shall provide information regarding their
5773 programs and services to the Cooperative Extension Service for use



5774 in the clearinghouse. The types of programs and services shall
5775 include, but not be limited to, financial counseling, farm and
5776 small business management, employment services, labor market
5777 information, job retraining, vocational and technical training,
5778 food stamp programs, personal counseling, health services, and
5779 free or low cost legal services. The clearinghouse shall provide
5780 a single contact point to provide program information and referral
5781 services to individuals interested or needing services from
5782 state-funded assistance programs affecting agriculture,
5783 horticulture, aquaculture and other agribusinesses or related
5784 industries. Such assistance information shall identify all monies
5785 available under the Small Business Financing Act, the Business
5786 Investment Act, the Emerging Crops Fund legislation and any other
5787 sources which may be used singularly or combined, to provide a
5788 comprehensive financing package. The provisions of this section
5789 in establishing a single contact point for information and
5790 referral services shall not be construed to authorize the hiring
5791 of additional personnel.

5792 (2) The Cooperative Extension Service may accept monetary or
5793 in-kind contributions, gifts and grants for the establishment or
5794 operation of the clearinghouse.

5795 (3) The Cooperative Extension Service shall establish a
5796 method for the dissemination of information to those who can be
5797 benefited by the existing programs and services of the state.



5798 (4) The Cooperative Extension Service shall file an annual
5799 report with the Governor, Lieutenant Governor and Speaker of the
5800 House of Representatives regarding the efforts which have been
5801 made in the clearinghouse operation. The report shall also
5802 recommend any additional measures, including legislation, which
5803 may be needed or desired in providing programs and benefits to
5804 those affected by the agricultural emergency.

5805 **SECTION 59.** Section 7-1-355, Mississippi Code of 1972, is
5806 reenacted as follows:

5807 7-1-355. (1) The Mississippi Department of Employment
5808 Security, Office of the Governor, is designated as the sole
5809 administrator of all programs for which the state is the prime
5810 sponsor under Title 1(B) of Public Law 105-220, Workforce
5811 Investment Act of 1998, and the regulations promulgated
5812 thereunder, and may take all necessary action to secure to this
5813 state the benefits of that legislation. The Mississippi
5814 Department of Employment Security, Office of the Governor, may
5815 receive and disburse funds for those programs that become
5816 available to it from any source.

5817 (2) The Mississippi Department of Employment Security,
5818 Office of the Governor, shall establish guidelines on the amount
5819 and/or percentage of indirect and/or administrative expenses by
5820 the local fiscal agent or the Workforce Development Center
5821 operator. The Mississippi Department of Employment Security,
5822 Office of the Governor, shall develop an accountability system and



5823 make an annual report to the Legislature before December 31 of
5824 each year on Workforce Investment Act activities. The report
5825 shall include, but is not limited to, the following:

5826 (a) The total number of individuals served through the
5827 Workforce Development Centers and the percentage and number of
5828 individuals for which a quarterly follow-up is provided;

5829 (b) The number of individuals who receive core services
5830 by each center;

5831 (c) The number of individuals who receive intensive
5832 services by each center;

5833 (d) The number of Workforce Investment Act vouchers
5834 issued by the Workforce Development Centers including:

5835 (i) A list of schools and colleges to which these
5836 vouchers were issued and the average cost per school of the
5837 vouchers; and

5838 (ii) A list of the types of programs for which
5839 these vouchers were issued;

5840 (e) The number of individuals placed in a job through
5841 Workforce Development Centers;

5842 (f) The monies and the amount retained for
5843 administrative and other costs received from Workforce Investment
5844 Act funds for each agency or organization that Workforce
5845 Investment Act funds flow through as a percentage and actual
5846 dollar amount of all Workforce Investment Act funds received.



5847 **SECTION 60.** Section 60, Chapter 572, Laws of 2004, as
5848 amended by Section 58, Chapter 30, Laws of the First Extraordinary
5849 Session of 2008, as amended by Section 58, Chapter 559, Laws of
5850 2010 Regular Session, as amended by Section 59, Chapter 471, Laws
5851 of 2011, as amended by Section 58, Chapter 515, Laws of 2012, as
5852 amended by Section 58, Chapter 451, Laws of 2019, as amended by
5853 Section 7, Chapter 476, Laws of 2020, is amended as follows:

5854 Section 60. Sections 8 through 59 of this act shall stand
5855 repealed on July 1, * * * 2027.

5856 **SECTION 61.** Section 25-1-98, Mississippi Code of 1972, is
5857 amended as follows:

5858 25-1-98. (1) (a) In addition to any other times required
5859 by statute, all state offices shall be open and staffed for the
5860 normal conduct of business from 8:00 a.m. until 5:00 p.m., Monday
5861 through Friday, except on legal holidays as set forth in Section
5862 3-3-7. The Governor may designate certain state offices and
5863 institutions as providers of essential services and require that
5864 they be open and staffed on legal holidays. The Board of
5865 Directors of the Mississippi Industries for the Blind may, in its
5866 discretion, require that its offices and operations be open and
5867 staffed on legal holidays. Employees required to work on legal
5868 holidays shall earn compensatory leave under the provisions of
5869 Section 25-3-92. No employee shall receive additional vacation or
5870 sick leave benefits for working on a legal holiday, nor shall this
5871 section be construed to authorize any additional compensation as



5872 an alternative to the accrual of compensatory leave except as
5873 specifically provided for in a legislative appropriation. The
5874 provisions of this section shall not be construed to limit the
5875 hours of operation of any agency or to abrogate any action taken
5876 during hours other than those stated, nor shall these provisions
5877 apply to any offices that do not customarily stay open five (5)
5878 days a week. The provisions of this section shall not apply to
5879 the military department of the State of Mississippi or to the
5880 armories, field training sites, air bases or other installations
5881 of the Mississippi National Guard.

5882 (b) A workday for a state employee in a full-time
5883 employment position shall be eight (8) hours in duration at a
5884 minimum exclusive of time off for meals. The appointing authority
5885 shall develop work schedules which ensure that each full-time
5886 employee works a full workday and shall provide the State Auditor
5887 with a copy of the regular work schedule of the appointing
5888 authority.

5889 (2) An appointing authority of any state service agency
5890 within the meaning of Section 25-9-107 may authorize telework for
5891 one or more of its employees in accordance with a telework policy,
5892 approved by the State Personnel Board, as provided in subsection
5893 (3) of this section.

5894 (3) In order to implement a telework policy for one or more
5895 of its employees, an appointing authority shall:



5896 (a) Determine whether or not telework is in the best
5897 interest of the agency. In doing so, the appointing
5898 authority * * * may seek guidance from the State Personnel Board
5899 in determining what forms of work activities can be effectively
5900 and efficiently managed through a telework arrangement;

5901 (b) Establish procedures to protect any information
5902 that is privileged or confidential under state or federal law;

5903 (c) Require all teleworking employees to sign a
5904 telework agreement that includes their work schedule, provides for
5905 supervisory oversight through the review of work product and
5906 deliverables on a regular basis, requires the protection of
5907 privileged or confidential information that is managed remotely on
5908 an agency computer or other devices, establishes protocols for
5909 accessibility to coworkers and clients, workplace safety, and any
5910 other matters deemed appropriate by the appointing authority; and

5911 (d) Establish work schedules that ensure that some
5912 personnel are at the appointing authority's offices to provide
5913 direct contact with the public.

5914 (4) For purposes of subsections (2) and (3) of this section,
5915 the term "telework" shall mean a work flexibility arrangement
5916 under which an employee performs duties, responsibilities, or
5917 other authorized activities from an approved worksite other than
5918 the location from which the employee would otherwise work.

5919 (5) All agencies that allow employees to telework shall
5920 report to the State Personnel Board the names of the employees,



5921 their job titles, office schedule and telework schedule, who are
5922 performing telework for their agencies. On or before December 31
5923 of each year, the State Personnel Board shall make a report
5924 related to the utilization of telework policies to the Chairmen of
5925 the House and Senate Appropriations Committees, the
5926 Accountability, Efficiency and Transparency Committees, and the
5927 Joint Legislative Committee on Performance Evaluation and
5928 Expenditure Review.

5929 (6) The State Personnel Board may promulgate rules for the
5930 administration of this section which shall be binding upon state
5931 service agencies within the meaning of Section 25-9-107.

5932 (7) Subsections (2) through (6) of this section shall stand
5933 repealed on July 1, * * * 2025.

5934 **SECTION 62.** Section 71-5-355, Mississippi Code of 1972, is
5935 amended as follows:

5936 71-5-355. (1) As used in this section, the following words
5937 and phrases shall have the following meanings, unless the context
5938 clearly requires otherwise:

5939 (a) "Tax year" means any period beginning on January 1
5940 and ending on December 31 of a year.

5941 (b) "Computation date" means June 30 of any calendar
5942 year immediately preceding the tax year during which the
5943 particular contribution rates are effective.

5944 (c) "Effective date" means January 1 of the tax year.



5945 (d) Except as hereinafter provided, "payroll" means the
5946 total of all wages paid for employment by an employer as defined
5947 in Section 71-5-11, subsection H, plus the total of all
5948 remuneration paid by such employer excluded from the definition of
5949 wages by Section 71-5-351. For the computation of modified rates,
5950 "payroll" means the total of all wages paid for employment by an
5951 employer as defined in Section 71-5-11, subsection H.

5952 (e) For the computation of modified rates, "eligible
5953 employer" means an employer whose experience-rating record has
5954 been chargeable with benefits throughout the thirty-six (36)
5955 consecutive calendar-month period ending on the computation date,
5956 except that any employer who has not been subject to the
5957 Mississippi Employment Security Law for a period of time
5958 sufficient to meet the thirty-six (36) consecutive calendar-month
5959 requirement shall be an eligible employer if his or her
5960 experience-rating record has been chargeable throughout not less
5961 than the twelve (12) consecutive calendar-month period ending on
5962 the computation date. No employer shall be considered eligible
5963 for a contribution rate less than five and four-tenths percent
5964 (5.4%) with respect to any tax year, who has failed to file any
5965 two (2) quarterly reports within the qualifying period by
5966 September 30 following the computation date. No employer or
5967 employing unit shall be eligible for a contribution rate of less
5968 than five and four-tenths percent (5.4%) for the tax year in which
5969 the employing unit is found by the department to be in violation



5970 of Section 71-5-19(2) or (3) and for the next two (2) succeeding
5971 tax years. No representative of such employing unit who was a
5972 party to a violation as described in Section 71-5-19(2) or (3), if
5973 such representative was or is an employing unit in this state,
5974 shall be eligible for a contribution rate of less than five and
5975 four-tenths percent (5.4%) for the tax year in which such
5976 violation was detected by the department and for the next two (2)
5977 succeeding tax years.

5978 (f) With respect to any tax year, "reserve ratio" means
5979 the ratio which the total amount available for the payment of
5980 benefits in the Unemployment Compensation Fund, excluding any
5981 amount which has been credited to the account of this state under
5982 Section 903 of the Social Security Act, as amended, and which has
5983 been appropriated for the expenses of administration pursuant to
5984 Section 71-5-457 whether or not withdrawn from such account, on
5985 October 31 (close of business) of each calendar year bears to the
5986 aggregate of the taxable payrolls of all employers for the twelve
5987 (12) calendar months ending on June 30 next preceding.

5988 (g) "Modified rates" means the rates of employer
5989 unemployment insurance contributions determined under the
5990 provisions of this chapter and the rates of newly subject
5991 employers, as provided in Section 71-5-353.

5992 (h) For the computation of modified rates, "qualifying
5993 period" means a period of not less than the thirty-six (36)
5994 consecutive calendar months ending on the computation date



5995 throughout which an employer's experience-rating record has been
5996 chargeable with benefits; except that with respect to any eligible
5997 employer who has not been subject to this article for a period of
5998 time sufficient to meet the thirty-six (36) consecutive
5999 calendar-month requirement, "qualifying period" means the period
6000 ending on the computation date throughout which his or her
6001 experience-rating record has been chargeable with benefits, but in
6002 no event less than the twelve (12) consecutive calendar-month
6003 period ending on the computation date throughout which his or her
6004 experience-rating record has been so chargeable.

6005 (i) The "exposure criterion" (EC) is defined as the
6006 cash balance of the Unemployment Compensation Fund which is
6007 available for the payment of benefits as of November 16 of each
6008 calendar year or the next working day if November 16 falls on a
6009 holiday or a weekend, divided by the total wages, exclusive of
6010 wages paid by all state agencies, all political subdivisions,
6011 reimbursable nonprofit corporations, and tax-exempt public service
6012 employment, for the twelve-month period ending June 30 immediately
6013 preceding such date. The EC shall be computed to four (4) decimal
6014 places and rounded up if any fraction remains. Notwithstanding
6015 any other provision contained herein, the date for determining the
6016 cash balance of the Unemployment Compensation Fund which is
6017 available for the payment of benefits for the calendar years 2020
6018 and 2021 shall be December 31.



6019 (j) The "cost rate criterion" (CRC) is defined as
6020 follows: Beginning with January 1974, the benefits paid for the
6021 twelve-month period ending December 1974 are summed and divided by
6022 the total wages for the twelve-month period ending on June 30,
6023 1975. Similar ratios are computed by subtracting the earliest
6024 month's benefit payments and adding the benefits of the next month
6025 in the sequence and dividing each sum of twelve (12) months'
6026 benefits by the total wages for the twelve-month period ending on
6027 the June 30 which is nearest to the final month of the period used
6028 to compute the numerator. If December is the final month of the
6029 period used to compute the numerator, then the twelve-month period
6030 ending the following June 30 will be used for the denominator.
6031 Benefits and total wages used in the computation of the cost rate
6032 criterion shall exclude all benefits and total wages applicable to
6033 state agencies, political subdivisions, reimbursable nonprofit
6034 corporations, and tax-exempt PSE employment.

6035 The CRC shall be computed as the average for the highest
6036 monthly value of the cost rate criterion computations during each
6037 of the economic cycles since the calendar year 1974 as defined by
6038 the National Bureau of Economic Research. The CRC shall be
6039 computed to four (4) decimal places and any remainder shall be
6040 rounded up.

6041 The CRC shall be adjusted only through annual computations
6042 and additions of future economic cycles.



6043 (k) "Size of fund index" (SOFI) is defined as the ratio
6044 of the exposure criterion (EC) to the cost rate criterion (CRC).
6045 The target size of fund index will be fixed at 1.0. If the
6046 insured unemployment rate (IUR) exceeds a four and five-tenths
6047 percent (4.5%) average for the most recent completed July to June
6048 period, the target SOFI will be .8 and will remain at that level
6049 until the computed SOFI (the average exposure criterion of the
6050 current year and the preceding year divided by the average cost
6051 rate criterion) equals 1.0 or the average IUR falls to four and
6052 five-tenths percent (4.5%) or less for any period July to June.
6053 However, if the IUR falls below two and five-tenths percent (2.5%)
6054 for any period July to June the target SOFI shall be 1.2 until
6055 such time as the computed SOFI is equal to or greater than 1.0 or
6056 the IUR is equal to or greater than two and five-tenths percent
6057 (2.5%), at which point the target SOFI shall return to 1.0.

6058 (1) No employer's unemployment contribution general
6059 experience rate plus individual unemployment experience rate shall
6060 exceed five and four-tenths percent (5.4%). Accrual rules shall
6061 apply for purposes of computing contribution rates including
6062 associated functions.

6063 (m) The term "general experience rate" has the same
6064 meaning as the minimum tax rate.

6065 (2) Modified rates:

6066 (a) For any tax year, when the reserve ratio on the
6067 preceding November 16, in the case of any tax year, equals or



6068 exceeds three percent (3%), the modified rates, as hereinafter
6069 prescribed, shall be in effect. In computation of this reserve
6070 ratio, any remainder shall be rounded down.

6071 (b) Modified rates shall be determined for the tax year
6072 for each eligible employer on the basis of his or her
6073 experience-rating record in the following manner:

6074 (i) The department shall maintain an
6075 experience-rating record for each employer. Nothing in this
6076 chapter shall be construed to grant any employer or individuals
6077 performing services for him or her any prior claim or rights to
6078 the amounts paid by the employer into the fund.

6079 (ii) Benefits paid to an eligible individual shall
6080 be charged against the experience-rating record of his or her base
6081 period employers in the proportion to which the wages paid by each
6082 base period employer bears to the total wages paid to the
6083 individual by all the base period employers, provided that
6084 benefits shall not be charged to an employer's experience-rating
6085 record if the department finds that the individual:

6086 1. Voluntarily left the employ of such
6087 employer without good cause attributable to the employer or to
6088 accept other work;

6089 2. Was discharged by such employer for
6090 misconduct connected with his or her work;

6091 3. Refused an offer of suitable work by such
6092 employer without good cause, and the department further finds that



6093 such benefits are based on wages for employment for such employer
6094 prior to such voluntary leaving, discharge or refusal of suitable
6095 work, as the case may be;

6096 4. Had base period wages which included wages
6097 for previously uncovered services as defined in Section
6098 71-5-511(e) to the extent that the Unemployment Compensation Fund
6099 is reimbursed for such benefits pursuant to Section 121 of Public
6100 Law 94-566;

6101 5. Extended benefits paid under the
6102 provisions of Section 71-5-541 which are not reimbursable from
6103 federal funds shall be charged to the experience-rating record of
6104 base period employers;

6105 6. Is still working for such employer on a
6106 regular part-time basis under the same employment conditions as
6107 hired. Provided, however, that benefits shall be charged against
6108 an employer if an eligible individual is paid benefits who is
6109 still working for such employer on a part-time "as-needed" basis;

6110 7. Was hired to replace a United States
6111 serviceman or servicewoman called into active duty and was laid
6112 off upon the return to work by that serviceman or servicewoman,
6113 unless such employer is a state agency or other political
6114 subdivision or instrumentality of the state;

6115 8. Was paid benefits during any week while in
6116 training with the approval of the department, under the provisions
6117 of Section 71-5-513B, or for any week while in training approved



6118 under Section 236(a)(1) of the Trade Act of 1974, under the
6119 provisions of Section 71-5-513C;

6120 9. Is not required to serve the one-week
6121 waiting period as described in Section 71-5-505(2). In that
6122 event, only the benefits paid in lieu of the waiting period week
6123 may be noncharged; or

6124 10. Was paid benefits as a result of a
6125 fraudulent claim, provided notification was made to the
6126 Mississippi Department of Employment Security in writing or by
6127 email by the employer, within ten (10) days of the mailing of the
6128 notice of claim filed to the employer's last-known address.

6129 (iii) Notwithstanding any other provision
6130 contained herein, an employer shall not be noncharged when the
6131 department finds that the employer or the employer's agent of
6132 record was at fault for failing to respond timely or adequately to
6133 the request of the department for information relating to an
6134 unemployment claim that was subsequently determined to be
6135 improperly paid, unless the employer or the employer's agent of
6136 record shows good cause for having failed to respond timely or
6137 adequately to the request of the department for information. For
6138 purposes of this subparagraph "good cause" means an event that
6139 prevents the employer or employer's agent of record from timely
6140 responding, and includes a natural disaster, emergency or similar
6141 event, or an illness on the part of the employer, the employer's
6142 agent of record, or their staff charged with responding to such



6143 inquiries when there is no other individual who has the knowledge
6144 or ability to respond. Any agency error that resulted in a delay
6145 in, or the failure to deliver notice to, the employer or the
6146 employer's agent of record shall also be considered good cause for
6147 purposes of this subparagraph.

6148 (iv) The department shall compute a benefit ratio
6149 for each eligible employer, which shall be the quotient obtained
6150 by dividing the total benefits charged to his or her
6151 experience-rating record during the period his or her
6152 experience-rating record has been chargeable, but not less than
6153 the twelve (12) consecutive calendar-month period nor more than
6154 the thirty-six (36) consecutive calendar-month period ending on
6155 the computation date, by his or her total taxable payroll for the
6156 same period on which all unemployment insurance contributions due
6157 have been paid on or before the September 30 immediately following
6158 the computation date. Such benefit ratio shall be computed to the
6159 tenth of a percent (.1%), rounding any remainder to the next
6160 higher tenth.

6161 (v) 1. The unemployment insurance contribution
6162 rate for each eligible employer shall be the sum of two (2) rates:
6163 his or her individual experience rate in the range from zero
6164 percent (0%) to five and four-tenths percent (5.4%), plus a
6165 general experience rate. In no event shall the resulting
6166 unemployment insurance rate be in excess of five and four-tenths
6167 percent (5.4%), however, it is the intent of this section to



6168 provide the ability for employers to have a tax rate, the general
6169 experience rate plus the individual experience rate, of up to five
6170 and four-tenths percent (5.4%).

6171 2. The employer's individual experience rate
6172 shall be equal to his or her benefit ratio as computed under
6173 paragraph (b)(iv) of this subsection (2).

6174 3. The general experience rate shall be
6175 determined in the following manner: The department shall
6176 determine annually, for the thirty-six (36) consecutive
6177 calendar-month period ending on the computation date, the amount
6178 of benefits which were not charged to the record of any employer
6179 and of benefits which were ineffectively charged to the employer's
6180 experience-rating record. For the purposes of this item 3, the
6181 term "ineffectively charged benefits" shall include:

6182 a. The total of the amounts of benefits
6183 charged to the experience-rating records of all eligible employers
6184 which caused their benefit ratios to exceed five and four-tenths
6185 percent (5.4%);

6186 b. The total of the amounts of benefits
6187 charged to the experience-rating records of all ineligible
6188 employers which would cause their benefit ratios to exceed five
6189 and four-tenths percent (5.4%) if they were eligible employers;
6190 and

6191 c. The total of the amounts of benefits
6192 charged or chargeable to the experience-rating record of any



6193 employer who has discontinued his or her business or whose
6194 coverage has been terminated within such period; provided, that
6195 solely for the purposes of determining the amounts of
6196 ineffectively charged benefits as herein defined, a "benefit
6197 ratio" shall be computed for each ineligible employer, which shall
6198 be the quotient obtained by dividing the total benefits charged to
6199 his or her experience-rating record throughout the period ending
6200 on the computation date, during which his or her experience-rating
6201 record has been chargeable with benefits, by his or her total
6202 taxable payroll for the same period on which all unemployment
6203 insurance contributions due have been paid on or before the
6204 September 30 immediately following the computation date; and
6205 provided further, that such benefit ratio shall be computed to the
6206 tenth of one percent (.1%) and any remainder shall be rounded to
6207 the next higher tenth.

6208 The ratio of the sum of these amounts (subsection
6209 (2) (b) (v) 3a, b and c) to the taxable wages paid during the same
6210 period divided by all eligible employers whose benefit ratio did
6211 not exceed five and four-tenths percent (5.4%), computed to the
6212 next higher tenth of one percent (.1%), shall be the general
6213 experience rate; however, the general experience rate for rate
6214 year 2014 shall be two tenths of one percent (.2%) and to that
6215 will be added the employer's individual experience rate for the
6216 total unemployment insurance rate.



6217 4. a. Except as otherwise provided in this
6218 item 4, the general experience rate shall be adjusted by use of
6219 the size of fund index factor. This factor may be positive or
6220 negative, and shall be determined as follows: From the target
6221 SOFI, as defined in subsection (1)(k) of this section, subtract
6222 the simple average of the current and preceding years' exposure
6223 criteria divided by the cost rate criterion, as defined in
6224 subsection (1)(j) of this section. The result is then multiplied
6225 by the product of the CRC, as defined in subsection (1)(j) of this
6226 section, and total wages for the twelve-month period ending June
6227 30 divided by the taxable wages for the twelve-month period ending
6228 June 30. This is the percentage positive or negative added to the
6229 general experience rate. The sum of the general experience rate
6230 and the trust fund adjustment factor shall be multiplied by fifty
6231 percent (50%) and this product shall be computed to one (1)
6232 decimal place, and rounded to the next higher tenth.

6233 b. Notwithstanding the minimum rate
6234 provisions as set forth in subsection (1)(l) of this section, the
6235 general experience rate of all employers shall be reduced by seven
6236 one-hundredths of one percent (.07%) for calendar year 2013 only.

6237 5. The general experience rate shall be zero
6238 percent (0%) unless the general experience ratio for any tax year
6239 as computed and adjusted on the basis of the trust fund adjustment
6240 factor and reduced by fifty percent (50%) is an amount equal to or
6241 greater than two-tenths of one percent (.2%), then the general



6242 experience rate shall be the computed general experience ratio and
6243 adjusted on the basis of the trust fund adjustment factor and
6244 reduced by fifty percent (50%); however, in no case shall the sum
6245 of the general experience plus the individual experience
6246 unemployment insurance rate exceed five and four-tenths percent
6247 (5.4%). For rate years subsequent to 2014, Mississippi Workforce
6248 Enhancement Training contribution rate, and/or State Workforce
6249 Investment contribution rate, and/or Mississippi Works
6250 contribution rate, when in effect, shall be added to the
6251 unemployment contribution rate, regardless of whether the addition
6252 of this contribution rate causes the total contribution rate for
6253 the employer to exceed five and four-tenths percent (5.4%).

6254 6. The department shall include in its annual
6255 rate notice to employers a brief explanation of the elements of
6256 the general experience rate, and shall include in its regular
6257 publications an annual analysis of benefits not charged to the
6258 record of any employer, and of the benefit experience of employers
6259 by industry group whose benefit ratio exceeds four percent (4%),
6260 and of any other factors which may affect the size of the general
6261 experience rate.

6262 7. Notwithstanding any other provision
6263 contained herein, the general experience rate for calendar year
6264 2021 shall be zero percent (0%). Charges attributed to each
6265 employer's individual experience rate for the period March 8,
6266 2020, through June 30, 2020, will not impact the employer's



6267 individual experience rate calculations for purposes of
6268 calculating the total unemployment insurance rate for 2021 and the
6269 two (2) subsequent tax rate years. Moreover, charges attributed
6270 to each employer's individual experience rate for the period July
6271 1, 2020, through December 31, 2020, will not impact the employer's
6272 individual experience rate calculations for purposes of
6273 calculating the total unemployment insurance rate for 2022 and the
6274 two (2) subsequent tax rate years. Furthermore, noncharges as
6275 defined hereinabove caused by the COVID-19 pandemic will not be
6276 used for the purposes of calculating the general experience rate.

6277 (vi) When any employing unit in any manner
6278 succeeds to or acquires the organization, trade, business or
6279 substantially all the assets thereof of an employer, excepting any
6280 assets retained by such employer incident to the liquidation of
6281 his or her obligations, whether or not such acquiring employing
6282 unit was an employer within the meaning of Section 71-5-11,
6283 subsection H, prior to such acquisition, and continues such
6284 organization, trade or business, the experience-rating and payroll
6285 records of the predecessor employer shall be transferred as of the
6286 date of acquisition to the successor employer for the purpose of
6287 rate determination.

6288 (vii) When any employing unit succeeds to or
6289 acquires a distinct and severable portion of an organization,
6290 trade or business, the experience-rating and payroll records of



6291 such portion, if separately identifiable, shall be transferred to
6292 the successor upon:

6293 1. The mutual consent of the predecessor and
6294 the successor;

6295 2. Approval of the department;

6296 3. Continued operation of the transferred
6297 portion by the successor after transfer; and

6298 4. The execution and the filing with the
6299 department by the predecessor employer of a waiver relinquishing
6300 all rights to have the experience-rating and payroll records of
6301 the transferred portion used for the purpose of determining
6302 modified rates of contribution for such predecessor.

6303 (viii) If the successor was an employer subject to
6304 this chapter prior to the date of acquisition, it shall continue
6305 to pay unemployment insurance contributions at the rate applicable
6306 to it from the date the acquisition occurred until the end of the
6307 then current tax year. If the successor was not an employer prior
6308 to the date of acquisition, it shall pay unemployment insurance
6309 contributions at the rate applicable to the predecessor or, if
6310 more than one (1) predecessor and the same rate is applicable to
6311 both, the rate applicable to the predecessor or predecessors, from
6312 the date the acquisition occurred until the end of the then
6313 current tax year. If the successor was not an employer prior to
6314 the date the acquisition occurred and simultaneously acquires the
6315 businesses of two (2) or more employers to whom different rates of



6316 unemployment insurance contributions are applicable, it shall pay
6317 unemployment insurance contributions from the date of the
6318 acquisition until the end of the current tax year at a rate
6319 computed on the basis of the combined experience-rating and
6320 payroll records of the predecessors as of the computation date for
6321 such tax year. In all cases the rate of unemployment insurance
6322 contributions applicable to such successor for each succeeding tax
6323 year shall be computed on the basis of the combined
6324 experience-rating and payroll records of the successor and the
6325 predecessor or predecessors.

6326 (ix) The department shall notify each employer
6327 quarterly of the benefits paid and charged to his or her
6328 experience-rating record; and such notification, in the absence of
6329 an application for redetermination filed within thirty (30) days
6330 after the date of such notice, shall be final, conclusive and
6331 binding upon the employer for all purposes. A redetermination,
6332 made after notice and opportunity for a fair hearing, by a hearing
6333 officer designated by the department who shall consider and decide
6334 these and related applications and protests; and the finding of
6335 fact in connection therewith may be introduced into any subsequent
6336 administrative or judicial proceedings involving the determination
6337 of the rate of unemployment insurance contributions of any
6338 employer for any tax year, and shall be entitled to the same
6339 finality as is provided in this subsection with respect to the



6340 findings of fact in proceedings to redetermine the contribution
6341 rate of an employer.

6342 (x) The department shall notify each employer of
6343 his or her rate of contribution as determined for any tax year as
6344 soon as reasonably possible after September 1 of the preceding
6345 year. Such determination shall be final, conclusive and binding
6346 upon such employer unless, within thirty (30) days after the date
6347 of such notice to his or her last-known address, the employer
6348 files with the department an application for review and
6349 redetermination of his or her contribution rate, setting forth his
6350 or her reasons therefor. If the department grants such review,
6351 the employer shall be promptly notified thereof and shall be
6352 afforded an opportunity for a fair hearing by a hearing officer
6353 designated by the department who shall consider and decide these
6354 and related applications and protests; but no employer shall be
6355 allowed, in any proceeding involving his or her rate of
6356 unemployment insurance contributions or contribution liability, to
6357 contest the chargeability to his or her account of any benefits
6358 paid in accordance with a determination, redetermination or
6359 decision pursuant to Sections 71-5-515 through 71-5-533 except
6360 upon the ground that the services on the basis of which such
6361 benefits were found to be chargeable did not constitute services
6362 performed in employment for him or her, and then only in the event
6363 that he or she was not a party to such determination,
6364 redetermination, decision or to any other proceedings provided in



6365 this chapter in which the character of such services was
6366 determined. The employer shall be promptly notified of the denial
6367 of this application or of the redetermination, both of which shall
6368 become final unless, within ten (10) days after the date of notice
6369 thereof, there shall be an appeal to the department itself. Any
6370 such appeal shall be on the record before said designated hearing
6371 officer, and the decision of said department shall become final
6372 unless, within thirty (30) days after the date of notice thereof
6373 to the employer's last-known address, there shall be an appeal to
6374 the Circuit Court of the First Judicial District of Hinds County,
6375 Mississippi, in accordance with the provisions of law with respect
6376 to review of civil causes by certiorari.

6377 (3) Notwithstanding any other provision of law, the
6378 following shall apply regarding assignment of rates and transfers
6379 of experience:

6380 (a) (i) If an employer transfers its trade or
6381 business, or a portion thereof, to another employer and, at the
6382 time of the transfer, there is substantially common ownership,
6383 management or control of the two (2) employers, then the
6384 unemployment experience attributable to the transferred trade or
6385 business shall be transferred to the employer to whom such
6386 business is so transferred. The rates of both employers shall be
6387 recalculated and made effective on January 1 of the year following
6388 the year the transfer occurred.



6389 (ii) If, following a transfer of experience under
6390 subparagraph (i) of this paragraph (a), the department determines
6391 that a substantial purpose of the transfer of trade or business
6392 was to obtain a reduced liability of unemployment insurance
6393 contributions, then the experience-rating accounts of the
6394 employers involved shall be combined into a single account and a
6395 single rate assigned to such account.

6396 (b) Whenever a person who is not an employer or an
6397 employing unit under this chapter at the time it acquires the
6398 trade or business of an employer, the unemployment experience of
6399 the acquired business shall not be transferred to such person if
6400 the department finds that such person acquired the business solely
6401 or primarily for the purpose of obtaining a lower rate of
6402 unemployment insurance contributions. Instead, such person shall
6403 be assigned the new employer rate under Section 71-5-353, unless
6404 assignment of the new employer rate results in an increase of less
6405 than two percent (2%), in which case such person would be assigned
6406 the new employer rate plus an additional two percent (2%) penalty
6407 for the rate year. In determining whether the business was
6408 acquired solely or primarily for the purpose of obtaining a lower
6409 rate of unemployment insurance contributions, the department shall
6410 use objective factors which may include the cost of acquiring the
6411 business, whether the person continued the business enterprise of
6412 the acquired business, how long such business enterprise was
6413 continued, or whether a substantial number of new employees were



6414 hired for performance of duties unrelated to the business activity
6415 conducted prior to acquisition.

6416 (c) (i) If a person knowingly violates or attempts to
6417 violate paragraph (a) or (b) of this subsection or any other
6418 provision of this chapter related to determining the assignment of
6419 a contribution rate, or if a person knowingly advises another
6420 person in a way that results in a violation of such provision, the
6421 person shall be subject to the following penalties:

6422 1. If the person is an employer, then such
6423 employer shall be assigned the highest rate assignable under this
6424 chapter for the rate year during which such violation or attempted
6425 violation occurred and the three (3) rate years immediately
6426 following this rate year. However, if the person's business is
6427 already at such highest rate for any year, or if the amount of
6428 increase in the person's rate would be less than two percent (2%)
6429 for such year, then the person's tax rate shall be increased by
6430 two percent (2%) for such year. The penalty rate will apply to
6431 the successor business as well as the related entity from which
6432 the employees were transferred in an effort to obtain a lower rate
6433 of unemployment insurance contributions.

6434 2. If the person is not an employer, such
6435 person shall be subject to a civil money penalty of not more than
6436 Five Thousand Dollars (\$5,000.00). Each such transaction for
6437 which advice was given and each occurrence or reoccurrence after
6438 notification being given by the department shall be a separate



6439 offense and punishable by a separate penalty. Any such fine shall
6440 be deposited in the penalty and interest account established under
6441 Section 71-5-114.

6442 (ii) For purposes of this paragraph (c), the term
6443 "knowingly" means having actual knowledge of or acting with
6444 deliberate ignorance or reckless disregard for the prohibition
6445 involved.

6446 (iii) For purposes of this paragraph (c), the term
6447 "violates or attempts to violate" includes, but is not limited to,
6448 intent to evade, misrepresentation or willful nondisclosure.

6449 (iv) In addition to the penalty imposed by
6450 subparagraph (i) of this paragraph (c), any violation of this
6451 subsection may be punishable by a fine of not more than Ten
6452 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
6453 five (5) years, or by both such fine and imprisonment. This
6454 subsection shall prohibit prosecution under any other criminal
6455 statute of this state.

6456 (d) The department shall establish procedures to
6457 identify the transfer or acquisition of a business for purposes of
6458 this subsection.

6459 (e) For purposes of this subsection:

6460 (i) "Person" has the meaning given such term by
6461 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

6462 (ii) "Employing unit" has the meaning as set forth
6463 in Section 71-5-11.



6464 (f) This subsection shall be interpreted and applied in
6465 such a manner as to meet the minimum requirements contained in any
6466 guidance or regulations issued by the United States Department of
6467 Labor.

6468 **SECTION 63.** The following shall be codified as Section
6469 71-5-146, Mississippi Code of 1972:

6470 71-5-146. (1) The Mississippi Department of Employment
6471 Security shall have the authority to fingerprint and conduct a
6472 background investigation on every employee, contractor and
6473 subcontractor who:

- 6474 (a) Has access to Federal Tax Information (FTI); or
- 6475 (b) Is otherwise required by state or federal law or
6476 regulations to undergo a background investigation.

6477 (2) The department shall have the authority to enact
6478 policies and procedures that allow designated department employees
6479 to:

- 6480 (a) Access and review state and federal criminal
6481 history records;
- 6482 (b) Fingerprint individuals identified in subsection
6483 (1) of this section;
- 6484 (c) Forward the fingerprints to the Federal Bureau of
6485 Investigation (FBI) for a fingerprint-based national criminal
6486 history record check for the purpose of establishing and ensuring
6487 that background investigation requirements for all department
6488 employees, contractors and subcontractors that have access to FTI



6489 are consistent with the Internal Revenue Service background
6490 investigation requirements for access to FTI, including, but not
6491 limited to, IRS Publication 1075; and

6492 (d) Develop additional background policies and
6493 procedures as required by state or federal law or regulations.

6494 **SECTION 64.** Section 62 of this act shall take effect and be
6495 in force from and after January 1, 2023, and the remainder of this
6496 act shall take effect and be in force from and after its passage.

