

Senate Amendments to House Bill No. 588

TO THE CLERK OF THE HOUSE:

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

AMENDMENT NO. 1

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

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

81 37-153-1. This article shall be known and may be cited as
82 the "Mississippi Comprehensive Workforce Training and Education
83 Consolidation Act of 2004."

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

86 37-153-3. It is the intent of the Legislature by the passage
87 of Chapter 572, Laws of 2004, to establish one (1) comprehensive
88 workforce development system in the State of Mississippi that is
89 focused on achieving results, using resources efficiently and
90 ensuring that workers and employers can easily access needed
91 services. This system shall reflect a consolidation of the
92 Mississippi Workforce Development Advisory Council and the
93 Mississippi State Workforce Investment Act Board. The purpose of
94 Chapter 572, Laws of 2004, is to provide workforce activities,
95 through a statewide system that maximizes cooperation among state

96 agencies, that increase the employment, retention and earnings of
97 participants, and increase occupational skill attainment by
98 participants and as a result, improve the quality of the
99 workforce, reduce welfare dependency and enhance the productivity
100 and competitiveness of the State of Mississippi.

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

103 37-153-5. For purposes of this article, the following words
104 and phrases shall have the meanings respectively ascribed in this
105 section unless the context clearly indicates otherwise:

106 (a) "State board" or "board" means the Mississippi
107 State Workforce Investment Board.

108 (b) "District councils" means the Local Workforce
109 Development Councils.

110 (c) "Local workforce investment board" means the board
111 that oversees the workforce development activities of local
112 workforce areas under the federal Workforce Investment Act.

113 (d) "Office" means the Mississippi Office of Workforce
114 Development, housed at the Department of Finance and
115 Administration.

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

118 37-153-7. (1) There is created the Mississippi Office of
119 Workforce Development and the Mississippi State Workforce
120 Investment Board, which shall serve as the advisory board for the
121 office. The Mississippi State Workforce Investment Board shall be

122 composed of thirty-one (31) voting members, of which a majority
123 shall be representatives of business and industry in accordance
124 with the federal Workforce Innovation and Opportunity Act, or any
125 successive acts.

126 (2) The members of the State Workforce Investment Board
127 shall include:

128 (a) The Governor, or his designee;

129 (b) Nineteen (19) members, appointed by the Governor,
130 of whom:

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

133 1. Are owners of businesses, chief executives
134 or operating officers of businesses, or other business executives
135 or employers with optimum policymaking or hiring authority, and
136 who, in addition, may be members of a local board described in
137 Section 3122(b)(2)(A)(i) of the federal Workforce Innovation and
138 Opportunity Act. At least two (2) of the members appointed under
139 this item 1. shall be small business owners, chief executives or
140 operating officers of businesses with less than fifty (50)
141 employees;

142 2. Represent businesses, including small
143 businesses, or organizations representing businesses, which
144 provide employment opportunities that, at a minimum, include
145 high-quality, work-relevant training and development in
146 high-demand industry sectors or occupations in the state; and

147 3. Are appointed from among individuals
148 nominated by state business organizations and business trade
149 associations;

150 (ii) Not less than twenty percent (20%) shall
151 consist of representatives of the workforce within the state,
152 which:

153 1. Includes labor organization
154 representatives who have been nominated by state labor
155 federations;

156 2. Includes a labor organization member or
157 training director from an apprenticeship program in the state,
158 which shall be a joint labor-management apprenticeship program if
159 such a program exists in the state;

160 3. May include representatives of
161 community-based organizations, including organizations serving
162 veterans or providing or supporting competitive, integrated
163 employment for individuals with disabilities, who have
164 demonstrated experience and expertise in addressing employment,
165 training or education needs of individuals with barriers to
166 employment; and

167 4. May include representatives of
168 organizations, including organizations serving out-of-school
169 youth, who have demonstrated experience or expertise in addressing
170 the employment, training or education needs of eligible youth;

171 (iii) The balance shall include government
172 representatives, including the lead state officials with primary

173 responsibility for core programs, and chief elected officials
174 (collectively representing both cities and counties, where
175 appropriate);

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

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

181 (e) The following state officials:

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

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

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

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

190 (v) The Executive Director of the Mississippi
191 Community College Board;

192 (vi) The President of the Community College
193 Association; and

194 (vii) The Commissioner of the Institutions of
195 Higher Learning.

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

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

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

204 (i) The membership of the board shall reflect the
205 diversity of the State of Mississippi.

206 (j) The Governor shall designate the Chairman of the
207 Mississippi State Workforce Investment Board from among the
208 business and industry voting members of the board, and a quorum of
209 the board shall consist of a majority of the voting members of the
210 board.

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

216 (3) Members of the state board may be recalled by their
217 appointing authority for cause, including a felony conviction,
218 fraudulent or dishonest acts or gross abuse of discretion, failure
219 to meet board member qualifications, or chronic failure to attend
220 board meetings.

221 (4) The Mississippi Department of Employment Security shall
222 establish limits on administrative costs for each portion of
223 Mississippi's workforce development system consistent with the

224 federal Workforce Investment Act or any future federal workforce
225 legislation.

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

231 (a) Through the office, develop and submit to the
232 Governor, Lieutenant Governor and Speaker of the House a strategic
233 plan for an integrated state workforce development system that
234 aligns resources and structures the system to more effectively and
235 efficiently meet the demands of Mississippi's employers and job
236 seekers. This plan will comply with the federal Workforce
237 Investment Act of 1998, as amended, the federal Workforce
238 Innovation and Opportunity Act of 2014 and amendments and
239 successor legislation to these acts;

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

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

245 (ii) Review local workforce development plans that
246 reflect the use of funds from the federal Workforce Investment
247 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
248 Act and the amendment or successor legislation to the acts, and

249 the Mississippi Comprehensive Workforce Training and Education
250 Consolidation Act;

251 (c) Recommend to the office the designation of local
252 workforce investment areas as required in Section 116 of the
253 federal Workforce Investment Act of 1998 and the Workforce
254 Innovation and Opportunity Act of 2014. There shall be four (4)
255 workforce investment areas that are generally aligned with the
256 planning and development district structure in Mississippi.
257 Planning and development districts will serve as the fiscal agents
258 to manage Workforce Investment Act funds, oversee and support the
259 local workforce investment boards aligned with the area and the
260 local programs and activities as delivered by the one-stop
261 employment and training system. The planning and development
262 districts will perform this function through the provisions of the
263 county cooperative service districts created under Sections
264 19-3-101 through 19-3-115; however, planning and development
265 districts currently performing this function under the Interlocal
266 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
267 continue to do so;

268 (d) Assist the Governor in the development of an
269 allocation formula for the distribution of funds for adult
270 employment and training activities and youth activities to local
271 workforce investment areas;

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

275 (f) Assist the Governor in the establishment and
276 management of a one-stop employment and training system conforming
277 to the requirements of the federal Workforce Investment Act of
278 1998 and the Workforce Innovation and Opportunity Act of 2014, as
279 amended, recommending policy for implementing the Governor's
280 approved plan for employment and training activities and services
281 within the state. In developing this one-stop career operating
282 system, the Mississippi State Workforce Investment Board, in
283 conjunction with local workforce investment boards, shall:

284 (i) Design broad guidelines for the delivery of
285 workforce development programs;

286 (ii) Identify all existing delivery agencies and
287 other resources;

288 (iii) Define appropriate roles of the various
289 agencies to include an analysis of service providers' strengths
290 and weaknesses;

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

293 (v) Develop a financial plan to support the
294 delivery system that shall, at a minimum, include an
295 accountability system;

296 (g) To provide authority, in accordance with any
297 executive order of the Governor, for developing the necessary
298 collaboration among state agencies at the highest level for
299 accomplishing the purposes of this article;

300 (h) To monitor the effectiveness of the workforce
301 development centers and WIN job centers;

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

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

312 (k) To provide periodic assessments on effectiveness
313 and results of the overall Mississippi comprehensive workforce
314 development system and district councils;

315 (l) Develop broad statewide development goals,
316 including a goal to raise the state's labor force participation
317 rate;

318 (m) Perform a comprehensive review of Mississippi's
319 workforce development efforts, including the amount spent and
320 effectiveness of programs supported by state or federal
321 money; * * *

322 (n) To assist the Governor in carrying out any other
323 responsibility required by the federal Workforce Investment Act of
324 1998, as amended and the Workforce Innovation and Opportunity Act,
325 successor legislation and amendments * * *;

326 (o) To implement and oversee career coaching programs,
327 as described in Section 37-73-3, to support middle schools and
328 high schools by exposing, preparing and connecting students to
329 career avenues within and beyond the classroom setting. The
330 program may include providing career coaches with access to
331 technology to develop customized career pathways and connect
332 students with post-secondary and employment opportunities matching
333 their skills and interests;

334 (p) To implement and oversee programs providing support
335 to community and junior colleges for training needs that may arise
336 when new businesses locate in Mississippi, to include providing
337 support to existing industries that may lose employees as a result
338 of the new business; and

339 (q) To implement and oversee the Mississippi K-12
340 Workforce Development Grant Program created in Section 2 of Senate
341 Bill No. 2810, 2023 Regular Session, to provide equipment and
342 other resources to career and technical or other workforce
343 programs in public schools.

344 (6) The Mississippi State Workforce Investment Board shall
345 coordinate all training programs and funds within its purview,
346 consistent with the federal Workforce Investment Act, Workforce
347 Innovation and Opportunity Act, amendments and successor
348 legislation to these acts, and other relevant federal law.

349 Each state agency director responsible for workforce training
350 activities shall advise the Mississippi Office of Workforce
351 Development and the State Workforce Investment Board of

352 appropriate federal and state requirements. Each state agency,
353 department and institution shall report any monies received for
354 workforce training activities or career and technical education
355 and a detailed itemization of how those monies were spent to the
356 state board. The board shall compile the data and provide a
357 report of the monies and expenditures to the Chairs of the House
358 and Senate Appropriations Committee, the Chair of the House
359 Workforce Development Committee and the Chair of the Senate
360 Economic and Workforce Development Committee by October 1 of each
361 year. Each such state agency director shall remain responsible
362 for the actions of his agency; however, each state agency and
363 director shall work cooperatively to fulfill the state's goals.

364 (7) The State Workforce Investment Board shall establish an
365 executive committee, which shall consist of the following State
366 Workforce Investment Board members:

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

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

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

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

375 (e) The two (2) legislators, who shall serve in a
376 nonvoting capacity, one (1) of whom shall be appointed by the
377 Lieutenant Governor from the membership of the Mississippi Senate

378 and one (1) of whom shall be appointed by the Speaker of the House
379 of Representatives from the membership of the Mississippi House of
380 Representatives.

381 (8) The executive committee shall select an executive
382 director of the Office of Workforce Development, with the advice
383 and consent of a majority of the State Workforce Investment Board.
384 The executive committee shall seek input from economic development
385 organizations across the state when selecting the executive
386 director. The executive director shall:

387 (a) Be a person with extensive experience in
388 development of economic, human and physical resources, and
389 promotion of industrial and commercial development. The executive
390 director shall have a bachelor's degree from a state-accredited
391 institution and no less than eight (8) years of professional
392 experience related to workforce or economic development;

393 (b) Perform the functions necessary for the daily
394 operation and administration of the office, with oversight from
395 the executive committee and the State Workforce Investment Board,
396 to fulfill the duties of the state board as described in Chapter
397 476, Laws of 2020;

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

403 (d) Enter any part of the Mississippi Community College
404 Board, individual community and junior colleges, or other
405 workforce training facilities operated by the state or its
406 subdivisions;

407 (e) Serve at the will and pleasure of the executive
408 committee;

409 (f) Promulgate rules and regulations, subject to
410 oversight by the executive committee, not inconsistent with this
411 article, as may be necessary to enforce the provisions in Chapter
412 476, Laws of 2020; and

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

416 (9) The Office of Workforce Development and Mississippi
417 Community College Board shall collaborate in the administration
418 and oversight of the Mississippi Workforce Enhancement Training
419 Fund and Mississippi Works Fund, as described in Section 71-5-353.
420 The executive director shall maintain complete and exclusive
421 operational control of the office's functions.

422 *(10) The office shall file an annual and a quarterly report*
423 *with the Governor, Secretary of State, President of the*
424 *Senate, *** Speaker of the House, *** Chairman of the House*
425 *Workforce Development Committee and Chairman of the Senate*
426 *Economic and Workforce Committee. The annual report shall be*
427 *filed not later than October 1 of each year regarding all funds*
428 *approved by the office to be expended on workforce training during*

429 *the prior calendar year. The quarterly and annual reports shall*
430 *include:*

431 *(a) Information on the performance of the Mississippi*
432 *Workforce Enhancement Training Fund and the Mississippi Works*
433 *Fund, in terms of adding value to the local and state economy, the*
434 *contribution to future growth of the state economy, and movement*
435 *toward state goals, including increasing the labor force*
436 *participation rate; * * **

437 *(b) With respect to specific workforce training*
438 *projects:*

439 *(i) The location of the training;*

440 *(ii) The amount allocated to the project;*

441 *(iii) The purpose of the project;*

442 *(iv) The specific business entity that is the*
443 *beneficiary of the project; * * **

444 *(v) The number of employees intended to be trained*
445 *and actually trained, if applicable, in the course of the*
446 *project * * *; and*

447 *(vi) The types of funds used for the project;*

448 *(c) With respect to the grants that have been awarded*
449 *under the Mississippi K-12 Workforce Development Grant Program:*

450 *(i) The entity that was awarded the grant;*

451 *(ii) The amount allocated to the grant;*

452 *(iii) The purpose of the grant; and*

453 *(iv) How the grant has been used since it was*
454 *awarded;*

455 (d) With respect to the office's authority to select
456 tools and resources, including necessary online platforms and
457 similar systems in furtherance of the mission of the office:

458 (i) The policies that the office has adopted or
459 amended on the process for the selection of tools and resources,
460 including necessary online platforms and similar systems in
461 furtherance of the mission of the office;

462 (ii) The eligible entities that the office
463 determined may provide services, such as companies, nonprofit
464 organizations, or other similar groups;

465 (iii) Any tools and resources, including necessary
466 online platforms and similar systems in furtherance of the mission
467 of the office, that have been selected by the office; and

468 (iv) What entity received the benefit of the tools
469 and resources that were selected;

470 (* * *e) *All information concerning a proposed project*
471 *which is provided to the executive director shall be kept*
472 *confidential. Such confidentiality shall not limit disclosure*
473 *under the Mississippi Public Records Act of 1983 of records*
474 *describing the nature, quantity, cost or other pertinent*
475 *information related to the activities of, or services performed*
476 *using, the Mississippi Workforce Enhancement Training Fund or the*
477 *Mississippi Works Fund.*

478 (11) Nothing in Chapter 476, Laws of 2020 [Senate Bill No.
479 2564] shall void or otherwise interrupt any contract, lease, grant
480 or other agreement previously entered into by the State Workforce

481 Investment Board, Mississippi Community College Board, individual
482 community or junior colleges, or other entities.

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

485 37-153-9. (1) In accordance with the federal Workforce
486 Investment Act of 1998, there shall be established, for each of
487 the four (4) state workforce areas prescribed in Section 37-153-3
488 (2)(c), a local workforce investment board to set policy for the
489 portion of the state workforce investment system within the local
490 area and carry out the provisions of the Workforce Investment Act.

491 (2) Each community college district shall have an affiliated
492 District Workforce Development Council. The district council
493 shall be composed of a diverse group of fifteen (15) persons
494 appointed by the board of trustees of the affiliated public
495 community or junior college. The members of each district council
496 shall be selected from persons recommended by the chambers of
497 commerce, employee groups, industrial foundations, community
498 organizations and local governments located in the community
499 college district of the affiliated community college with one (1)
500 appointee being involved in basic literacy training. However, at
501 least eight (8) members of each district council shall be chief
502 executive officers, plant managers that are representatives of
503 employers in that district or service sector executives. The
504 District Workforce Development Council affiliated with each
505 respective community or junior college shall advise the president

506 of the community or junior college on the operation of its
507 workforce development center/one-stop center.

508 The Workforce Development Council shall have the following
509 advisory duties:

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

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

514 (ii) Sets short-term and long-term goals for
515 industry-specific training and upgrading and for general
516 development of the workforce; and

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

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

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

525 (d) To encourage continuous improvement through
526 evaluation and assessment; and

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

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

531 37-153-11. (1) There are created workforce development
532 centers to provide assessment, training and placement services to
533 individuals needing retraining, training and upgrading for small
534 business and local industry. Each workforce development center
535 shall be affiliated with a separate public community or junior
536 college district and shall coordinate with the Office of Workforce
537 Development.

538 (2) Each workforce development center shall be staffed and
539 organized locally by the affiliated community college. The
540 workforce development center shall serve as staff to the
541 affiliated district council.

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

546 (a) For individuals needing training and retraining:

547 (i) Recruiting, assessing, counseling and
548 referring to training or jobs;

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

551 (iii) Basic literacy skills training and high
552 school equivalency education;

553 (iv) Vocational and technical training, full-time
554 or part-time; and

555 (v) Short-term skills training for educationally
556 and economically disadvantaged adults in cooperation with
557 federally established employment and training programs;

558 (b) For specific small businesses, industries or firms
559 within the district:

560 (i) Job analysis, testing and curriculum
561 development;

562 (ii) Development of specific long-range training
563 plans;

564 (iii) Industry or firm-related preemployment
565 training;

566 (iv) Workplace basic skills and literacy training;

567 (v) Customized skills training;

568 (vi) Assistance in developing the capacity for
569 total quality management training;

570 (vii) Technology transfer information and referral
571 services to business of local applications of new research in
572 cooperation with the University Research Center, the state's
573 universities and other laboratories; and

574 (viii) Development of business plans;

575 (c) For public schools within the district technical
576 assistance to secondary schools in curriculum coordination,
577 development of tech prep programs, instructional development and
578 resource coordination; and

579 (d) For economic development, a local forum and
580 resource center for all local industrial development groups to
581 meet and promote regional economic development.

582 (4) Each workforce development center shall compile and make
583 accessible to the Office of Workforce Development and Mississippi
584 State Workforce Investment Board necessary information for use in
585 evaluating outcomes of its efforts and in improving the quality of
586 programs at each community college, and shall include information
587 on literacy initiatives. Each workforce development center shall,
588 through an interagency management information system, maintain
589 records on new small businesses, placement, length of time on the
590 job after placement and wage rates of those placed in a form
591 containing such information as established by the state council.

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

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

599 37-153-13. The Mississippi Community College Board, in
600 collaboration with the Office of Workforce Development, is
601 designated as the primary support agency to the workforce
602 development centers. The Mississippi Community College Board, in
603 collaboration with the Office of Workforce Development, may
604 exercise the following powers:

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

607 (b) To provide the workforce development centers
608 consistent standards and benchmarks to guide development of the
609 local workforce development system and to provide a means by which
610 the outcomes of local services can be measured;

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

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

616 (ii) Establishing rigorous and comprehensive local
617 preemployment training programs;

618 (iii) Developing local institutional capacity to
619 deliver total quality management training;

620 (iv) Developing local institutional capacity to
621 transfer new technologists into the marketplace;

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

624 (vi) Developing data for strategic planning;

625 (d) To collaborate with the Mississippi Development
626 Authority, Office of Workforce Development, individual community
627 and junior colleges, and other economic development and
628 educational organizations and political subdivisions to increase
629 the economic development potential and the state's labor force
630 participation rate;

631 (e) To administer presented and approved certification
632 programs by the community colleges for tax credits and partnership
633 funding for corporate training;

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

639 (g) To develop internal capacity to provide services
640 and to contract for services from universities and other providers
641 directly to local institutions;

642 (h) To develop and administer an incentive
643 certification program;

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

646 (j) To collaborate, partner and contract for services
647 with community-based organizations and disadvantaged businesses in
648 the delivery of workforce training and career information
649 especially to youth, as defined by the federal Workforce
650 Investment Act, and to those adults who are in low income jobs or
651 whose individual skill levels are so low as to be unable initially
652 to be aided by a workforce development center. Community-based
653 organizations and disadvantaged businesses must meet
654 performance-based certification requirements set by the
655 Mississippi Community College Board, in collaboration with the
656 Office of Workforce Development.

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

659 37-153-15. (1) As used in this article:

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

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

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

671 (iii) Linked to an occupation that is identified
672 as emerging.

673 (b) The words "qualifying industry certification" mean
674 an industry certification that is linked to an occupation with
675 wages of at least seventy percent (70%) of the median state income
676 unless the industry certification is stackable to another
677 postsecondary or professional credential which is linked to an
678 occupation which meets the wage criterion.

679 (2) The State Workforce Investment Board shall provide the
680 State Board of Education annually with a list of qualifying
681 industry certifications. If the occupations identified in the
682 list are not substantially the same as those occupations

683 identified in the prior year, the State Board of Education shall
684 provide reasonable notice of the changes to school districts.

685 (3) Beginning in fiscal year 2019-2020 and subject to
686 available funding, the Department of Education shall pay a career
687 and technical education incentive grant to the public school for
688 each student enrolled in the public school who earns a qualifying
689 industry certification. The amount per student for the career and
690 technical education incentive grant shall be Six Hundred Dollars
691 (\$600.00). If the statewide sum of the career and technical
692 education incentive grants awarded pursuant to this section
693 exceeds the amount of available funds appropriated for the grants,
694 the grants per student shall be reduced proportionately to cover
695 all eligible grants under this section. Any costs accrued during
696 one (1) fiscal year may be claimed and reimbursed in the following
697 fiscal year.

698 (4) The grants may be used for qualifying industry
699 certification examination fees, professional development for
700 teachers in career and technical education programs under this
701 section, student instructional support for programs that lead to
702 qualifying industry certifications, or to increase access to
703 qualifying industry certifications. Any grants awarded under this
704 section may not be used to supplant funds provided for the basic
705 operation of the career and technical education programs.

706 (5) On or before October 1 of each year, the Department of
707 Education, working in collaboration with the Office of Workforce
708 Development and any other entities as necessary, shall submit a

709 report to the Governor, the Lieutenant Governor, the Speaker of
710 the House of Representatives, the Chairmen of the House and Senate
711 Education Committees, the Chairman of the House Workforce
712 Development Committee and the Chairman of the Senate Economic and
713 Workforce Development Committee on the following:

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

717 (b) The number of students who earned a qualifying
718 industry certification by certification.

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

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

723 (e) Aggregated demographic data on the students who
724 earned a qualifying industry certification, including the
725 qualifying industry certifications earned by rural and urban
726 students.

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

729 37-153-17. Sections 37-153-1, 37-153-3, 37-153-5, 37-153-7,
730 37-153-9, 37-153-11, 37-153-13 and 37-153-15 shall stand repealed
731 on July 1, * * * 2031.

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

734 71-5-5. The Legislature finds and declares that the
735 existence and continued operation of a federal tax upon employers,
736 against which some portion of the contributions required under
737 this chapter may be credited, will protect Mississippi employers
738 from undue disadvantages in their competition with employers in
739 other states. If at any time, upon a formal complaint to the
740 Governor, he shall find that Title IX of the Social Security Act
741 has been amended or repealed by Congress or has been held
742 unconstitutional by the Supreme Court of the United States, and
743 that, as a result thereof, the provisions of this chapter
744 requiring Mississippi employers to pay contributions will subject
745 them to a serious competitive disadvantage in relation to
746 employers in other states, he shall publish such findings and
747 proclaim that the operation of the provisions of this chapter
748 requiring the payment of contributions and benefits shall be
749 suspended for a period of not more than six (6) months. The
750 Department of Employment Security shall thereupon requisition from
751 the Unemployment Trust Fund all monies therein standing to its
752 credit, and shall deposit such monies, together with any other
753 monies in the Unemployment Compensation Fund, as a special fund in
754 any banks or public depositories in this state in which general
755 funds of the state may be deposited.

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

758 If within the aforesaid six-month period the Governor shall
759 find that other federal legislation has been enacted which avoids

760 the competitive disadvantage herein described, he shall forthwith
761 publicly so proclaim, and upon the date of such proclamation, the
762 provisions of this chapter requiring the payment of contributions
763 and benefits shall again become fully operative as of the date of
764 such suspension with the same effect as if such suspension had not
765 occurred. If within such six-month period no such other federal
766 legislation is enacted or the Legislature of this state has not
767 otherwise prescribed, the Department of Employment Security shall,
768 under regulations prescribed by it, refund, without interest, to
769 each employer by whom contributions have been paid his pro rata
770 share of the total contributions paid under this chapter. Any
771 interest or earnings of the fund shall be available to the
772 Department of Employment Security to pay for the costs of making
773 such refunds. When the Department of Employment Security shall
774 have executed the duties herein prescribed and performed such
775 other acts as are incidental to the termination of its duties
776 under this chapter, the Governor shall, by public proclamation,
777 declare that the provisions of this chapter, in their entirety,
778 shall cease to be operative.

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

781 71-5-11. As used in this chapter, unless the context clearly
782 requires otherwise:

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

786 B. "Benefit year" with respect to any individual means the
787 period beginning with the first day of the first week with respect
788 to which he or she first files a valid claim for benefits, and
789 ending with the day preceding the same day of the same month in
790 the next calendar year; and, thereafter, the period beginning with
791 the first day of the first week with respect to which he or she
792 next files his or her valid claim for benefits, and ending with
793 the day preceding the same day of the same month in the next
794 calendar year. Any claim for benefits made in accordance with
795 Section 71-5-515 shall be deemed to be a "valid claim" for
796 purposes of this subsection if the individual has been paid the
797 wages for insured work required under Section 71-5-511(e).

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

800 D. "Calendar quarter" means the period of three (3)
801 consecutive calendar months ending on March 31, June 30, September
802 30, or December 31.

803 E. "Department" or "commission" means the Mississippi
804 Department of Employment Security, Office of the Governor.

805 F. "Executive director" means the Executive Director of the
806 Mississippi Department of Employment Security, Office of the
807 Governor, appointed under Section 71-5-107.

808 G. "Employing unit" means this state or another state or any
809 instrumentalities or any political subdivisions thereof or any of
810 their instrumentalities or any instrumentality of more than one
811 (1) of the foregoing or any instrumentality of any of the

812 foregoing and one or more other states or political subdivisions,
813 any Indian tribe as defined in Section 3306(u) of the Federal
814 Unemployment Tax Act (FUTA), which includes any subdivision,
815 subsidiary or business enterprise wholly owned by such Indian
816 tribe, any individual or type of organization, including any
817 partnership, association, trust, estate, joint-stock company,
818 insurance company, or corporation, whether domestic or foreign, or
819 the receiver, trustee in bankruptcy, trustee or successor thereof,
820 or the legal representative of a deceased person, which has or had
821 in its employ one or more individuals performing services for it
822 within this state. All individuals performing services within
823 this state for any employing unit which maintains two (2) or more
824 separate establishments within this state shall be deemed to be
825 employed by a single employing unit for all the purposes of this
826 chapter. Each individual employed to perform or to assist in
827 performing the work of any agent or employee of an employing unit
828 shall be deemed to be employed by such employing unit for all
829 purposes of this chapter, whether such individual was hired or
830 paid directly by such employing unit or by such agent or employee,
831 provided the employing unit had actual or constructive knowledge
832 of the work. All individuals performing services in the employ of
833 an elected fee-paid county official, other than those related by
834 blood or marriage within the third degree computed by the rule of
835 the civil law to such fee-paid county official, shall be deemed to
836 be employed by such county as the employing unit for all the
837 purposes of this chapter. For purposes of defining an "employing

838 unit" which shall pay contributions on remuneration paid to
839 individuals, if two (2) or more related corporations concurrently
840 employ the same individual and compensate such individual through
841 a common paymaster which is one (1) of such corporations, then
842 each such corporation shall be considered to have paid as
843 remuneration to such individual only the amounts actually
844 disbursed by it to such individual and shall not be considered to
845 have paid as remuneration to such individual such amounts actually
846 disbursed to such individual by another of such corporations.

847 H. "Employer" means:

848 (1) Any employing unit which,

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

853 (b) For some portion of a day in each of twenty
854 (20) different calendar weeks, whether or not such weeks were
855 consecutive, in either the current or the preceding calendar year
856 had in employment at least one (1) individual (irrespective of
857 whether the same individual was in employment in each such day),
858 except as provided in paragraph (9) of this subsection;

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

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

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

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

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

873 (6) Any individual or employing unit which acquired its
874 organization, trade, business, or substantially all the assets
875 thereof, from another employing unit, if the employment record of
876 the acquiring individual or employing unit subsequent to such
877 acquisition, together with the employment record of the acquired
878 organization, trade, or business prior to such acquisition, both
879 within the same calendar year, would be sufficient to constitute
880 an employing unit as an employer subject to this chapter under
881 paragraph (1) or (3) of this subsection;

882 (7) Any employing unit which, having become an employer
883 under paragraph (1), (3), (5) or (6) of this subsection or under
884 any other provisions of this chapter, has not, under Section
885 71-5-361, ceased to be an employer subject to this chapter;

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

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

894 (b) In determining whether or not an employing
895 unit for which service other than agricultural labor is also
896 performed is an employer under paragraph (1) or (4)(b) of this
897 subsection, the wages earned or the employment of an employee
898 performing services in agricultural labor, shall not be taken into
899 account. If an employing unit is determined an employer of
900 agricultural labor, such employing unit shall be determined an
901 employer for purposes of paragraph (1) of this subsection;

902 (10) All entities utilizing the services of any
903 employee leasing firm shall be considered the employer of the
904 individuals leased from the employee leasing firm. Temporary help
905 firms shall be considered the employer of the individuals they
906 provide to perform services for other individuals or
907 organizations.

908 I. "Employment" means and includes:

909 (1) Any service performed, which was employment as
910 defined in this section and, subject to the other provisions of
911 this subsection, including service in interstate commerce,
912 performed for wages or under any contract of hire, written or
913 oral, express or implied.

914 (2) Services performed for remuneration for a
915 principal:

916 (a) As an agent-driver or commission-driver
917 engaged in distributing meat products, vegetable products, fruit
918 products, bakery products, beverages (other than milk), or laundry
919 or dry-cleaning services;

920 (b) As a traveling or city salesman, other than as
921 an agent-driver or commission-driver, engaged upon a full-time
922 basis in the solicitation on behalf of, and the transmission to, a
923 principal (except for sideline sales activities on behalf of some
924 other person) of orders from wholesalers, retailers, contractors,
925 or operator of hotels, restaurants, or other similar
926 establishments for merchandise for resale or supplies for use in
927 their business operations.

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

931 (i) The contract of service contemplates that
932 substantially all of the services are to be performed personally
933 by such individual;

934 (ii) The individual does not have a
935 substantial investment in facilities used in connection with the
936 performance of the services (other than in facilities for
937 transportation); and

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

941 (3) Service performed in the employ of this state or
942 any of its instrumentalities or any political subdivision thereof
943 or any of its instrumentalities or any instrumentality of more
944 than one (1) of the foregoing or any instrumentality of any of the
945 foregoing and one or more other states or political subdivisions
946 or any Indian tribe as defined in Section 3306(u) of the Federal
947 Unemployment Tax Act (FUTA), which includes any subdivision,
948 subsidiary or business enterprise wholly owned by such Indian
949 tribe; however, such service is excluded from "employment" as
950 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)
951 of that act and is not excluded from "employment" under paragraph
952 (5) of this subsection.

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

957 (b) The organization had four (4) or more
958 individuals in employment for some portion of a day in each of
959 twenty (20) different weeks, whether or not such weeks were
960 consecutive, within the current or preceding calendar year,
961 regardless of whether they were employed at the same moment of
962 time.

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

966 (a) In the employ of:

967 (i) A church or convention or association of
968 churches; or

969 (ii) An organization which is operated
970 primarily for religious purposes and which is operated,
971 supervised, controlled, or principally supported by a church or
972 convention or association of churches; or

973 (b) By a duly ordained, commissioned, or licensed
974 minister of a church in the exercise of his or her ministry, or by
975 a member of a religious order in the exercise of duties required
976 by such order; or

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

980 (i) As an elected official;

981 (ii) As a member of a legislative body, or a
982 member of the judiciary, of a state or political subdivision or a
983 member of an Indian tribal council;

984 (iii) As a member of the State National Guard
985 or Air National Guard;

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

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

992 1. A major nontenured policy-making or
993 advisory position, or

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

997 (d) In a facility conducted for the purpose of
998 carrying out a program of rehabilitation for individuals whose
999 earning capacity is impaired by age or physical or mental
1000 deficiency or injury, or providing remunerative work for
1001 individuals who because of their impaired physical or mental
1002 capacity cannot be readily absorbed in the competitive labor
1003 market, by an individual receiving such rehabilitation or
1004 remunerative work; or

1005 (e) By an inmate of a custodial or penal
1006 institution; or

1007 (f) As part of an unemployment work-relief or
1008 work-training program assisted or financed, in whole or in part,
1009 by any federal agency or agency of a state or political
1010 subdivision thereof or of an Indian tribe, by an individual
1011 receiving such work relief or work training, unless coverage of
1012 such service is required by federal law or regulation.

1013 (6) Service performed by an individual in agricultural
1014 labor as defined in paragraph (15) (a) of this subsection when:

1015 (a) Such service is performed for a person who:
1016 (i) During any calendar quarter in either the
1017 current or the preceding calendar year paid remuneration in cash
1018 of Twenty Thousand Dollars (\$20,000.00) or more to individuals
1019 employed in agricultural labor, or

1020 (ii) For some portion of a day in each of
1021 twenty (20) different calendar weeks, whether or not such weeks
1022 were consecutive, in either the current or the preceding calendar
1023 year, employed in agricultural labor ten (10) or more individuals,
1024 regardless of whether they were employed at the same moment of
1025 time.

1026 (b) For the purposes of this paragraph (6) any
1027 individual who is a member of a crew furnished by a crew leader to
1028 perform service in agricultural labor for any other person shall
1029 be treated as an employee of such crew leader:

1030 (i) If such crew leader holds a valid
1031 certificate of registration under the Farm Labor Contractor
1032 Registration Act of 1963; or substantially all the members of such
1033 crew operate or maintain tractors, mechanized harvesting or crop
1034 dusting equipment, or any other mechanized equipment, which is
1035 provided by such crew leader; and

1036 (ii) If such individual is not an employee of
1037 such other person within the meaning of paragraph (1) of this
1038 subsection.

1039 (c) For the purpose of subsection I(6), in the
1040 case of any individual who is furnished by a crew leader to

1041 perform service in agricultural labor for any other person and who
1042 is not treated as an employee of such crew leader under paragraph
1043 (6) (b) of this subsection:

1044 (i) Such other person and not the crew leader
1045 shall be treated as the employer of such individual; and

1046 (ii) Such other person shall be treated as
1047 having paid cash remuneration to such individual in an amount
1048 equal to the amount of cash remuneration paid to such individual
1049 by the crew leader (either on his or her own behalf or on behalf
1050 of such other person) for the service in agricultural labor
1051 performed for such other person.

1052 (d) For the purposes of this paragraph (6) the
1053 term "crew leader" means an individual who:

1054 (i) Furnishes individuals to perform service
1055 in agricultural labor for any other person;

1056 (ii) Pays (either on his or her own behalf or
1057 on behalf of such other person) the individuals so furnished by
1058 him or her for the service in agricultural labor performed by
1059 them; and

1060 (iii) Has not entered into a written
1061 agreement with such other person under which such individual is
1062 designated as an employee of such other person.

1063 (7) The term "employment" shall include domestic
1064 service in a private home, local college club or local chapter of
1065 a college fraternity or sorority performed for an employing unit
1066 which paid cash remuneration of One Thousand Dollars (\$1,000.00)

1067 or more in any calendar quarter in the current or the preceding
1068 calendar year to individuals employed in such domestic service.
1069 For the purpose of this subsection, the term "employment" does not
1070 apply to service performed as a "sitter" at a hospital in the
1071 employ of an individual.

1072 (8) An individual's entire service, performed within or
1073 both within and without this state, if:

1074 (a) The service is localized in this state; or

1075 (b) The service is not localized in any state but
1076 some of the service is performed in this state; and

1077 (i) The base of operations or, if there is no
1078 base of operations, the place from which such service is directed
1079 or controlled is in this state; or

1080 (ii) The base of operations or place from
1081 which such service is directed or controlled is not in any state
1082 in which some part of the service is performed, but the
1083 individual's residence is in this state.

1084 (9) Services not covered under paragraph (8) of this
1085 subsection and performed entirely without this state, with respect
1086 to no part of which contributions are required and paid under an
1087 unemployment compensation law of any other state or of the federal
1088 government, shall be deemed to be employment subject to this
1089 chapter if the individual performing such services is a resident
1090 of this state and the department approves the election of the
1091 employing unit for whom such services are performed that the

1092 entire service of such individual shall be deemed to be employment
1093 subject to this chapter.

1094 (10) Service shall be deemed to be localized within a
1095 state if:

1096 (a) The service is performed entirely within such
1097 state; or

1098 (b) The service is performed both within and
1099 without such state, but the service performed without such state
1100 is incidental to the individual's service within the state; for
1101 example, is temporary or transitory in nature or consists of
1102 isolated transactions.

1103 (11) The services of an individual who is a citizen of
1104 the United States, performed outside the United States (except in
1105 Canada), in the employ of an American employer (other than service
1106 which is deemed "employment" under the provisions of paragraph
1107 (8), (9) or (10) of this subsection or the parallel provisions of
1108 another state's law), if:

1109 (a) The employer's principal place of business in
1110 the United States is located in this state; or

1111 (b) The employer has no place of business in the
1112 United States; but

1113 (i) The employer is an individual who is a
1114 resident of this state; or

1115 (ii) The employer is a corporation which is
1116 organized under the laws of this state; or

1117 (iii) The employer is a partnership or a
1118 trust and the number of the partners or trustees who are residents
1119 of this state is greater than the number who are residents of any
1120 one (1) other state; or

1121 (c) None of the criteria of subparagraphs (a) and
1122 (b) of this paragraph are met but the employer has elected
1123 coverage in this state or, the employer having failed to elect
1124 coverage in any state, the individual has filed a claim for
1125 benefits, based on such service, under the law of this state; or

1126 (d) An "American employer," for purposes of this
1127 paragraph, means a person who is:

1128 (i) An individual who is a resident of the
1129 United States; or

1130 (ii) A partnership if two-thirds (2/3) or
1131 more of the partners are residents of the United States; or

1132 (iii) A trust if all of the trustees are
1133 residents of the United States; or

1134 (iv) A corporation organized under the laws
1135 of the United States or of any state.

1136 (12) All services performed by an officer or member of
1137 the crew of an American vessel on or in connection with such
1138 vessel, if the operating office from which the operations of such
1139 vessel operating on navigable waters within, or within and
1140 without, the United States are ordinarily and regularly
1141 supervised, managed, directed and controlled, is within this

1142 state, notwithstanding the provisions of paragraph (8) of this
1143 subsection.

1144 (13) Service with respect to which a tax is required to
1145 be paid under any federal law imposing a tax against which credit
1146 may be taken for contributions required to be paid into a state
1147 unemployment fund, or which as a condition for full tax credit
1148 against the tax imposed by the Federal Unemployment Tax Act, 26
1149 USCS Section 3301 et seq., is required to be covered under this
1150 chapter, notwithstanding any other provisions of this subsection.

1151 (14) Services performed by an individual for wages
1152 shall be deemed to be employment subject to this chapter unless
1153 and until it is shown to the satisfaction of the department that
1154 such individual has been and will continue to be free from control
1155 and direction over the performance of such services both under his
1156 or her contract of service and in fact; and the relationship of
1157 employer and employee shall be determined in accordance with the
1158 principles of the common law governing the relation of master and
1159 servant.

1160 (15) The term "employment" shall not include:

1161 (a) Agricultural labor, except as provided in
1162 paragraph (6) of this subsection. The term "agricultural labor"
1163 includes all services performed:

1164 (i) On a farm or in a forest in the employ of
1165 any employing unit in connection with cultivating the soil, in
1166 connection with cutting, planting, deadening, marking or otherwise
1167 improving timber, or in connection with raising or harvesting any

1168 agricultural or horticultural commodity, including the raising,
1169 shearing, feeding, caring for, training, and management of
1170 livestock, bees, poultry, fur-bearing animals and wildlife;

1171 (ii) In the employ of the owner or tenant or
1172 other operator of a farm, in connection with the operation,
1173 management, conservation, improvement or maintenance of such farm
1174 and its tools and equipment, or in salvaging timber or clearing
1175 land of brush and other debris left by a hurricane, if the major
1176 part of such service is performed on a farm;

1177 (iii) In connection with the production or
1178 harvesting of naval stores products or any commodity defined in
1179 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(f),
1180 or in connection with the raising or harvesting of mushrooms, or
1181 in connection with the ginning of cotton, or in connection with
1182 the operation or maintenance of ditches, canals, reservoirs, or
1183 waterways not owned or operated for profit, used exclusively for
1184 supplying and storing water for farming purposes;

1185 (iv) (A) In the employ of the operator of a
1186 farm in handling, planting, drying, packing, packaging,
1187 processing, freezing, grading, storing or delivering to storage or
1188 to market or to a carrier for transportation to market, in its
1189 unmanufactured state, any agricultural or horticultural commodity;
1190 but only if such operator produced more than one-half (1/2) of the
1191 commodity with respect to which such service is performed;

1192 (B) In the employ of a group of
1193 operators of farms (or a cooperative organization of which such

1194 operators are members) in the performance of service described in
1195 subitem (A), but only if such operators produced more than
1196 one-half (1/2) of the commodity with respect to which such service
1197 is performed;

1198 (C) The provisions of subitems (A) and
1199 (B) shall not be deemed to be applicable with respect to service
1200 performed in connection with commercial canning or commercial
1201 freezing or in connection with any agricultural or horticultural
1202 commodity after its delivery to a terminal market for distribution
1203 for consumption;

1204 (v) On a farm operated for profit if such
1205 service is not in the course of the employer's trade or business;

1206 (vi) As used in paragraph (15)(a) of this
1207 subsection, the term "farm" includes stock, dairy, poultry, fruit,
1208 fur-bearing animals, and truck farms, plantations, ranches,
1209 nurseries, ranges, greenhouses, or other similar structures used
1210 primarily for the raising of agricultural or horticultural
1211 commodities, and orchards.

1212 (b) Domestic service in a private home, local
1213 college club, or local chapter of a college fraternity or
1214 sorority, except as provided in paragraph (7) of this subsection,
1215 or service performed as a "sitter" at a hospital in the employ of
1216 an individual.

1217 (c) Casual labor not in the usual course of the
1218 employing unit's trade or business.

1219 (d) Service performed by an individual in the
1220 employ of his or her son, daughter, or spouse, and service
1221 performed by a child under the age of twenty-one (21) in the
1222 employ of his or her father or mother.

1223 (e) Service performed in the employ of the United
1224 States government or of an instrumentality wholly owned by the
1225 United States; except that if the Congress of the United States
1226 shall permit states to require any instrumentalities of the United
1227 States to make payments into an unemployment fund under a state
1228 unemployment compensation act, then to the extent permitted by
1229 Congress and from and after the date as of which such permission
1230 becomes effective, all of the provisions of this chapter shall be
1231 applicable to such instrumentalities and to services performed by
1232 employees for such instrumentalities in the same manner, to the
1233 same extent, and on the same terms as to all other employers and
1234 employing units. If this state should not be certified under the
1235 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any
1236 year, then the payment required by such instrumentality with
1237 respect to such year shall be deemed to have been erroneously
1238 collected and shall be refunded by the department from the fund in
1239 accordance with the provisions of Section 71-5-383.

1240 (f) Service performed in the employ of an
1241 "employer" as defined by the Railroad Unemployment Insurance Act,
1242 45 USCS Section 351(a), or as an "employee representative" as
1243 defined by the Railroad Unemployment Insurance Act, 45 USCS
1244 Section 351(f), and service with respect to which unemployment

1245 compensation is payable under an unemployment compensation system
1246 for maritime employees, or under any other unemployment
1247 compensation system established by an act of Congress; however,
1248 the department is authorized and directed to enter into agreements
1249 with the proper agencies under such act or acts of Congress, which
1250 agreements shall become effective ten (10) days after publication
1251 thereof in the manner provided in Section 71-5-117 for general
1252 rules, to provide reciprocal treatment to individuals who have,
1253 after acquiring potential rights to benefits under this chapter,
1254 acquired rights to unemployment compensation under such act or
1255 acts of Congress or who have, after acquiring potential rights to
1256 unemployment compensation under such act or acts of Congress,
1257 acquired rights to benefits under this chapter.

1258 (g) Service performed in any calendar quarter in
1259 the employ of any organization exempt from income tax under the
1260 Internal Revenue Code, 26 USCS Section 501(a) (other than an
1261 organization described in 26 USCS Section 401(a)), or exempt from
1262 income tax under 26 USCS Section 521 if the remuneration for such
1263 service is less than Fifty Dollars (\$50.00).

1264 (h) Service performed in the employ of a school,
1265 college, or university if such service is performed:

1266 (i) By a student who is enrolled and is
1267 regularly attending classes at such school, college or university,
1268 or

1269 (ii) By the spouse of such a student if such
1270 spouse is advised, at the time such spouse commences to perform
1271 such service, that

1272 (A) The employment of such spouse to
1273 perform such service is provided under a program to provide
1274 financial assistance to such student by such school, college, or
1275 university, and

1276 (B) Such employment will not be covered
1277 by any program of unemployment insurance.

1278 (i) Service performed by an individual under the
1279 age of twenty-two (22) who is enrolled at a nonprofit or public
1280 educational institution which normally maintains a regular faculty
1281 and curriculum and normally has a regularly organized body of
1282 students in attendance at the place where its educational
1283 activities are carried on, as a student in a full-time program
1284 taken for credit at such institution, which combines academic
1285 instruction with work experience, if such service is an integral
1286 part of such program and such institution has so certified to the
1287 employer, except that this subparagraph shall not apply to service
1288 performed in a program established for or on behalf of an employer
1289 or group of employers.

1290 (j) Service performed in the employ of a hospital,
1291 if such service is performed by a patient of the hospital, as
1292 defined in subsection M of this section.

1293 (k) Service performed as a student nurse in the
1294 employ of a hospital or a nurses' training school by an individual

1295 who is enrolled and is regularly attending classes in a nurses'
1296 training school chartered or approved pursuant to state law; and
1297 services performed as an intern in the employ of a hospital by an
1298 individual who has completed a four-year course in a medical
1299 school chartered or approved pursuant to state law.

1300 (l) Service performed by an individual as an
1301 insurance agent or as an insurance solicitor, if all such service
1302 performed by such individual is performed for remuneration solely
1303 by way of commission.

1304 (m) Service performed by an individual in the
1305 delivery or distribution of newspapers or shopping news, not
1306 including delivery or distribution to any point for subsequent
1307 delivery or distribution, except those employed by political
1308 subdivisions, state and local governments, nonprofit organizations
1309 and Indian tribes, as defined by this chapter, or any other
1310 entities for which coverage is required by federal statute and
1311 regulation.

1312 (n) If the services performed during one-half
1313 (1/2) or more of any pay period by an employee for the employing
1314 unit employing him or her constitute employment, all the services
1315 of such employee for such period shall be deemed to be employment;
1316 but if the services performed during more than one-half (1/2) of
1317 any such pay period by an employee for the employing unit
1318 employing him or her do not constitute employment, then none of
1319 the services of such employee for such period shall be deemed to
1320 be employment. As used in this subsection, the term "pay period"

1321 means a period (of not more than thirty-one (31) consecutive days)
1322 for which a payment of remuneration is ordinarily made to the
1323 employee by the employing unit employing him or her.

1324 (o) Service performed by a barber or beautician
1325 whose work station is leased to him or her by the owner of the
1326 shop in which he or she works and who is compensated directly by
1327 the patrons he or she serves and who is free from direction and
1328 control by the lessor.

1329 (p) Service performed by a "direct seller" if:

1330 (i) Such person is engaged in the trade or
1331 business of selling (or soliciting the sale of) consumer products
1332 to any buyer on a buy-sell basis, a deposit-commission basis, or
1333 any similar basis which the department prescribes by regulations,
1334 for resale (by the buyer or any other person) in the home or
1335 otherwise than in a permanent retail establishment; or such person
1336 is engaged in the trade or business of selling (or soliciting the
1337 sale of) consumer products in the home or otherwise than in a
1338 permanent retail establishment;

1339 (ii) Substantially all the remuneration
1340 (whether or not paid in cash) for the performance of the services
1341 described in item (i) of this subparagraph is directly related to
1342 sales or other output (including the performance of services)
1343 rather than to the number of hours worked; and

1344 (iii) The services performed by the person
1345 are performed pursuant to a written contract between such person
1346 and the person for whom the services are performed and such

1347 contract provides that the person will not be treated as an
1348 employee with respect to such services for federal tax purposes.

1349 J. "Employment office" means a free public employment office
1350 or branch thereof, operated by this state or maintained as a part
1351 of the state controlled system of public employment offices.

1352 K. "Public employment service" means the operation of a
1353 program that offers free placement and referral services to
1354 applicants and employers, including job development.

1355 L. "Fund" means the Unemployment Compensation Fund
1356 established by this chapter, to which all contributions required
1357 and from which all benefits provided under this chapter shall be
1358 paid.

1359 M. "Hospital" means an institution which has been licensed,
1360 certified, or approved by the State Department of Health as a
1361 hospital.

1362 N. "Institution of higher learning," for the purposes of
1363 this section, means an educational institution which:

1364 (1) Admits as regular students only individuals having
1365 a certificate of graduation from a high school, or the recognized
1366 equivalent of such a certificate;

1367 (2) Is legally authorized in this state to provide a
1368 program of education beyond high school;

1369 (3) Provides an educational program for which it awards
1370 a bachelor's or higher degree, or provides a program which is
1371 acceptable for full credit toward such a degree, a program of
1372 postgraduate or postdoctoral studies, or a program of training to

1373 prepare students for gainful employment in a recognized
1374 occupation;

1375 (4) Is a public or other nonprofit institution;

1376 (5) Notwithstanding any of the foregoing provisions of
1377 this subsection, all colleges and universities in this state are
1378 institutions of higher learning for purposes of this section.

1379 O. "Re-employment assistance" means money payments payable
1380 to an individual as provided in this chapter and in accordance
1381 with Section 3304(a)(4) and 3306(h) of the Federal Unemployment
1382 Tax Act and Section 303(a)(5) of the Social Security Act, with
1383 respect to his or her unemployment through no fault of his or her
1384 own. Wherever the terms "benefits" or "unemployment benefits"
1385 appear in this chapter, they shall mean re-employment assistance.

1386 P. (1) "State" includes, in addition to the states of the
1387 United States of America, the District of Columbia, Commonwealth
1388 of Puerto Rico and the Virgin Islands.

1389 (2) The term "United States" when used in a
1390 geographical sense includes the states, the District of Columbia,
1391 Commonwealth of Puerto Rico and the Virgin Islands.

1392 (3) The provisions of paragraphs (1) and (2) of this
1393 subsection P, as including the Virgin Islands, shall become
1394 effective on the day after the day on which the United States
1395 Secretary of Labor approves for the first time under Section
1396 3304(a) of the Internal Revenue Code of 1954 an unemployment
1397 compensation law submitted to the secretary by the Virgin Islands
1398 for such approval.

1399 Q. "Unemployment."

1400 (1) An individual shall be deemed "unemployed" in any
1401 week during which he or she performs no services and with respect
1402 to which no wages are payable to him or her, or in any week of
1403 less than full-time work if the wages payable to him or her with
1404 respect to such week are less than his or her weekly benefit
1405 amount as computed and adjusted in Section 71-5-505. This
1406 definition shall exclude individuals receiving voluntary payments
1407 from employers, from any source, that are in lieu of the worker's
1408 regular wages. However, individuals receiving voluntary payments
1409 of less than their set full weekly wage, as well as individuals
1410 who do not work a specified number of hours each week resulting in
1411 inconsistent weekly wages, and who are receiving voluntary
1412 payments for partial wage substitution, may be considered
1413 "unemployed," but would be required to report the gross amount of
1414 the voluntary payments to be treated as wages so the appropriate
1415 deductions to the weekly benefit amount can be made. The
1416 department shall prescribe regulations applicable to unemployed
1417 individuals, making such distinctions in the procedure as to total
1418 unemployment, part-total unemployment, partial unemployment of
1419 individuals attached to their regular jobs, and other forms of
1420 short-time work, as the department deems necessary.

1421 (2) An individual's week of total unemployment shall be
1422 deemed to commence only after his registration with an employment
1423 office, except as the department may by regulation otherwise
1424 prescribe.

1425 (3) Unemployment shall not include administrative leave
1426 for any week with respect to which:

1427 (a) An employer has designated their employee as
1428 being on official administrative leave;

1429 (b) The administrative leave is for a specified
1430 period of time;

1431 (c) There is no apparent permanent job separation;
1432 and

1433 (d) The employee has received compensation equal
1434 to his or her standard compensation.

1435 (4) If the individual on official administrative leave,
1436 as designated by the employer, does not receive full compensation
1437 in line with his or her standard hours or salary, the individual
1438 may be eligible for unemployment insurance benefits as partially
1439 unemployed for the wages they are missing.

1440 (5) Any individual on official administrative leave is
1441 required to report all compensation received.

1442 R. (1) "Wages" means all remuneration for personal
1443 services, including commissions and bonuses and the cash value of
1444 all remuneration in any medium other than cash, except that
1445 "wages," for purposes of determining employer's coverage and
1446 payment of contributions for agricultural and domestic service
1447 means cash remuneration only. Wages shall include payments from
1448 employers, from any source, and for any reason, that are in lieu
1449 of the employee's regular wages. The reasonable cash value of
1450 remuneration in any medium other than cash shall be estimated and

1451 determined in accordance with rules prescribed by the department;
1452 however, that the term "wages" shall not include:

1453 (a) The amount of any payment made to, or on
1454 behalf of, an employee under a plan or system established by an
1455 employer which makes provision for his or her employees generally
1456 or for a class or classes of his or her employees (including any
1457 amount paid by an employer for insurance or annuities, or into a
1458 fund, to provide for any such payment), on account of:

1459 (i) Retirement, or

1460 (ii) Sickness or accident disability, or

1461 (iii) Medical or hospitalization expenses in
1462 connection with sickness or actual disability, or

1463 (iv) Death, provided the employee:

1464 (A) Has not the option to receive,
1465 instead of provision for such death benefit, any part of such
1466 payment or, if such death benefit is insured, any part of the
1467 premiums (or contributions to premiums) paid by his or her
1468 employer, and

1469 (B) Has not the right, under the
1470 provisions of the plan or system or policy of insurance providing
1471 for such death benefit, to assign such benefit or to receive a
1472 cash consideration in lieu of such benefit, either upon his or her
1473 withdrawal from the plan or system providing for such benefit or
1474 upon termination of such plan or system or policy of insurance or
1475 of his or her employment with such employer;

1476 (b) Dismissal payments which the employer is not
1477 legally required to make;

1478 (c) Payment by an employer (without deduction from
1479 the remuneration of an employee) of the tax imposed by the
1480 Internal Revenue Code, 26 USCS Section 3101;

1481 (d) From and after January 1, 1992, the amount of
1482 any payment made to or on behalf of an employee for a "cafeteria"
1483 plan, which meets the following requirements:

1484 (i) Qualifies under Section 125 of the
1485 Internal Revenue Code;

1486 (ii) Covers only employees;

1487 (iii) Covers only noncash benefits;

1488 (iv) Does not include deferred compensation
1489 plans.

1490 (2) [Not enacted].

1491 S. "Week" means calendar week or such period of seven (7)
1492 consecutive days as the department may by regulation prescribe.
1493 The department may by regulation prescribe that a week shall be
1494 deemed to be in, within, or during any benefit year which includes
1495 any part of such week.

1496 T. "Insured work" means "employment" for "employers."

1497 U. The term "includes" and "including," when used in a
1498 definition contained in this chapter, shall not be deemed to
1499 exclude other things otherwise within the meaning of the term
1500 defined.

1501 V. "Employee leasing arrangement" means any agreement
1502 between an employee leasing firm and a client, whereby specified
1503 client responsibilities such as payment of wages, reporting of
1504 wages for unemployment insurance purposes, payment of unemployment
1505 insurance contributions and other such administrative duties are
1506 to be performed by an employee leasing firm, on an ongoing basis.

1507 W. "Employee leasing firm" means any entity which provides
1508 specified duties for a client company such as payment of wages,
1509 reporting of wages for unemployment insurance purposes, payment of
1510 unemployment insurance contributions and other administrative
1511 duties, in connection with the client's employees, that are
1512 directed and controlled by the client and that are providing
1513 ongoing services for the client.

1514 X. (1) "Temporary help firm" means an entity which hires
1515 its own employees and provides those employees to other
1516 individuals or organizations to perform some service, to support
1517 or supplement the existing workforce in special situations such as
1518 employee absences, temporary skill shortages, seasonal workloads
1519 and special assignments and projects, with the expectation that
1520 the worker's position will be terminated upon the completion of
1521 the specified task or function.

1522 (2) "Temporary employee" means an employee assigned to
1523 work for the clients of a temporary help firm.

1524 Y. For the purposes of this chapter, the term "notice" shall
1525 include any official communication, statement or other
1526 correspondence required under the administration of this chapter,

1527 and sent by the department through the United States Postal
1528 Service or electronic or digital transfer, via modem or the
1529 Internet.

1530 **SECTION 12.** Section 71-5-19, Mississippi Code of 1972, is
1531 reenacted as follows:

1532 71-5-19. (1) Whoever makes a false statement or
1533 representation knowing it to be false, or knowingly fails to
1534 disclose a material fact, to obtain or increase any benefit or
1535 other payment under this chapter or under an employment security
1536 law of any other state, of the federal government or of a foreign
1537 government, either for himself or for any other person, shall be
1538 punished by a fine of not less than One Hundred Dollars (\$100.00)
1539 nor more than Five Hundred Dollars (\$500.00), or by imprisonment
1540 for not longer than thirty (30) days, or by both such fine and
1541 imprisonment; and each such false statement or representation or
1542 failure to disclose a material fact shall constitute a separate
1543 offense.

1544 (2) Any employing unit, any officer or agent of an employing
1545 unit or any other person who makes a false statement or
1546 representation knowing it to be false, or who knowingly fails to
1547 disclose a material fact, to prevent or reduce the payment of
1548 benefits to any individual entitled thereto, or to avoid becoming
1549 or remaining subject hereto, or to avoid or reduce any
1550 contribution or other payment required from any employing unit
1551 under this chapter, or who willfully fails or refuses to make any
1552 such contribution or other payment, or to furnish any reports

1553 required hereunder or to produce or permit the inspection or
1554 copying of records as required hereunder, shall be punished by a
1555 fine of not less than One Hundred Dollars (\$100.00) nor more than
1556 One Thousand Dollars (\$1,000.00), or by imprisonment for not
1557 longer than sixty (60) days, or by both such fine and
1558 imprisonment; and each such false statement, or representation, or
1559 failure to disclose a material fact, and each day of such failure
1560 or refusal shall constitute a separate offense. In lieu of such
1561 fine and imprisonment, the employing unit or representative, or
1562 both employing unit and representative, if such representative is
1563 an employing unit in this state and is found to be a party to such
1564 violation, shall not be eligible for a contributions rate of less
1565 than five and four-tenths percent (5.4%) for the tax year in which
1566 such violation is discovered by the department and for the next
1567 two (2) succeeding tax years.

1568 (3) Any person who shall willfully violate any provision of
1569 this chapter or any other rule or regulation thereunder, the
1570 violation of which is made unlawful or the observance of which is
1571 required under the terms of this chapter and for which a penalty
1572 is neither prescribed herein nor provided by any other applicable
1573 statute, shall be punished by a fine of not less than One Hundred
1574 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),
1575 or by imprisonment for not longer than sixty (60) days, or by both
1576 such fine and imprisonment; and each day such violation continues
1577 shall be deemed to be a separate offense. In lieu of such fine
1578 and imprisonment, the employing unit or representative, or both

1579 employing unit and representative, if such representative is an
1580 employing unit in this state and is found to be a party to such
1581 violation, shall not be eligible for a contributions rate of less
1582 than five and four-tenths percent (5.4%) for the tax year in which
1583 the violation is discovered by the department and for the next two
1584 (2) succeeding tax years.

1585 (4) (a) An overpayment of benefits occurs when a person
1586 receives benefits under this chapter:

1587 (i) While any conditions for the receipt of
1588 benefits imposed by this chapter were not fulfilled in his case;

1589 (ii) While he was disqualified from receiving
1590 benefits; or

1591 (iii) When such person receives benefits and is
1592 later found to be disqualified or ineligible for any reason,
1593 including, but not limited to, a redetermination or reversal by
1594 the department or the courts of a previous decision to award such
1595 person benefits.

1596 (b) Any person receiving an overpayment shall, in the
1597 discretion of the department, be liable to have such sum deducted
1598 from any future benefits payable to him under this chapter and
1599 shall be liable to repay to the department for the Unemployment
1600 Compensation Fund a sum equal to the overpayment amount so
1601 received by him; and such sum shall be collectible in the manner
1602 provided in Sections 71-5-363 through 71-5-383 for the collection
1603 of past-due contributions. In addition to Sections 71-5-363
1604 through 71-5-383, the following shall apply to cases involving

1605 damages for overpaid unemployment benefits which have been
1606 obtained and/or received through fraud as defined by department
1607 regulations and laws governing the department. By definition,
1608 fraud can include failure to report earnings while filing for
1609 unemployment benefits. In the event of fraud, a penalty of twenty
1610 percent (20%) of the amount of the overpayment shall be assessed.
1611 Three-fourths (3/4) of that twenty percent (20%) penalty shall be
1612 deposited into the unemployment trust fund and shall be used only
1613 for the purpose of payment of unemployment benefits. The
1614 remainder of that twenty percent (20%) penalty shall be deposited
1615 into the Special Employment Security Administrative Fund.
1616 Interest on the overpayment balance shall accrue at a rate of one
1617 percent (1%) per month on the unpaid balance until repaid and
1618 shall be deposited into the Special Employment Security
1619 Administration Fund. All interest, penalties and damages
1620 deposited into the Special Employment Security Administration Fund
1621 shall be used by the department for administration of the
1622 Mississippi Department of Employment Security.

1623 (c) Any such judgment against such person for
1624 collection of such overpayment shall be in the form of a
1625 seven-year renewable lien. Unless action be brought thereon prior
1626 to expiration of the lien, the department must refile the notice
1627 of the lien prior to its expiration at the end of seven (7) years.
1628 There shall be no limit upon the number of times the department
1629 may refile notices of liens for collection of overpayments.

1630 (d) All warrants issued by the department for the
1631 collection of any unemployment tax or for an overpayment of
1632 benefits imposed by statute and collected by the department shall
1633 be used to levy on salaries, compensation or other monies due the
1634 delinquent employer or claimant. No such warrant shall be issued
1635 until after the delinquent employer or claimant has exhausted all
1636 appeal rights associated with the debt. The warrants shall be
1637 served by mail or by delivery by an agent of the department on the
1638 person or entity responsible or liable for the payment of the
1639 monies due the delinquent employer or claimant. Once served, the
1640 employer or other person owing compensation due the delinquent
1641 employer or claimant shall pay the monies over to the department
1642 in complete or partial satisfaction of the liability. An answer
1643 shall be made within thirty (30) days after service of the warrant
1644 in the form and manner determined satisfactory by the department.
1645 Failure to pay the money over to the department as required by
1646 this section shall result in the served party being personally
1647 liable for the full amount of the monies owed and the levy and
1648 collection process may be issued against the party in the same
1649 manner as other debts owed to the department. Except as otherwise
1650 provided by this section, the answer, the amount payable under the
1651 warrant and the obligation of the payor to continue payment shall
1652 be governed by the garnishment laws of this state but shall be
1653 payable to the department.

1654 (5) The department, by agreement with another state or the
1655 United States, as provided under Section 303(g) of the Social

1656 Security Act, may recover any overpayment of benefits paid to any
1657 individual under the laws of this state or of another state or
1658 under an unemployment benefit program of the United States. Any
1659 overpayments subject to this subsection may be deducted from any
1660 future benefits payable to the individual under the laws of this
1661 state or of another state or under an unemployment program of the
1662 United States.

1663 **SECTION 13.** Section 71-5-101, Mississippi Code of 1972, is
1664 reenacted as follows:

1665 71-5-101. There is established the Mississippi Department of
1666 Employment Security, Office of the Governor. The Department of
1667 Employment Security shall be the Mississippi Employment Security
1668 Commission and shall retain all powers and duties as granted to
1669 the Mississippi Employment Security Commission. Wherever the term
1670 "Employment Security Commission" appears in any law, the same
1671 shall mean the Mississippi Department of Employment Security,
1672 Office of the Governor. The Executive Director of the Department
1673 of Employment Security may assign to the appropriate offices such
1674 powers and duties deemed appropriate to carry out the lawful
1675 functions of the department.

1676 **SECTION 14.** Section 71-5-107, Mississippi Code of 1972, is
1677 reenacted as follows:

1678 71-5-107. The department shall administer this chapter
1679 through a full-time salaried executive director, to be appointed
1680 by the Governor, with the advice and consent of the Senate. He

1681 shall be responsible for the administration of this chapter under
1682 authority delegated to him by the Governor.

1683 **SECTION 15.** Section 71-5-109, Mississippi Code of 1972, is
1684 reenacted as follows:

1685 71-5-109. There is created a Board of Review consisting of
1686 three (3) members to be appointed by the executive director. The
1687 executive director shall designate one (1) member of the Board of
1688 Review as chairman. Each member shall be paid a salary or per
1689 diem at a rate to be determined by the executive director, and
1690 such expenses as may be allowed by the executive director. All
1691 salaries, per diem and expenses of the Board of Review shall be
1692 paid from the Employment Security Administration Fund.

1693 **SECTION 16.** Section 71-5-111, Mississippi Code of 1972, is
1694 reenacted as follows:

1695 71-5-111. There is created in the State Treasury a special
1696 fund to be known as the Employment Security Administration Fund.
1697 All monies which are deposited or paid into this fund are
1698 appropriated and made available to the department. All monies in
1699 this fund shall be expended solely for the purpose of defraying
1700 the cost of administration of this chapter, and for no other
1701 purpose whatsoever. The fund shall consist of all monies
1702 appropriated by this state and all monies received from the United
1703 States of America, or any agency thereof, or from any other source
1704 for such purpose. Notwithstanding any provision of this section,
1705 all monies requisitioned and deposited in this fund pursuant to
1706 Section 71-5-457 shall remain part of the Employment Security

1707 Administration Fund and shall be used only in accordance with the
1708 conditions specified in that section. All monies in this fund
1709 shall be deposited, administered and disbursed in the same manner
1710 and under the same conditions and requirements as is provided by
1711 law for other special funds in the State Treasury. The State
1712 Treasurer shall be liable on his official bond for the faithful
1713 performance of his duties in connection with the Employment
1714 Security Administration Fund under this chapter.

1715 **SECTION 17.** Section 71-5-112, Mississippi Code of 1972, is
1716 reenacted as follows:

1717 71-5-112. All funds received by the Mississippi Department
1718 of Employment Security shall clear through the State Treasury as
1719 provided and required by Sections 71-5-111 and 71-5-453. All
1720 expenditures from the administration fund of the department
1721 authorized by Section 71-5-111 shall be expended only pursuant to
1722 appropriation approved by the Legislature and as provided by law.

1723 **SECTION 18.** Section 71-5-113, Mississippi Code of 1972, is
1724 reenacted as follows:

1725 71-5-113. All monies received from the Social Security Board
1726 or its successors for the administration of this chapter shall be
1727 expended solely for the purposes and in the amounts found
1728 necessary by the Social Security Board or its successors for the
1729 proper and efficient administration of this chapter.

1730 It shall be the duty of the department to take appropriate
1731 action with respect to the replacement, within a reasonable time,
1732 of any monies received from the Social Security Board, or its

1733 successors, for the administration of this chapter, and monies
1734 used to match grants pursuant to the provisions of the
1735 Wagner-Peyser Act, which the board, or its successors, find,
1736 because of any action or contingency, have been lost or have been
1737 expended for purposes other than, or in amounts in excess of those
1738 found necessary by the Social Security Board, or its successors,
1739 for the proper administration of this chapter. Funds which have
1740 been expended by the department or its agents in accordance with
1741 the budget approved by the Social Security Board, or its
1742 successors, or in accordance with the general standards and
1743 limitations promulgated by the Social Security Board, or its
1744 successors, prior to such expenditure (where proposed expenditures
1745 have not been specifically disapproved by the Social Security
1746 Board, or its successors), shall not be deemed to require
1747 replacement. To effectuate the purposes of this paragraph, it
1748 shall be the duty of the department to take such action to
1749 safeguard the expenditure of the funds referred to herein as it
1750 deems necessary. In the event of a loss of such funds or an
1751 improper expenditure thereof as herein defined, it shall be the
1752 duty of the department to notify the Governor of any such loss or
1753 improper expenditure and submit to him a request for an
1754 appropriation in the amount thereof. The Governor shall transmit
1755 to the next regular session of the Legislature following such
1756 notification, the department's request for an appropriation in an
1757 amount necessary to replace funds which have been lost or
1758 improperly expended as defined above. Such request of the

1759 department for an appropriation shall not be subject to the
1760 provisions of Sections 27-103-101 through 27-103-139. The
1761 Legislature recognizes its obligation to replace such funds as may
1762 be necessary and shall make necessary appropriations in accordance
1763 with such requests.

1764 **SECTION 19.** Section 71-5-114, Mississippi Code of 1972, is
1765 reenacted as follows:

1766 71-5-114. There is created in the State Treasury a special
1767 fund, to be known as the "Special Employment Security
1768 Administration Fund," into which shall be deposited or transferred
1769 all interest, penalties and damages collected on and after July 1,
1770 1982, pursuant to Sections 71-5-363 through 71-5-379 and all
1771 interest and penalties required to be deposited into the fund
1772 pursuant to Section 71-5-19(4)(b). Interest, penalties and
1773 damages collected on delinquent payments deposited during any
1774 calendar quarter in the clearing account in the Unemployment Trust
1775 Fund shall, as soon as practicable after the close of such
1776 calendar quarter, be transferred to the Special Employment
1777 Security Administration Fund. All monies in this fund shall be
1778 deposited, administered and disbursed in the same manner and under
1779 the same conditions and requirements as is provided by law for
1780 other special funds in the State Treasury. The State Treasurer
1781 shall be liable on his official bond for the faithful performance
1782 of his duties in connection with the Special Employment Security
1783 Administration Fund under this chapter. Those monies may be
1784 expended for any programs for which the department has

1785 administrative responsibility but shall not be expended or made
1786 available for expenditure in any manner which would permit their
1787 substitution for (or permit a corresponding reduction in) federal
1788 funds which would, in the absence of those monies, be available to
1789 finance expenditures for the administration of the state
1790 unemployment compensation and employment service laws or any other
1791 laws directing the administration of any programs for which the
1792 department has the administrative responsibility. Nothing in this
1793 section shall prevent those monies in this fund from being used as
1794 a revolving fund to cover expenditures necessary and proper under
1795 the law for which federal funds have been duly requested but not
1796 yet received, subject to the charging of such expenditures against
1797 such funds when necessary. The monies in this fund may be used by
1798 the department for the payment of costs of administration of the
1799 employment security laws of this state which are found not to be
1800 or not to have been properly and validly chargeable against funds
1801 obtained from federal sources. All monies in this Special
1802 Employment Security Administration Fund shall be continuously
1803 available to the department for expenditure in accordance with the
1804 provisions of this chapter, and shall not lapse at any time. The
1805 monies in this fund are specifically made available to replace, as
1806 contemplated by Section 71-5-113, expenditures from the Employment
1807 Security Administration Fund established by Section 71-5-111,
1808 which have been found, because of any action or contingency, to
1809 have been lost or improperly expended.

1810 The department, whenever it is of the opinion that the money
1811 in the Special Employment Security Administration Fund is more
1812 than ample to pay for all foreseeable needs for which such special
1813 fund is set up, may, by written order, order the transfer
1814 therefrom to the Unemployment Compensation Fund of such amount of
1815 money in the Special Employment Security Administration Fund as it
1816 deems proper, and the same shall thereupon be immediately
1817 transferred to the Unemployment Compensation Fund.

1818 **SECTION 20.** Section 71-5-115, Mississippi Code of 1972, is
1819 reenacted as follows:

1820 71-5-115. It shall be the duty of the executive director to
1821 administer this chapter; and the executive director shall have the
1822 power and authority to adopt, amend or rescind such rules and
1823 regulations, to employ such persons, make such expenditures,
1824 require such reports, make such investigations, and take such
1825 other action as he deems necessary or suitable to that end. Such
1826 rules and regulations shall be effective upon publication in the
1827 manner, not inconsistent with the provisions of this chapter,
1828 which the executive director shall prescribe. The executive
1829 director shall determine the department's own organization and
1830 methods of procedure in accordance with the provisions of this
1831 chapter, and shall have an official seal which shall be judicially
1832 noticed. Not later than the first day of February in each year,
1833 the executive director shall submit to the Governor a report
1834 covering the administration and operation of this chapter during
1835 the preceding fiscal year and shall make such recommendations for

1836 amendments to this chapter as the executive director deems proper.
1837 Whenever the executive director believes that a change in
1838 contribution or benefit rates will become necessary to protect the
1839 solvency of the fund, he shall promptly so inform the Governor and
1840 the Legislature, and make recommendations with respect thereto.

1841 **SECTION 21.** Section 71-5-117, Mississippi Code of 1972, is
1842 reenacted as follows:

1843 71-5-117. General rules may be adopted, amended or rescinded
1844 by the executive director only after public hearing or opportunity
1845 to be heard thereon, of which proper notice has been given.
1846 General rules shall become effective ten (10) days after filing
1847 with the Secretary of State and publication in one or more
1848 newspapers of general circulation in this state. Regulations may
1849 be adopted, amended or rescinded by the executive director and
1850 shall become effective in the manner and at the time prescribed by
1851 the executive director.

1852 **SECTION 22.** Section 71-5-119, Mississippi Code of 1972, is
1853 reenacted as follows:

1854 71-5-119. The department shall cause to be available for
1855 distribution to the public the text of this chapter, its
1856 regulations and general rules, its reports to the Governor, and
1857 any other material it deems relevant and suitable, and shall
1858 furnish the same to any person upon application therefor.

1859 **SECTION 23.** Section 71-5-121, Mississippi Code of 1972, is
1860 reenacted as follows:

1861 71-5-121. Subject to other provisions of this chapter, the
1862 executive director is authorized to appoint, fix the compensation,
1863 and prescribe the duties and powers of such officers, accountants,
1864 attorneys, experts and other persons as may be necessary in the
1865 performance of department duties; however, all personnel who were
1866 former members of the Armed Forces of the United States of America
1867 shall be given credit regardless of rate, rank or commission. All
1868 positions shall be filled by persons selected and appointed on a
1869 nonpartisan merit basis, in accordance with Section 25-9-101 et
1870 seq., that provides for a state service personnel system. The
1871 executive director shall not employ any person who is an officer
1872 or committee member of any political party organization. The
1873 executive director may delegate to any such person so appointed
1874 such power and authority as he deems reasonable and proper for the
1875 effective administration of this chapter, and may in his
1876 discretion bond any person handling monies or signing checks
1877 hereunder. The veteran status of an individual shall be
1878 considered and preference given in accordance with the provisions
1879 of the State Personnel Board.

1880 The department and its employees are exempt from Sections
1881 25-15-101 and 25-15-103.

1882 The department may use federal granted funds to provide such
1883 group health, life, accident and hospitalization insurance for its
1884 employees as may be agreed upon by the department and the federal
1885 granting authorities.

1886 The department shall adopt a "layoff formula" to be used
1887 wherever it is determined that, because of reduced workload,
1888 budget reductions or in order to effect a more economical
1889 operation, a reduction in force shall occur in any group.

1890 In establishing this formula, the department shall give
1891 effect to the principle of seniority and shall provide that
1892 seniority points may be added for disabled veterans and veterans,
1893 with due regard to the efficiency of the service. Any such layoff
1894 formula shall be implemented according to the policies, rules and
1895 regulations of the State Personnel Board.

1896 **SECTION 24.** Section 71-5-123, Mississippi Code of 1972, is
1897 reenacted as follows:

1898 71-5-123. The executive director shall retain all powers and
1899 duties as granted to the state advisory council appointed by the
1900 former Employment Security Commission. The executive director may
1901 appoint local advisory councils, composed in each case of an equal
1902 number of employer representatives and employee representatives
1903 who may fairly be regarded as representative because of their
1904 vocation, employment or affiliations, and of such members
1905 representing the general public as the executive director may
1906 designate. Such councils shall aid the department in formulating
1907 policies and discussing problems related to the administration of
1908 this chapter and in assuring impartiality and freedom from
1909 political influence in the solution of such problems. Members of
1910 the advisory councils shall receive a per diem in accordance with
1911 Section 25-3-69 for attendance upon meetings of the council, and

1912 shall be reimbursed for actual and necessary traveling expenses.
1913 The per diem and expenses herein authorized shall be paid from the
1914 Employment Security Administration Fund.

1915 **SECTION 25.** Section 71-5-125, Mississippi Code of 1972, is
1916 reenacted as follows:

1917 71-5-125. The department shall take all appropriate steps to
1918 reduce and prevent unemployment; to encourage and assist in the
1919 adoption of practical methods of vocational training, retraining
1920 and vocational guidance; to investigate, recommend, advise and
1921 assist in the establishment and operation, by municipalities,
1922 counties, school districts and the state, of reserves for public
1923 works to be used in times of business depression and unemployment;
1924 to promote the reemployment of unemployed workers throughout the
1925 state in every other way that may be feasible; and to these ends
1926 to carry on and publish the results of investigation and research
1927 studies.

1928 **SECTION 26.** Section 71-5-127, Mississippi Code of 1972, is
1929 reenacted as follows:

1930 71-5-127. (1) Any information or records concerning an
1931 individual or employing unit obtained by the department pursuant
1932 to the administration of this chapter or any other federally
1933 funded programs for which the department has responsibility shall
1934 be private and confidential, except as otherwise provided in this
1935 article or by regulation. Information or records may be released
1936 by the department when the release is required by the federal

1937 government in connection with, or as a condition of funding for, a
1938 program being administered by the department.

1939 (2) Each employing unit shall keep true and accurate work
1940 records, containing such information as the department may
1941 prescribe. Such records shall be open to inspection and be
1942 subject to being copied by the department or its authorized
1943 representatives at any reasonable time and as often as may be
1944 necessary. The department, Board of Review and any referee may
1945 require from any employing unit any sworn or unsworn reports with
1946 respect to persons employed by it which they or any of them deem
1947 necessary for the effective administration of this chapter.
1948 Information, statements, transcriptions of proceedings,
1949 transcriptions of recordings, electronic recordings, letters,
1950 memoranda, and other documents and reports thus obtained or
1951 obtained from any individual pursuant to the administration of
1952 this chapter shall, except to the extent necessary for the proper
1953 administration of this chapter, be held confidential and shall not
1954 be published or be opened to public inspection (other than to
1955 public employees in the performance of their public duties) in any
1956 manner revealing the individual's or employing unit's identity.

1957 (3) Any claimant or his legal representative at a hearing
1958 before an appeal tribunal or the Board of Review shall be supplied
1959 with information from such records to the extent necessary for the
1960 proper presentation of his claim in any proceeding pursuant to
1961 this chapter.

1962 (4) Any employee or member of the Board of Review or any
1963 employee of the department who violates any provisions of this
1964 section shall be fined not less than Twenty Dollars (\$20.00) nor
1965 more than Two Hundred Dollars (\$200.00), or imprisoned for not
1966 longer than ninety (90) days, or both.

1967 (5) The department may make the state's records relating to
1968 the administration of this chapter available to the Railroad
1969 Retirement Board, and may furnish the Railroad Retirement Board,
1970 at the expense of such board, such copies thereof as the Railroad
1971 Retirement Board deems necessary for its purposes. The department
1972 may afford reasonable cooperation with every agency of the United
1973 States charged with the administration of any unemployment
1974 insurance law.

1975 **SECTION 27.** Section 71-5-129, Mississippi Code of 1972, is
1976 reenacted as follows:

1977 71-5-129. Records hereinafter designated, which are found by
1978 the department to be useless, may be disposed of in accordance
1979 with approved records control schedules.

1980 (a) Records which have been preserved by it for not
1981 less than three (3) years:

1982 (1) Initial claims for benefits,

1983 (2) Continued claims for benefits,

1984 (3) Correspondence and master index cards in
1985 connection with such claims for benefits, and

1986 (4) Individual wage slips filed by employers

1987 subject to the provisions of the Unemployment Compensation Law.

1988 (b) Records which have been preserved by it for not
1989 less than six (6) months after becoming inactive:
1990 (1) Work applications,
1991 (2) Cross-index cards for work applications,
1992 (3) Test records,
1993 (4) Employer records,
1994 (5) Work orders,
1995 (6) Clearance records,
1996 (7) Counseling records,
1997 (8) Farm placement records, and
1998 (9) Correspondence relating to all such records.

1999 Nothing herein contained shall be construed as authorizing
2000 the destruction or disposal of basic fiscal records reflecting the
2001 financial operations of the department and no records may be
2002 destroyed without the approval of the Director of the Department
2003 of Archives and History.

2004 **SECTION 28.** Section 71-5-131, Mississippi Code of 1972, is
2005 reenacted as follows:

2006 71-5-131. All letters, reports, communications, or any other
2007 matters, either oral or written, from the employer or employee to
2008 each other or to the department or any of its agents,
2009 representatives or employees, which shall have been written, sent,
2010 delivered or made in connection with the requirements and
2011 administration of this chapter shall be absolutely privileged and
2012 shall not be made the subject matter or basis of any suit for
2013 slander or libel in any court of the State of Mississippi unless

2014 the same be false in fact and maliciously written, sent, delivered
2015 or made for the purpose of causing a denial of benefits under this
2016 chapter.

2017 **SECTION 29.** Section 71-5-133, Mississippi Code of 1972, is
2018 reenacted as follows:

2019 71-5-133. In any case where an employing unit or any
2020 officer, member or agent thereof, or any other person having
2021 possession of the records thereof, shall fail or refuse upon
2022 demand by the department or its duly appointed agents to produce
2023 or permit the examination or copying of any book, paper, account,
2024 record or other data pertaining to payrolls or employment or
2025 ownership of interests or stock in any employing unit, or bearing
2026 upon the correctness of any report, or for the purpose of making a
2027 report as required by this chapter where none has been made, then
2028 and in that event the department or its duly authorized agents
2029 may, by the issuance of a subpoena, require the attendance of such
2030 employing unit or any officer, member or agent thereof, or any
2031 other person having possession of the records thereof, and take
2032 testimony with respect to any such matter and may require any such
2033 person to produce any books or records specified in such subpoena.
2034 The department or its authorized agents at any such hearing shall
2035 have power to administer oaths to any such person or persons.
2036 When any person called as a witness by a subpoena signed by the
2037 department or its agents and served upon him by the sheriff of a
2038 county of which such person is a resident, or wherein is located
2039 the principal office of such employing unit or wherein such

2040 records are located or kept, shall fail to obey such subpoena to
2041 appear before the department or its authorized agent, or shall
2042 refuse to testify or to answer any questions or to produce any
2043 book, record, paper or other data when required to do so, such
2044 failure or refusal shall be reported to the Attorney General, who
2045 shall thereupon institute proceedings by the filing of a petition
2046 in the name of the State of Mississippi, on the relation of the
2047 department, in the circuit court or other court of competent
2048 jurisdiction of the county where such witness resides, or wherein
2049 such records are located or kept, to compel the obedience of such
2050 witness. Such petition shall set forth the facts and
2051 circumstances of the demand for and refusal or failure to permit
2052 the examination or copying of such records, or the failure or
2053 refusal of such witness to testify in answer to such subpoena or
2054 to produce the records so required by such subpoena. Such court,
2055 upon the filing and docketing of such petition, shall thereupon
2056 promptly issue an order to the defendants named in the petition to
2057 produce forthwith in such court, or at a place in such county
2058 designated in such order for the examination or copying by the
2059 department or its duly appointed agents, the records, books or
2060 documents so described, and to testify concerning matters
2061 described in such petition. Unless such defendants to such
2062 petition shall appear in the court upon a day specified in such
2063 order, which day shall be not more than ten (10) days after the
2064 date of issuance of such order, and offer, under oath, good and
2065 sufficient reasons why such examination or copying should not be

2066 permitted, or why such subpoena should not be obeyed, such court
2067 shall thereupon deliver to the department or its agents, for
2068 examination or copying, the records, books and documents so
2069 described in the petition and so produced in such court, and shall
2070 order the defendants to appear in answer to the subpoena of the
2071 department or its agents, and to testify concerning matters
2072 inquired about by the department. Any employing unit or any
2073 officer, member or agent thereof, or any other person having
2074 possession of the records thereof, who shall willfully disobey
2075 such order of the court after the same shall have been served upon
2076 him shall be guilty of indirect contempt of such court from which
2077 such order shall have issued, and may be adjudged in contempt of
2078 the court and punished therefor as provided by law.

2079 **SECTION 30.** Section 71-5-135, Mississippi Code of 1972, is
2080 reenacted as follows:

2081 71-5-135. If any employing unit fails to make any report
2082 required by this chapter, the department or its authorized agents
2083 shall give notice to such employing unit to make and file such
2084 report within fifteen (15) days from the date of such notice. If
2085 such employing unit, by its proper members, officers or agents,
2086 shall fail or refuse to make and file such reports within such
2087 time, then and in that event such report shall be made by the
2088 department or its authorized agents from the best information
2089 available, and the amount of contributions due shall be computed
2090 thereon; and such report shall be prima facie correct for the
2091 purposes of this chapter.

2092 **SECTION 31.** Section 71-5-137, Mississippi Code of 1972, is
2093 reenacted as follows:

2094 71-5-137. In the discharge of the duties imposed by this
2095 chapter, the department, any referee, the members of the Board of
2096 Review, and any duly authorized representative of any of them
2097 shall have power to administer oaths and affirmations, to take
2098 depositions, certify to official acts, and issue subpoenas to
2099 compel the attendance of witnesses and the production of books,
2100 papers, correspondence, memoranda and other records deemed
2101 necessary as evidence in connection with a disputed claim or the
2102 administration of this chapter.

2103 **SECTION 32.** Section 71-5-139, Mississippi Code of 1972, is
2104 reenacted as follows:

2105 71-5-139. In case of contumacy or refusal to obey a subpoena
2106 issued to any person, any court in this state within the
2107 jurisdiction of which the inquiry is carried on, or within the
2108 jurisdiction of which the person guilty of contumacy or refusal to
2109 obey is found or resides or transacts business, upon application
2110 by the department, the Board of Review, any referee, or any duly
2111 authorized representative of any of them, shall have jurisdiction
2112 to issue to such person an order requiring such person to appear
2113 before the department, the Board of Review, any referee, or any
2114 duly authorized representative of any of them, there to produce
2115 evidence if so ordered or there to give testimony touching the
2116 matter under investigation or in question. Any failure to obey
2117 such order of the court may be punished by the court as a contempt

2118 thereof. Any person who shall, without just cause, fail or refuse
2119 to attend and testify or to answer any lawful inquiry or to
2120 produce books, papers, correspondence, memoranda and other records
2121 if it is in his power so to do, in obedience to a subpoena of the
2122 department, the Board of Review, any referee, or any duly
2123 authorized representative of any of them, shall be punished by a
2124 fine of not more than Two Hundred Dollars (\$200.00), or by
2125 imprisonment for not longer than sixty (60) days, or by both such
2126 fine and imprisonment; and each day such violation continues shall
2127 be deemed to be a separate offense.

2128 **SECTION 33.** Section 71-5-141, Mississippi Code of 1972, is
2129 reenacted as follows:

2130 71-5-141. No person shall be excused from attending and
2131 testifying or from producing books, papers, correspondence,
2132 memoranda and other records before the department, the Board of
2133 Review, any referee, or any duly authorized representative of any
2134 of them, or in obedience to the subpoena of any of them in any
2135 cause or proceeding before the department, the Board of Review or
2136 an appeal tribunal, on the ground that the testimony or evidence,
2137 documentary or otherwise, required of him may tend to incriminate
2138 him or subject him to a penalty or forfeiture; but no individual
2139 shall be prosecuted or subjected to any penalty or forfeiture for
2140 or on account of any transaction, matter or thing concerning which
2141 he is compelled, after having claimed his privilege against
2142 self-incrimination, to testify or produce evidence, documentary or
2143 otherwise, except that such individual so testifying shall not be

2144 exempt from prosecution and punishment for perjury committed in so
2145 testifying.

2146 **SECTION 34.** Section 71-5-143, Mississippi Code of 1972, is
2147 reenacted as follows:

2148 71-5-143. In the administration of this chapter, the
2149 department shall cooperate, to the fullest extent consistent with
2150 the provisions of this chapter, with the Social Security Board
2151 created by the Social Security Act, approved August 14, 1935, as
2152 amended; shall make such reports in such form and containing such
2153 information as the Social Security Board may from time to time
2154 require, and shall comply with such provisions as the Social
2155 Security Board may from time to time find necessary to assure the
2156 correctness and verification of such reports; and shall comply
2157 with the reasonable, valid and lawful regulations prescribed by
2158 the Social Security Board pursuant to and under the authority of
2159 the Social Security Act, governing the expenditures of such sums
2160 as may be allotted and paid to this state under Title III of the
2161 Social Security Act, as amended, for the purpose of assisting in
2162 the administration of this chapter.

2163 Upon request therefor, the department shall furnish to any
2164 agency of the United States charged with the administration of
2165 public works, or assistance through public employment, the name,
2166 address, ordinary occupation and employment status of each
2167 recipient of benefits, and such recipient's rights to further
2168 benefits under this chapter.

2169 **SECTION 35.** Section 71-5-201, Mississippi Code of 1972, is
2170 reenacted as follows:

2171 71-5-201. The Mississippi State Employment Service is
2172 established in the Mississippi Department of Employment Security,
2173 Office of the Governor. The department, in the conduct of such
2174 service, shall establish and maintain free public employment
2175 offices in such number and in such places as may be necessary for
2176 the proper administration of this article and for the purpose of
2177 performing such functions as are within the purview of the act of
2178 Congress entitled "An act to provide for the establishment of a
2179 national employment system and for cooperation with the states in
2180 the promotion of such system, and for other purposes" (29 USCS
2181 Section 49 et seq.). Any existing free public employment offices
2182 maintained by the state but not heretofore under the jurisdiction
2183 of the department shall be transferred to the jurisdiction of the
2184 department, and upon such transfer all duties and powers conferred
2185 upon any other department, agency or officers of this state
2186 relating to the establishment, maintenance and operation of free
2187 public employment offices shall be vested in the department. The
2188 Mississippi State Employment Service shall be administered by the
2189 department, which is charged with the duty to cooperate with any
2190 official or agency of the United States having powers or duties
2191 under the provisions of the act of Congress, as amended, and to do
2192 and perform all things necessary to secure to this state the
2193 benefits of that act of Congress, as amended, in the promotion and
2194 maintenance of a system of public employment offices. The

2195 provisions of that act of Congress, as amended, are accepted by
2196 this state, in conformity with 29 USCS Section 49c, and this state
2197 will observe and comply with the requirements thereof. The
2198 department is designated and constituted the agency of this state
2199 for the purposes of that act. The department may cooperate with
2200 or enter into agreements with the Railroad Retirement Board or
2201 veteran's organization with respect to the establishment,
2202 maintenance and use of free employment service facilities.

2203 **SECTION 36.** Section 71-5-357, Mississippi Code of 1972, is
2204 reenacted as follows:

2205 71-5-357. Benefits paid to employees of nonprofit
2206 organizations shall be financed in accordance with the provisions
2207 of this section. For the purpose of this section, a nonprofit
2208 organization is an organization (or group of organizations)
2209 described in Section 501(c)(3) of the Internal Revenue Code of
2210 1954 which is exempt from income tax under Section 501(a) of such
2211 code (26 USCS Section 501).

2212 (a) Any nonprofit organization which, under Section
2213 71-5-11, subsection H(3), is or becomes subject to this chapter
2214 shall pay contributions under the provisions of Sections 71-5-351
2215 through 71-5-355 unless it elects, in accordance with this
2216 paragraph, to pay to the department for the unemployment fund an
2217 amount equal to the amount of regular benefits and one-half (1/2)
2218 of the extended benefits paid, that is attributable to service in
2219 the employ of such nonprofit organization, to individuals for

2220 weeks of unemployment which begin during the effective period of
2221 such election.

2222 (i) Any nonprofit organization which becomes
2223 subject to this chapter may elect to become liable for payments in
2224 lieu of contributions for a period of not less than twelve (12)
2225 months, beginning with the date on which such subjectivity begins,
2226 by filing a written notice of its election with the department not
2227 later than thirty (30) days immediately following the date of the
2228 determination of such subjectivity.

2229 (ii) Any nonprofit organization which makes an
2230 election in accordance with subparagraph (i) of this paragraph
2231 will continue to be liable for payments in lieu of contributions
2232 unless it files with the department a written termination notice
2233 not later than thirty (30) days prior to the beginning of the tax
2234 year for which such termination shall first be effective.

2235 (iii) Any nonprofit organization which has been
2236 paying contributions under this chapter may change to a
2237 reimbursable basis by filing with the department, not later than
2238 thirty (30) days prior to the beginning of any tax year, a written
2239 notice of election to become liable for payments in lieu of
2240 contributions. Such election shall not be terminable by the
2241 organization for that and the next tax year.

2242 (iv) The department may for good cause extend the
2243 period within which a notice of election or a notice of
2244 termination must be filed, and may permit an election to be
2245 retroactive.

2246 (v) The department, in accordance with such
2247 regulations as it may prescribe, shall notify each nonprofit
2248 organization of any determination which it may make of its status
2249 as an employer, of the effective date of any election which it
2250 makes and of any termination of such election. Such
2251 determinations shall be subject to reconsideration, appeal and
2252 review in accordance with the provisions of Sections 71-5-351
2253 through 71-5-355.

2254 (b) Payments in lieu of contributions shall be made in
2255 accordance with the provisions of subparagraph (i) of this
2256 paragraph.

2257 (i) At the end of each calendar quarter, or at the
2258 end of any other period as determined by the department, the
2259 department shall bill each nonprofit organization (or group of
2260 such organizations) which has elected to make payments in lieu of
2261 contributions, for an amount equal to the full amount of regular
2262 benefits plus one-half (1/2) of the amount of extended benefits
2263 paid during such quarter or other prescribed period that is
2264 attributable to service in the employ of such organization.

2265 (ii) Payment of any bill rendered under
2266 subparagraph (i) of this paragraph shall be made not later than
2267 forty-five (45) days after such bill was delivered to the
2268 nonprofit organization, unless there has been an application for
2269 review and redetermination in accordance with subparagraph (v) of
2270 this paragraph.

2271 1. All of the enforcement procedures for the
2272 collection of delinquent contributions contained in Sections
2273 71-5-363 through 71-5-383 shall be applicable in all respects for
2274 the collection of delinquent payments due by nonprofit
2275 organizations who have elected to become liable for payments in
2276 lieu of contributions.

2277 2. If any nonprofit organization is
2278 delinquent in making payments in lieu of contributions, the
2279 department may terminate such organization's election to make
2280 payments in lieu of contributions as of the beginning of the next
2281 tax year, and such termination shall be effective for the balance
2282 of such tax year.

2283 (iii) Payments made by any nonprofit organization
2284 under the provisions of this paragraph shall not be deducted or
2285 deductible, in whole or in part, from the remuneration of
2286 individuals in the employ of the organization.

2287 (iv) Payments due by employers who elect to
2288 reimburse the fund in lieu of contributions as provided in this
2289 paragraph may not be noncharged under any condition. The
2290 reimbursement must be on a dollar-for-dollar basis (One Dollar
2291 (\$1.00) reimbursement for each dollar paid in benefits) in every
2292 case, so that the trust fund shall be reimbursed in full, such
2293 reimbursement to include, but not be limited to, benefits or
2294 payments erroneously or incorrectly paid, or paid as a result of a
2295 determination of eligibility which is subsequently reversed, or
2296 paid as a result of claimant fraud. However, political

2297 subdivisions who are reimbursing employers may elect to pay to the
2298 fund an amount equal to five-tenths percent (.5%) through December
2299 31, 2010, and shall pay twenty-five one-hundredths percent (.25%)
2300 thereafter of the taxable wages paid during the calendar year with
2301 respect to employment, and those employers who so elect shall be
2302 relieved of liability for reimbursement of benefits paid under the
2303 same conditions that benefits are not charged to the
2304 experience-rating record of a contributing employer as provided in
2305 Section 71-5-355(2) (b) (ii) other than Clause 5 thereof. Benefits
2306 paid in such circumstances for which reimbursing employers are
2307 relieved of liability for reimbursement shall not be considered
2308 attributable to service in the employment of such reimbursing
2309 employer.

2310 (v) The amount due specified in any bill from the
2311 department shall be conclusive on the organization unless, not
2312 later than fifteen (15) days after the bill was delivered to it,
2313 the organization files an application for redetermination by the
2314 department, setting forth the grounds for such application or
2315 appeal. The department shall promptly review and reconsider the
2316 amount due specified in the bill and shall thereafter issue a
2317 redetermination in any case in which such application for
2318 redetermination has been filed. Any such redetermination shall be
2319 conclusive on the organization unless, not later than fifteen (15)
2320 days after the redetermination was delivered to it, the
2321 organization files an appeal to the Circuit Court of the First
2322 Judicial District of Hinds County, Mississippi, in accordance with

2323 the provisions of law with respect to review of civil causes by
2324 certiorari.

2325 (vi) Past-due payments of amounts in lieu of
2326 contributions shall be subject to the same interest and penalties
2327 that, pursuant to Section 71-5-363, apply to past-due
2328 contributions.

2329 (c) Each employer that is liable for payments in lieu
2330 of contributions shall pay to the department for the fund the
2331 amount of regular benefits plus the amount of one-half (1/2) of
2332 extended benefits paid are attributable to service in the employ
2333 of such employer. If benefits paid to an individual are based on
2334 wages paid by more than one (1) employer and one or more of such
2335 employers are liable for payments in lieu of contributions, the
2336 amount payable to the fund by each employer that is liable for
2337 such payments shall be determined in accordance with the
2338 provisions of subparagraph (i) or subparagraph (ii) of this
2339 paragraph.

2340 (i) If benefits paid to an individual are based on
2341 wages paid by one or more employers that are liable for payment in
2342 lieu of contributions and on wages paid by one or more employers
2343 who are liable for contributions, the amount of benefits payable
2344 by each employer that is liable for payments in lieu of
2345 contributions shall be an amount which bears the same ratio to the
2346 total benefits paid to the individual as the total base period
2347 wages paid to the individual by such employer bear to the total

2348 base period wages paid to the individual by all of his base period
2349 employers.

2350 (ii) If benefits paid to an individual are based
2351 on wages paid by two (2) or more employers that are liable for
2352 payments in lieu of contributions, the amount of benefits payable
2353 by each such employer shall be an amount which bears the same
2354 ratio to the total benefits paid to the individual as the total
2355 base period wages paid to the individual by such employer bear to
2356 the total base period wages paid to the individual by all of his
2357 base period employers.

2358 (d) In the discretion of the department, any nonprofit
2359 organization that elects to become liable for payments in lieu of
2360 contributions shall be required to execute and file with the
2361 department a surety bond approved by the department, or it may
2362 elect instead to deposit with the department money or securities.
2363 The amount of such bond or deposit shall be determined in
2364 accordance with the provisions of this paragraph.

2365 (i) The amount of the bond or deposit required by
2366 paragraph (d) shall be equal to two and seven-tenths percent
2367 (2.7%) thereafter to December 31, 2010, and one and thirty-five
2368 one-hundredths percent (1.35%) thereafter, of the organization's
2369 taxable wages paid for employment as defined in Section 71-5-11,
2370 subsection I(4), for the four (4) calendar quarters immediately
2371 preceding the effective date of the election, the renewal date in
2372 the case of a bond, or the biennial anniversary of the effective
2373 date of election in the case of a deposit of money or securities,

2374 whichever date shall be most recent and applicable. If the
2375 nonprofit organization did not pay wages in each of such four (4)
2376 calendar quarters, the amount of the bond or deposit shall be as
2377 determined by the department.

2378 (ii) Any bond deposited under paragraph (d) shall
2379 be in force for a period of not less than two (2) tax years and
2380 shall be renewed with the approval of the department at such times
2381 as the department may prescribe, but not less frequently than at
2382 intervals of two (2) years as long as the organization continues
2383 to be liable for payments in lieu of contributions. The
2384 department shall require adjustments to be made in a previously
2385 filed bond as it deems appropriate. If the bond is to be
2386 increased, the adjusted bond shall be filed by the organization
2387 within thirty (30) days of the date notice of the required
2388 adjustment was delivered to it. Failure by any organization
2389 covered by such bond to pay the full amount of payments in lieu of
2390 contributions when due, together with any applicable interest and
2391 penalties provided in paragraph (b) (v) of this section, shall
2392 render the surety liable on the bond to the extent of the bond, as
2393 though the surety was such organization.

2394 (iii) Any deposit of money or securities in
2395 accordance with paragraph (d) shall be retained by the department
2396 in an escrow account until liability under the election is
2397 terminated, at which time it shall be returned to the
2398 organization, less any deductions as hereinafter provided. The
2399 department may deduct from the money deposited under paragraph (d)

2400 by a nonprofit organization, or sell the securities it has so
2401 deposited, to the extent necessary to satisfy any due and unpaid
2402 payments in lieu of contributions and any applicable interest and
2403 penalties provided for in paragraph (b) (v) of this section. The
2404 department shall require the organization, within thirty (30) days
2405 following any deduction from a money deposit or sale of deposited
2406 securities under the provisions hereof, to deposit sufficient
2407 additional money or securities to make whole the organization's
2408 deposit at the prior level. Any cash remaining from the sale of
2409 such securities shall be a part of the organization's escrow
2410 account. The department may, at any time, review the adequacy of
2411 the deposit made by any organization. If, as a result of such
2412 review, it determines that an adjustment is necessary, it shall
2413 require the organization to make additional deposit within thirty
2414 (30) days of notice of its determination or shall return to it
2415 such portion of the deposit as it no longer considers necessary,
2416 whichever action is appropriate. Disposition of income from
2417 securities held in escrow shall be governed by the applicable
2418 provisions of the state law.

2419 (iv) If any nonprofit organization fails to file a
2420 bond or make a deposit, or to file a bond in an increased amount,
2421 or to increase or make whole the amount of a previously made
2422 deposit as provided under this subparagraph, the department may
2423 terminate such organization's election to make payments in lieu of
2424 contributions, and such termination shall continue for not less
2425 than the four (4) consecutive calendar-quarter periods beginning

2426 with the quarter in which such termination becomes effective;
2427 however, the department may extend for good cause the applicable
2428 filing, deposit or adjustment period by not more than thirty (30)
2429 days.

2430 (v) Group account shall be established according
2431 to regulations prescribed by the department.

2432 (e) Any employer which elects to make payments in lieu
2433 of contributions into the Unemployment Compensation Fund as
2434 provided in this paragraph shall not be liable to make such
2435 payments with respect to the benefits paid to any individual whose
2436 base period wages include wages for previously uncovered services
2437 as defined in Section 71-5-511(e) to the extent that the
2438 Unemployment Compensation Fund is reimbursed for such benefits
2439 pursuant to Section 121 of Public Law 94-566.

2440 **SECTION 37.** Section 71-5-359, Mississippi Code of 1972, is
2441 reenacted and amended as follows:

2442 71-5-359. (1) The Department of Finance and Administration
2443 shall, in the manner provided in subsection (* * *2) of this
2444 section, pay, upon notice issued by the department, to the
2445 department for the Unemployment Compensation Fund an amount equal
2446 to the regular benefits and one-half (1/2) of the extended
2447 benefits paid that are attributable to service in the employ of a
2448 state agency. The amount required to be reimbursed by a certain
2449 agency shall be billed to the Department of Finance and
2450 Administration and shall be paid from the Employment Compensation
2451 Revolving Fund pursuant to subsection (* * *2) of this section

2452 not later than thirty (30) days after such bill was sent, unless
2453 there has been an application for review and redetermination in
2454 accordance with Section 71-5-357(b) (v) .

2455 * * *

2456 (* * *2) Each agency of state government shall deposit
2457 monthly for a period of twenty-four (24) months an amount equal to
2458 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand
2459 Dollars (\$6,000.00) paid to each employee thereof during the next
2460 preceding year into the Employment Compensation Revolving Fund
2461 that is created in the State Treasury. The Department of Finance
2462 and Administration shall determine the percentage to be applied to
2463 the amount of covered wages paid in order to maintain a balance in
2464 the revolving fund of not less than the amount determined by an
2465 actuary through an annual actuarial evaluation. The State
2466 Treasurer shall invest all funds in the Employment Compensation
2467 Revolving Fund and all interest earned shall be credited to the
2468 Employment Compensation Revolving Fund.

2469 The reimbursement of benefits paid by the Mississippi
2470 Department of Employment Security shall be paid by the Department
2471 of Finance and Administration from the Employment Compensation
2472 Revolving Fund upon notice from the department; and the Department
2473 of Finance and Administration shall issue warrants or may contract
2474 for the performance of the duties prescribed by * * * subsection
2475 (2) of this section, and other duties necessarily related thereto.

2476 (* * *3) Any political subdivision of this state shall pay
2477 to the department for the unemployment compensation fund an amount

2478 equal to the regular benefits and the extended benefits paid that
2479 are attributable to service in the employ of such political
2480 subdivision unless it elects to make contributions to the
2481 unemployment fund as provided in subsection (* * *8) of this
2482 section. The amount required to be reimbursed shall be billed and
2483 shall be paid as provided in Section 71-5-357, with respect to
2484 similar payments for nonprofit organizations.

2485 (* * *4) Each political subdivision, unless it elects to
2486 make contributions to the unemployment compensation fund as
2487 provided in subsection (* * *8) of this section, shall establish
2488 a revolving fund and deposit an amount equal to two percent (2%)
2489 of the first Six Thousand Dollars (\$6,000.00) paid to each
2490 employee thereof during the next preceding year. However, the
2491 department shall by regulation establish a procedure to allow
2492 reimbursing political subdivisions to elect to maintain the
2493 balance in the revolving fund as required under this subsection or
2494 to annually execute a surety bond to be approved by the department
2495 in an amount not less than two percent (2%) of the covered wages
2496 paid during the next preceding year.

2497 (* * *5) In the event any political subdivision becomes
2498 delinquent in payments due under this chapter, upon due notice,
2499 and upon certification of the delinquency by the department to the
2500 Department of Finance and Administration, the Department of
2501 Revenue, the Department of Environmental Quality and the
2502 Department of Insurance, or any of them, or any other agencies of
2503 the State of Mississippi that may be indebted to such delinquent

2504 political subdivision, such agencies shall direct the issuance of
2505 warrants which in the aggregate shall be the amount of such
2506 delinquency payable to the department and drawn upon any funds in
2507 the State Treasury which may be available to such political
2508 subdivision in satisfaction of any such delinquency. This remedy
2509 shall be in addition to any other collection remedies in this
2510 chapter or otherwise provided by law.

2511 (* * *6) Payments made by any political subdivision under
2512 the provisions of this section shall not be deducted or
2513 deductible, in whole or in part, from the remuneration of
2514 individuals in the employ of the organization.

2515 (* * *7) Any governmental entity shall not be liable to
2516 make payments to the unemployment fund with respect to the
2517 benefits paid to any individual whose base period wages include
2518 wages for previously uncovered services as defined in Section
2519 71-5-511, subsection (e), to the extent that the Unemployment
2520 Compensation Fund is reimbursed for such benefits pursuant to
2521 Section 121 of Public Law 94-566.

2522 (* * *8) Any political subdivision of this state may elect
2523 to make contributions to the unemployment fund instead of making
2524 reimbursement for benefits paid as provided in subsections
2525 (* * *3) and (* * *4) of this section. A political subdivision
2526 which makes this election shall so notify the department, not
2527 later than three (3) months after it is officially organized or is
2528 otherwise established, and shall be subject to the provisions of
2529 Section 71-5-351, with regard to the payment of contributions. A

2530 political subdivision which makes this election shall pay
2531 contributions equal to two percent (2%) of taxable wages through
2532 calendar year 2010, and one percent (1%) of taxable wages
2533 thereafter paid by it during each calendar quarter it is subject
2534 to this chapter. The department shall by regulation establish a
2535 procedure to allow political subdivisions the option periodically
2536 to elect either the reimbursement or the contribution method of
2537 financing unemployment compensation coverage.

2538 **SECTION 38.** Section 71-5-451, Mississippi Code of 1972, is
2539 reenacted as follows:

2540 71-5-451. There is established as a special fund, separate
2541 and apart from all public monies or funds of this state, an
2542 Unemployment Compensation Fund, which shall be administered by the
2543 department exclusively for:

2544 (a) All contributions collected under this chapter;

2545 (b) Interest earned upon any monies in the fund;

2546 (c) Any property or securities acquired through the use
2547 of monies belonging to the fund;

2548 (d) All earnings of such property or securities;

2549 (e) All monies credited to this state's account in the
2550 Unemployment Trust Fund pursuant to the Social Security Act, 42
2551 USCS, Section 1104; and

2552 (f) By way of reimbursement in accordance with Section
2553 204 of the Federal-State Extended Unemployment Compensation Act of
2554 1970 (84 Stat. 711). All monies in the fund shall be mingled and
2555 undivided.

2556 **SECTION 39.** Section 71-5-457, Mississippi Code of 1972, is
2557 reenacted as follows:

2558 71-5-457. (1) Except as otherwise provided in subsection
2559 (5), money credited to the account of this state in the
2560 Unemployment Trust Fund by the Secretary of the Treasury of the
2561 United States of America pursuant to the Social Security Act, 42
2562 USCS Section 1103, may be requisitioned and used for the payment
2563 of expenses incurred for the administration of this law pursuant
2564 to a specific appropriation by the Legislature, provided that the
2565 expenses are incurred and the money is requisitioned after the
2566 enactment of an appropriation law which:

2567 (a) Specifies the purposes for which such money is
2568 appropriated and the amounts appropriated therefor;

2569 (b) Limits the period within which such money may be
2570 obligated to a period ending not more than two (2) years after the
2571 date of the enactment of the appropriation law; and

2572 (c) Limits the amount which may be obligated during a
2573 twelve-month period beginning on July 1 and ending on the next
2574 June 30 to an amount which does not exceed the amount by which:

2575 (i) The aggregate of the amounts credited to the
2576 account of this state pursuant to the Social Security Act, 42 USCS
2577 Section 1103, during the same twelve-month period and the
2578 thirty-four (34) preceding twelve-month periods exceeds.

2579 (ii) The aggregate of the amounts obligated
2580 pursuant to this section and charged against the amounts credited

2581 to the account of this state during such thirty-five (35)
2582 twelve-month periods.

2583 For the purposes of this section, amounts obligated during
2584 any such twelve-month period shall be charged against equivalent
2585 amounts which were first credited and which are not already so
2586 charged; except that no amount obligated for administration during
2587 any such twelve-month period may be charged against any amount
2588 credited during such a twelve-month period earlier than the
2589 thirty-fourth preceding such period.

2590 (2) Money credited to the account of this state pursuant to
2591 the Social Security Act, 42 USCS Section 1103, may not be
2592 withdrawn or used except for the payment of benefits and for the
2593 payment of expenses for the administration of this law and of
2594 public employment offices pursuant to this section.

2595 (3) Money appropriated as provided herein for the payment of
2596 expenses of administration shall be requisitioned as needed for
2597 the payment of obligations incurred under such appropriation and,
2598 upon requisition, shall be deposited in the Employment Security
2599 Administration Fund, from which such payments shall be made.
2600 Money so deposited shall, until expended, remain a part of the
2601 Unemployment Compensation Fund and, if it will not be expended,
2602 shall be returned promptly to the account of this state in the
2603 Unemployment Trust Fund.

2604 (4) The thirty-five-year limitation provided in this section
2605 is no longer in force, effective October 1, 1991.

2606 (5) Notwithstanding subsection (1), monies credited with
2607 respect to federal fiscal years 1999, 2000 and 2001 shall be used
2608 by the department solely for the administration of the
2609 unemployment compensation program.

2610 **SECTION 40.** Section 71-5-511, Mississippi Code of 1972, is
2611 reenacted as follows:

2612 71-5-511. An unemployed individual shall be eligible to
2613 receive benefits with respect to any week only if the department
2614 finds that:

2615 (a) (i) He has registered for work at and thereafter
2616 has continued to report to the department in accordance with such
2617 regulations as the department may prescribe; except that the
2618 department may, by regulation, waive or alter either or both of
2619 the requirements of this subparagraph as to such types of cases or
2620 situations with respect to which it finds that compliance with
2621 such requirements would be oppressive or would be inconsistent
2622 with the purposes of this chapter; and

2623 (ii) He participates in reemployment services,
2624 such as job search assistance services, if, in accordance with a
2625 profiling system established by the department, it has been
2626 determined that he is likely to exhaust regular benefits and needs
2627 reemployment services, unless the department determines that:

2628 1. The individual has completed such
2629 services; or

2630 2. There is justifiable cause for the
2631 claimant's failure to participate in such services.

2632 (b) He has made a claim for benefits in accordance with
2633 the provisions of Section 71-5-515 and in accordance with such
2634 regulations as the department may prescribe thereunder.

2635 (c) He is able to work, available for work and actively
2636 seeking work.

2637 (d) He has been unemployed for a waiting period of one
2638 (1) week. No week shall be counted as a week of unemployment for
2639 the purposes of this paragraph:

2640 (i) Unless it occurs within the benefit year which
2641 includes the week with respect to which he claims payment of
2642 benefits;

2643 (ii) If benefits have been paid with respect
2644 thereto;

2645 (iii) Unless the individual was eligible for
2646 benefits with respect thereto, as provided in Sections 71-5-511
2647 and 71-5-513, except for the requirements of this paragraph.

2648 (e) For weeks beginning on or before July 1, 1982, he
2649 has, during his base period, been paid wages for insured work
2650 equal to not less than thirty-six (36) times his weekly benefit
2651 amount; he has been paid wages for insured work during at least
2652 two (2) quarters of his base period; and he has, during that
2653 quarter of his base period in which his total wages were highest,
2654 been paid wages for insured work equal to not less than sixteen
2655 (16) times the minimum weekly benefit amount. For benefit years
2656 beginning after July 1, 1982, he has, during his base period, been
2657 paid wages for insured work equal to not less than forty (40)

2658 times his weekly benefit amount; he has been paid wages for
2659 insured work during at least two (2) quarters of his base period,
2660 and he has, during that quarter of his base period in which his
2661 total wages were highest, been paid wages for insured work equal
2662 to not less than twenty-six (26) times the minimum weekly benefit
2663 amount. For purposes of this paragraph, wages shall be counted as
2664 "wages for insured work" for benefit purposes with respect to any
2665 benefit year only if such benefit year begins subsequent to the
2666 date on which the employing unit by which such wages were paid has
2667 satisfied the conditions of Section 71-5-11, subsection H, or
2668 Section 71-5-361, subsection (3), with respect to becoming an
2669 employer.

2670 (f) No individual may receive benefits in a benefit
2671 year unless, subsequent to the beginning of the next preceding
2672 benefit year during which he received benefits, he performed
2673 service in "employment" as defined in Section 71-5-11, subsection
2674 I, and earned remuneration for such service in an amount equal to
2675 not less than eight (8) times his weekly benefit amount applicable
2676 to his next preceding benefit year.

2677 (g) Benefits based on service in employment defined in
2678 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,
2679 subsection (4) shall be payable in the same amount, on the same
2680 terms, and subject to the same conditions as compensation payable
2681 on the basis of other service subject to this chapter, except that
2682 benefits based on service in an instructional, research or
2683 principal administrative capacity in an institution of higher

2684 learning (as defined in Section 71-5-11, subsection N) with
2685 respect to service performed prior to January 1, 1978, shall not
2686 be paid to an individual for any week of unemployment which begins
2687 during the period between two (2) successive academic years, or
2688 during a similar period between two (2) regular terms, whether or
2689 not successive, or during a period of paid sabbatical leave
2690 provided for in the individual's contract, if the individual has a
2691 contract or contracts to perform services in any such capacity for
2692 any institution or institutions of higher learning for both such
2693 academic years or both such terms.

2694 (h) Benefits based on service in employment defined in
2695 Section 71-5-11, subsection I(3) and I(4), shall be payable in the
2696 same amount, on the same terms and subject to the same conditions
2697 as compensation payable on the basis of other service subject to
2698 this chapter, except that:

2699 (i) With respect to service performed in an
2700 instructional, research or principal administrative capacity for
2701 an educational institution, benefits shall not be paid based on
2702 such services for any week of unemployment commencing during the
2703 period between two (2) successive academic years, or during a
2704 similar period between two (2) regular but not successive terms,
2705 or during a period of paid sabbatical leave provided for in the
2706 individual's contract, to any individual, if such individual
2707 performs such services in the first of such academic years or
2708 terms and if there is a contract or a reasonable assurance that
2709 such individual will perform services in any such capacity for any

2710 educational institution in the second of such academic years or
2711 terms, and provided that paragraph (g) of this section shall apply
2712 with respect to such services prior to January 1, 1978. In no
2713 event shall benefits be paid unless the individual employee was
2714 terminated by the employer.

2715 (ii) With respect to services performed in any
2716 other capacity for an educational institution, benefits shall not
2717 be paid on the basis of such services to any individual for any
2718 week which commences during a period between two (2) successive
2719 academic years or terms, if such individual performs such services
2720 in the first of such academic years or terms and there is a
2721 reasonable assurance that such individual will perform such
2722 services in the second of such academic years or terms, except
2723 that if compensation is denied to any individual under this
2724 subparagraph and such individual was not offered an opportunity to
2725 perform such services for the educational institution for the
2726 second of such academic years or terms, such individual shall be
2727 entitled to a retroactive payment of compensation for each week
2728 for which the individual filed a timely claim for compensation and
2729 for which compensation was denied solely by reason of this clause.
2730 In no event shall benefits be paid unless the individual employee
2731 was terminated by the employer.

2732 (iii) With respect to services described in
2733 subparagraphs (i) and (ii) of this paragraph (h), benefits shall
2734 not be payable on the basis of services in any such capacities to
2735 any individual for any week which commences during an established

2736 and customary vacation period or holiday recess if such individual
2737 performs such services in the first of such academic years or
2738 terms, or in the period immediately before such vacation period or
2739 holiday recess, and there is a reasonable assurance that such
2740 individual will perform such services in the period immediately
2741 following such vacation period or holiday recess.

2742 (iv) With respect to any services described in
2743 subparagraphs (i) and (ii) of this paragraph (h), benefits shall
2744 not be payable on the basis of services in any such capacities as
2745 specified in subparagraphs (i), (ii) and (iii) of this paragraph
2746 (h) to any individual who performed such services in an
2747 educational institution while in the employ of an educational
2748 service agency. For purposes of this paragraph, the term
2749 "educational service agency" means a governmental agency or
2750 governmental entity which is established and operated exclusively
2751 for the purpose of providing such services to one or more
2752 educational institutions.

2753 (v) With respect to services to which Sections
2754 71-5-357 and 71-5-359 apply, if such services are provided to or
2755 on behalf of an educational institution, benefits shall not be
2756 payable under the same circumstances and subject to the same terms
2757 and conditions as described in subparagraphs (i), (ii), (iii) and
2758 (iv) of this paragraph (h).

2759 (i) Subsequent to December 31, 1977, benefits shall not
2760 be paid to any individual on the basis of any services
2761 substantially all of which consist of participating in sports or

2762 athletic events or training or preparing to so participate, for
2763 any week which commences during the period between two (2)
2764 successive sports seasons (or similar periods) if such individual
2765 performs such services in the first of such seasons (or similar
2766 periods) and there is a reasonable assurance that such individual
2767 will perform such services in the later of such seasons (or
2768 similar periods).

2769 (j) (i) Subsequent to December 31, 1977, benefits
2770 shall not be payable on the basis of services performed by an
2771 alien, unless such alien is an individual who was lawfully
2772 admitted for permanent residence at the time such services were
2773 performed, was lawfully present for purposes of performing such
2774 services, or was permanently residing in the United States under
2775 color of law at the time such services were performed (including
2776 an alien who was lawfully present in the United States as a result
2777 of the application of the provisions of Section 203(a)(7) or
2778 Section 212(d)(5) of the Immigration and Nationality Act).

2779 (ii) Any data or information required of
2780 individuals applying for benefits to determine whether benefits
2781 are not payable to them because of their alien status shall be
2782 uniformly required from all applicants for benefits.

2783 (iii) In the case of an individual whose
2784 application for benefits would otherwise be approved, no
2785 determination that benefits to such individual are not payable
2786 because of his alien status shall be made, except upon a
2787 preponderance of the evidence.

2788 (k) An individual shall be deemed prima facie
2789 unavailable for work, and therefore ineligible to receive
2790 benefits, during any period which, with respect to his employment
2791 status, is found by the department to be a holiday or vacation
2792 period.

2793 (1) A temporary employee of a temporary help firm is
2794 considered to have left the employee's last work voluntarily
2795 without good cause connected with the work if the temporary
2796 employee does not contact the temporary help firm for reassignment
2797 on completion of an assignment. A temporary employee is not
2798 considered to have left work voluntarily without good cause
2799 connected with the work under this paragraph unless the temporary
2800 employee has been advised in writing:

2801 (i) That the temporary employee is obligated to
2802 contact the temporary help firm on completion of assignments; and

2803 (ii) That unemployment benefits may be denied if
2804 the temporary employee fails to do so.

2805 **SECTION 41.** Section 71-5-513, Mississippi Code of 1972, is
2806 reenacted as follows:

2807 71-5-513. A. An individual shall be disqualified for
2808 benefits:

2809 (1) (a) For the week, or fraction thereof, which
2810 immediately follows the day on which he left work voluntarily
2811 without good cause, if so found by the department, and for each
2812 week thereafter until he has earned remuneration for personal
2813 services performed for an employer, as in this chapter defined,

2814 equal to not less than eight (8) times his weekly benefit amount,
2815 as determined in each case; however, marital, filial and domestic
2816 circumstances and obligations shall not be deemed good cause
2817 within the meaning of this subsection. Pregnancy shall not be
2818 deemed to be a marital, filial or domestic circumstance for the
2819 purpose of this subsection.

2820 (b) For the week, or fraction thereof, which
2821 immediately follows the day on which he was discharged for
2822 misconduct connected with his work, if so found by the department,
2823 and for each week thereafter until he has earned remuneration for
2824 personal services performed for an employer, as in this chapter
2825 defined, equal to not less than eight (8) times his weekly benefit
2826 amount, as determined in each case.

2827 (c) The burden of proof of good cause for leaving
2828 work shall be on the claimant, and the burden of proof of
2829 misconduct shall be on the employer.

2830 (2) For the week, or fraction thereof, with respect to
2831 which he willfully makes a false statement, a false representation
2832 of fact, or willfully fails to disclose a material fact for the
2833 purpose of obtaining or increasing benefits under the provisions
2834 of this law, if so found by the department, and such individual's
2835 maximum benefit allowance shall be reduced by the amount of
2836 benefits so paid to him during any such week of disqualification;
2837 and additional disqualification shall be imposed for a period not
2838 exceeding fifty-two (52) weeks, the length of such period of
2839 disqualification and the time when such period begins to be

2840 determined by the department, in its discretion, according to the
2841 circumstances in each case.

2842 (3) If the department finds that he has failed, without
2843 good cause, either to apply for available suitable work when so
2844 directed by the employment office or the department, to accept
2845 suitable work when offered him, or to return to his customary
2846 self-employment (if any) when so directed by the department, such
2847 disqualification shall continue for the week in which such failure
2848 occurred and for not more than the twelve (12) weeks which
2849 immediately follow such week, as determined by the department
2850 according to the circumstances in each case.

2851 (a) In determining whether or not any work is
2852 suitable for an individual, the department shall consider among
2853 other factors the degree of risk involved to his health, safety
2854 and morals, his physical fitness and prior training, his
2855 experience and prior earnings, his length of unemployment and
2856 prospects for securing local work in his customary occupation, and
2857 the distance of the available work from his residence; however,
2858 offered employment paying the minimum wage or higher, if such
2859 minimum or higher wage is that prevailing for his customary
2860 occupation or similar work in the locality, shall be deemed to be
2861 suitable employment after benefits have been paid to the
2862 individual for a period of eight (8) weeks.

2863 (b) Notwithstanding any other provisions of this
2864 chapter, no work shall be deemed suitable and benefits shall not
2865 be denied under this chapter to any otherwise eligible individual

2866 for refusing to accept new work under any of the following
2867 conditions:

2868 (i) If the position offered is vacant due
2869 directly to a strike, lockout or other labor dispute;

2870 (ii) If the wages, hours or other conditions
2871 of the work offered are substantially unfavorable or unreasonable
2872 to the individual's work. The department shall have the sole
2873 discretion to determine whether or not there has been an
2874 unfavorable or unreasonable condition placed on the individual's
2875 work. Moreover, the department may consider, but shall not be
2876 limited to a consideration of, whether or not the unfavorable
2877 condition was applied by the employer to all workers in the same
2878 or similar class or merely to this individual;

2879 (iii) If as a condition of being employed the
2880 individual would be required to join a company union or to resign
2881 from or refrain from joining any bona fide labor organization;

2882 (iv) If unsatisfactory or hazardous working
2883 conditions exist that could result in a danger to the physical or
2884 mental well-being of the worker. In any such determination the
2885 department shall consider, but shall not be limited to a
2886 consideration of, the following: the safety measures used or the
2887 lack thereof and the condition of equipment or lack of proper
2888 equipment. No work shall be considered hazardous if the working
2889 conditions surrounding a worker's employment are the same or
2890 substantially the same as the working conditions generally

2891 prevailing among workers performing the same or similar work for
2892 other employers engaged in the same or similar type of activity.

2893 (c) Pursuant to Section 303(1) of the Social
2894 Security Act (42 USCS 503), the department may conduct drug tests
2895 of applicants for unemployment compensation for the unlawful use
2896 of controlled substances as a condition for receiving such
2897 compensation, if such applicant:

2898 (i) Was terminated from employment with the
2899 claimant's most recent employer, as defined by Mississippi law,
2900 because of the unlawful use of controlled substances; or

2901 (ii) Is an individual for whom suitable work,
2902 as defined by Mississippi law, is only available in an occupation
2903 (as determined under regulations issued by the U.S. Secretary of
2904 Labor) that requires drug testing.

2905 The department may deny unemployment compensation to any
2906 applicant based on the result of a drug test conducted by the
2907 department in accordance with this subsection. A positive drug
2908 test result shall be deemed by the department to be a failure to
2909 accept suitable work, and shall subject the applicant to the
2910 disqualification provisions set forth in this subsection A(3).
2911 During the disqualification period imposed by the department under
2912 this subsection, the individual may provide information to end the
2913 disqualification period early by submitting acceptable proof to
2914 the department of a negative test result from a testing facility
2915 approved by the department.

2916 (iii) Pursuant to the provisions set forth in
2917 this subsection A(3)(c), the department shall have the authority
2918 to institute a random drug testing program for all individuals who
2919 meet the requirements set forth in this section. Moreover, the
2920 department shall have the authority to create the necessary
2921 regulations, policies rules, guidelines and procedures to
2922 implement such a program.

2923 Any term or provision set forth in this subsection A(3)(c)
2924 that otherwise conflicts with federal or state law shall be
2925 disregarded but shall not, in any way, affect the remaining
2926 provisions.

2927 (4) For any week with respect to which the department
2928 finds that his total unemployment is due to a stoppage of work
2929 which exists because of a labor dispute at a factory,
2930 establishment or other premises at which he is or was last
2931 employed; however, this subsection shall not apply if it is shown
2932 to the satisfaction of the department:

2933 (a) He is unemployed due to a stoppage of work
2934 occasioned by an unjustified lockout, if such lockout was not
2935 occasioned or brought about by such individual acting alone or
2936 with other workers in concert; or

2937 (b) He is not participating in or directly
2938 interested in the labor dispute which caused the stoppage of work;
2939 and

2940 (c) He does not belong to a grade or class of
2941 workers of which, immediately before the commencement of stoppage,

2942 there were members employed at the premises at which the stoppage
2943 occurs, any of whom are participating in or directly interested in
2944 the dispute.

2945 If in any case separate branches of work which are commonly
2946 conducted as separate businesses in separate premises are
2947 conducted in separate departments of the same premises, each such
2948 department shall, for the purposes of this subsection, be deemed
2949 to be a separate factory, establishment or other premises.

2950 (5) For any week with respect to which he has received
2951 or is seeking unemployment compensation under an unemployment
2952 compensation law of another state or of the United States.
2953 However, if the appropriate agency of such other state or of the
2954 United States finally determines that he is not entitled to such
2955 unemployment compensation benefits, this disqualification shall
2956 not apply. Nothing in this subsection contained shall be
2957 construed to include within its terms any law of the United States
2958 providing unemployment compensation or allowances for honorably
2959 discharged members of the Armed Forces.

2960 (6) For any week with respect to which he is receiving
2961 or has received remuneration in the form of payments under any
2962 governmental or private retirement or pension plan, system or
2963 policy which a base-period employer is maintaining or contributing
2964 to or has maintained or contributed to on behalf of the
2965 individual; however, if the amount payable with respect to any
2966 week is less than the benefits which would otherwise be due under
2967 Section 71-5-501, he shall be entitled to receive for such week,

2968 if otherwise eligible, benefits reduced by the amount of such
2969 remuneration. However, on or after the first Sunday immediately
2970 following July 1, 2001, no social security payments, to which the
2971 employee has made contributions, shall be deducted from
2972 unemployment benefits paid for any period of unemployment
2973 beginning on or after the first Sunday following July 1, 2001.
2974 This one hundred percent (100%) exclusion shall not apply to any
2975 other governmental or private retirement or pension plan, system
2976 or policy. If benefits payable under this section, after being
2977 reduced by the amount of such remuneration, are not a multiple of
2978 One Dollar (\$1.00), they shall be adjusted to the next lower
2979 multiple of One Dollar (\$1.00).

2980 (7) For any week with respect to which he is receiving
2981 or has received remuneration in the form of a back pay award, or
2982 other compensation allocable to any week, whether by settlement or
2983 otherwise. Any benefits previously paid for weeks of unemployment
2984 with respect to which back pay awards, or other such compensation,
2985 are made shall constitute an overpayment and such amounts shall be
2986 deducted from the award by the employer prior to payment to the
2987 employee, and shall be transmitted promptly to the department by
2988 the employer for application against the overpayment and credit to
2989 the claimant's maximum benefit amount and prompt deposit into the
2990 fund; however, the removal of any charges made against the
2991 employer as a result of such previously paid benefits shall be
2992 applied to the calendar year and the calendar quarter in which the
2993 overpayment is transmitted to the department, and no attempt shall

2994 be made to relate such a credit to the period to which the award
2995 applies. Any amount of overpayment so deducted by the employer
2996 and not transmitted to the department shall be subject to the same
2997 procedures for collection as is provided for contributions by
2998 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
2999 deducted by the employer shall be established as an overpayment
3000 against the claimant and collected as provided above. It is the
3001 purpose of this paragraph to assure equity in the situations to
3002 which it applies, and it shall be construed accordingly.

3003 B. Notwithstanding any other provision in this chapter, no
3004 otherwise eligible individual shall be denied benefits for any
3005 week because he is in training with the approval of the
3006 department; nor shall such individual be denied benefits with
3007 respect to any week in which he is in training with the approval
3008 of the department by reason of the application of provisions in
3009 Section 71-5-511, subsection (c), relating to availability for
3010 work, or the provisions of subsection A(3) of this section,
3011 relating to failure to apply for, or a refusal to accept, suitable
3012 work.

3013 C. Notwithstanding any other provisions of this chapter, no
3014 otherwise eligible individual shall be denied benefits for any
3015 week because he or she is in training approved under Section
3016 236(a)(1) of the Trade Act of 1974, nor shall such individual be
3017 denied benefits by reason of leaving work to enter such training,
3018 provided the work left is not suitable employment, or because of
3019 the application to any such week in training of provisions in this

3020 law (or any applicable federal unemployment compensation law),
3021 relating to availability for work, active search for work or
3022 refusal to accept work.

3023 For purposes of this section, the term "suitable employment"
3024 means with respect to an individual, work of a substantially equal
3025 or higher skill level than the individual's past adversely
3026 affected employment (as defined for purposes of the Trade Act of
3027 1974), and wages for such work at not less than eighty percent
3028 (80%) of the individual's average weekly wage as determined for
3029 the purposes of the Trade Act of 1974.

3030 D. Notwithstanding any other provisions of this chapter, no
3031 otherwise eligible individual shall be denied benefits for any
3032 week in which they are engaged in the Self-Employment Assistance
3033 Program established in Section 71-5-545 by reason of the
3034 application of Section 71-5-511(c), relating to availability for
3035 work, or the provisions of subsection A(3) of this section,
3036 relating to failure to apply for, or a refusal to accept, suitable
3037 work.

3038 E. Any individual who is receiving benefits may participate
3039 in an approved training program under the Mississippi Employment
3040 Security Law to gain skills that may lead to employment while
3041 continuing to receive benefits. Authorization for participation
3042 of a recipient of unemployment benefits in such a program must be
3043 granted by the department and continuation of participation must
3044 be certified weekly by the participant recipient. While
3045 participating in such program approved by the department,

3046 availability and work search requirements will be waived. No
3047 individual will be allowed to participate in this program for more
3048 than twelve (12) weeks in any benefit year. Such participation
3049 shall not be considered employment for any purposes and shall not
3050 accrue benefits or wage credits. Participation in this training
3051 program shall meet the definition set forth in the U.S. Fair Labor
3052 Standards Act.

3053 **SECTION 42.** Section 71-5-517, Mississippi Code of 1972, is
3054 reenacted as follows:

3055 71-5-517. Upon the taking of a claim by the department, an
3056 initial determination thereon shall be made promptly and shall
3057 include a determination with respect to whether or not benefits
3058 are payable, the week with respect to which benefits shall
3059 commence, the weekly benefit amount payable and the maximum
3060 duration of benefits. In any case in which the payment or denial
3061 of benefits will be determined by the provisions of subsection
3062 A(4) of Section 71-5-513, the examiner shall promptly transmit all
3063 the evidence with respect to that subsection to the department,
3064 which, on the basis of evidence so submitted and such additional
3065 evidence as it may require, shall make an initial determination
3066 with respect thereto. An initial determination may for good cause
3067 be reconsidered. The claimant, his most recent employing unit and
3068 all employers whose experience-rating record would be charged with
3069 benefits pursuant to such determination shall be promptly notified
3070 of such initial determination or any amended initial determination
3071 and the reason therefor. Benefits shall be denied or, if the

3072 claimant is otherwise eligible, promptly paid in accordance with
3073 the initial determination or amended initial determination. The
3074 jurisdiction of the department over benefit claims which have not
3075 been appealed shall be continuous. The claimant or any party to
3076 the initial determination or amended initial determination may
3077 file an appeal from such initial determination or amended initial
3078 determination within fourteen (14) days after notification
3079 thereof, or after the date such notification was sent to his last
3080 known address.

3081 Notwithstanding any other provision of this section, benefits
3082 shall be paid promptly in accordance with a determination or
3083 redetermination, or the decision of an appeal tribunal, the Board
3084 of Review or a reviewing court upon the issuance of such
3085 determination, redetermination or decision in favor of the
3086 claimant (regardless of the pendency of the period to apply for
3087 reconsideration, file an appeal, or petition for judicial review,
3088 as the case may be, or the pendency of any such application,
3089 filing or petition), unless and until such determination,
3090 redetermination or decision has been modified or reversed by a
3091 subsequent redetermination or decision, in which event benefits
3092 shall be paid or denied in accordance with such modifying or
3093 reversing redetermination or decision. Any benefits finally
3094 determined to have been erroneously paid may be set up as an
3095 overpayment to the claimant and must be liquidated before any
3096 future benefits can be paid to the claimant. If, subsequent to
3097 such initial determination or amended initial determination,

3098 benefits with respect to any week for which a claim has been filed
3099 are denied for reasons other than matters included in the initial
3100 determination or amended initial determination, the claimant shall
3101 be promptly notified of the denial and the reason therefor and may
3102 appeal therefrom in accordance with the procedure herein described
3103 for appeals from initial determination or amended initial
3104 determination.

3105 **SECTION 43.** Section 71-5-519, Mississippi Code of 1972, is
3106 reenacted as follows:

3107 71-5-519. Unless such appeal is withdrawn, an appeal
3108 tribunal appointed by the executive director, after affording the
3109 parties reasonable opportunity for fair hearing, shall affirm,
3110 modify or reverse the findings of fact and initial determination
3111 or amended initial determination. The parties shall be duly
3112 notified of such tribunal's decision, together with its reasons
3113 therefor, which shall be deemed to be the final decision of the
3114 executive director unless, within fourteen (14) days after the
3115 date of notification of such decision, further appeal is initiated
3116 pursuant to Section 71-5-523.

3117 **SECTION 44.** Section 71-5-523, Mississippi Code of 1972, is
3118 reenacted as follows:

3119 71-5-523. The Board of Review may on its own motion affirm,
3120 modify, or set aside any decision of an appeal tribunal on the
3121 basis of the evidence previously submitted in such case, or direct
3122 the taking of additional evidence, or may permit any of the
3123 parties to such decision to initiate further appeals before it.

3124 The Board of Review shall permit such further appeal by any of the
3125 parties to a decision of an appeal tribunal which is not
3126 unanimous, and by the examiner whose decision has been overruled
3127 or modified by an appeal tribunal. The Board of Review may remove
3128 to itself or transfer to another appeal tribunal the proceedings
3129 on any claim pending before an appeal tribunal. Any proceedings
3130 so removed to the Board of Review shall be heard by a quorum
3131 thereof in accordance with the requirements of Section 71-5-519
3132 and within fifteen (15) days after notice of appeal has been
3133 received by the executive director. No notice of appeal shall be
3134 deemed to be received by the executive director, within the
3135 meaning of this section, until all prior appeals pending before
3136 the Board of Review have been heard. The Board of Review shall,
3137 within four (4) days after its decision, so notify the parties to
3138 any proceeding of its findings and decision.

3139 **SECTION 45.** Section 71-5-525, Mississippi Code of 1972, is
3140 reenacted as follows:

3141 71-5-525. The manner in which appealed claims shall be
3142 presented and the conduct of hearings and appeals shall be in
3143 accordance with regulations prescribed by the Board of Review for
3144 determining the rights of the parties, whether or not such
3145 regulations conform to common law or statutory rules of evidence
3146 and other technical rules of procedure. A full and complete
3147 record shall be kept of all proceedings in connection with an
3148 appealed claim. The department's entire file relative to the
3149 appealed claim shall be a part of such record and shall be

3150 considered as evidence. All testimony at any hearing upon an
3151 appealed claim shall be recorded, but need not be transcribed
3152 unless the claim is further appealed.

3153 **SECTION 46.** Section 71-5-529, Mississippi Code of 1972, is
3154 reenacted as follows:

3155 71-5-529. Any decision of the Board of Review, in the
3156 absence of an appeal therefrom as herein provided, shall become
3157 final ten (10) days after the date of notification; and judicial
3158 review thereof shall be permitted only after any party claiming to
3159 be aggrieved thereby has exhausted his administrative remedies as
3160 provided by this chapter. The department shall be deemed to be a
3161 party to any judicial action involving any such decision, and may
3162 be represented in any such judicial action by any qualified
3163 attorney employed by the department and designated by it for that
3164 purpose or, at the department's request, by the Attorney General.

3165 **SECTION 47.** Section 71-5-531, Mississippi Code of 1972, is
3166 reenacted as follows:

3167 71-5-531. Within ten (10) days after the decision of the
3168 Board of Review has become final, any party aggrieved thereby may
3169 secure judicial review thereof by commencing an action, in the
3170 circuit court of the county in which the plaintiff resides,
3171 against the department for the review of such decision, in which
3172 action any other party to the proceeding before the Board of
3173 Review shall be made a defendant. In cases wherein the plaintiff
3174 is not a resident of the State of Mississippi, such action may be
3175 filed in the circuit court of the county in which the employer

3176 resides, the county in which the cause of action arose, or in the
3177 county of employment. In such action, a petition which need not
3178 be verified, but which shall state the grounds upon which a review
3179 is sought, shall be served upon the department or upon such person
3180 as the department may designate, and such service shall be deemed
3181 completed service on all parties; but there shall be left with the
3182 party so served as many copies of the petition as there are
3183 defendants, and the department shall forthwith mail one (1) such
3184 copy to each such defendant. With its answer, the department
3185 shall certify and file with said court all documents and papers
3186 and a transcript of all testimony taken in the matter, together
3187 with the Board of Review's findings of fact and decision therein.
3188 The department may also, in its discretion, certify to such court
3189 questions of law involved in any decision. In any judicial
3190 proceedings under this section, the findings of the Board of
3191 Review as to the facts, if supported by evidence and in the
3192 absence of fraud, shall be conclusive, and the jurisdiction of the
3193 court shall be confined to questions of law. Such actions, and
3194 the questions so certified, shall be heard in a summary manner and
3195 shall be given precedence over all other civil cases. An appeal
3196 may be taken from the decision of the circuit court of the county
3197 in which the plaintiff resides to the Supreme Court of
3198 Mississippi, in the same manner, but not inconsistent with the
3199 provisions of this chapter, as is provided in civil cases. It
3200 shall not be necessary, in any judicial proceeding under this
3201 section, to enter exceptions to the rulings of the Board of

3202 Review, and no bond shall be required for entering such appeal.
3203 Upon the final determination of such judicial proceeding, the
3204 Board of Review shall enter an order in accordance with such
3205 determination. A petition for judicial review shall not act as a
3206 supersedeas or stay unless the Board of Review shall so order.

3207 **SECTION 48.** Section 71-5-541, Mississippi Code of 1972, is
3208 reenacted as follows:

3209 71-5-541. A. (1) In the administration of this chapter,
3210 the department shall cooperate with the Department of Labor to the
3211 fullest extent consistent with the provisions of this chapter and
3212 shall take such action, through the adoption of appropriate rules,
3213 regulations, administrative methods and standards, as may be
3214 necessary to secure to this state and its citizens all advantages
3215 available under the provisions of the Social Security Act that
3216 relate to unemployment compensation, the Federal Unemployment Tax
3217 Act, the Wagner-Peyser Act and the Federal-State Extended
3218 Unemployment Compensation Act of 1970, all as amended.

3219 (2) In the administration of the provisions of this
3220 section, which are enacted to conform with the requirements of the
3221 Federal-State Extended Unemployment Compensation Act of 1970, as
3222 amended, the department shall take such actions as may be
3223 necessary:

3224 (a) To ensure that the provisions are so
3225 interpreted and applied as to meet the requirements of such
3226 federal act as interpreted by the United States Department of
3227 Labor; and

3228 (b) To secure to this state the full reimbursement
3229 of the federal share of extended benefits paid under this chapter
3230 that are reimbursable under the federal act; and also

3231 (c) To limit the amount of extended benefits paid
3232 as may be necessary so that the reimbursement of the federal share
3233 of extended benefits paid shall remain at one-half (1/2) of the
3234 total extended benefits paid.

3235 B. As used in this section, unless the context clearly
3236 requires otherwise:

3237 (1) "Extended benefit period" means a period which:

3238 (a) Begins with the third week after a week for
3239 which there is a state "on" indicator; and

3240 (b) Ends with either of the following weeks,
3241 whichever occurs later:

3242 (i) The third week after the first week for
3243 which there is a state "off" indicator; or

3244 (ii) The thirteenth consecutive week of such
3245 period.

3246 No extended benefit period may begin by reason of a state
3247 "on" indicator before the fourteenth week following the end of a
3248 prior extended benefit period which was in effect with respect to
3249 this state.

3250 (2) For weeks beginning after September 25, 1982, there
3251 is a "state 'on' indicator" for a week if the rate of insured
3252 unemployment under this chapter for the period consisting of such
3253 week and the immediately preceding twelve (12) weeks:

3254 (a) Equaled or exceeded one hundred twenty percent
3255 (120%) of the average of such rates for the corresponding period
3256 of thirteen (13) weeks ending in each of the preceding two (2)
3257 calendar years; and

3258 (b) Equaled or exceeded five percent (5%).

3259 The determination of whether there has been a state "on" or
3260 "off" indicator beginning or ending any extended benefit period
3261 shall be made under this subsection as if (i) paragraph (2) did
3262 not contain subparagraph (a) thereof, and (ii) the figure "5"
3263 contained in subparagraph (b) thereof were "6"; except that,
3264 notwithstanding any such provision of this subsection, any week
3265 for which there would otherwise be a "state 'on' indicator" shall
3266 continue to be such week and shall not be determined to be a week
3267 for which there is a "state 'off' indicator."

3268 (3) There is a "state 'off' indicator" for a week if,
3269 for the period consisting of such week and the immediately
3270 preceding twelve (12) weeks, either subparagraph (a) or (b) of
3271 paragraph (2) was not satisfied.

3272 (4) "Rate of insured unemployment," for purposes of
3273 paragraphs (2) and (3) of this subsection, means the percentage
3274 derived by dividing:

3275 (a) The average number of continued weeks claimed
3276 for regular state compensation in this state for weeks of
3277 unemployment with respect to the most recent period of thirteen
3278 (13) consecutive weeks, as determined by the department on the
3279 basis of its reports to the United States Secretary of Labor; by

3280 (b) The average monthly employment covered under
3281 this chapter for the first four (4) of the most recent six (6)
3282 completed calendar quarters ending before the end of such period
3283 of thirteen (13) weeks.

3284 (5) "Regular benefits" means benefits payable to an
3285 individual under this chapter or under any other state law
3286 (including benefits payable to federal civilian employees and to
3287 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than
3288 extended benefits.

3289 (6) "Extended benefits" means benefits (including
3290 benefits payable to federal civilian employees and to
3291 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an
3292 individual under the provisions of this section for weeks of
3293 unemployment in his eligibility period.

3294 (7) "Eligibility period" of an individual means the
3295 period consisting of the weeks in his benefit year which begin in
3296 an extended benefit period and, if his benefit year ends within
3297 such extended benefit period, any weeks thereafter which begin in
3298 such period.

3299 (8) "Exhaustee" means an individual who, with respect
3300 to any week of unemployment in his eligibility period:

3301 (a) Has received, prior to such week, all of the
3302 regular benefits that were available to him under this chapter or
3303 any other state law (including dependents' allowances and benefits
3304 payable to federal civilian employees and ex-servicemen under 5

3305 USCS Section 8501-8525) in his current benefit year that includes
3306 such week.

3307 For the purposes of this subparagraph, an individual shall be
3308 deemed to have received all of the regular benefits that were
3309 available to him although, as a result of a pending appeal with
3310 respect to wages that were not considered in the original monetary
3311 determination in his benefit year, he may subsequently be
3312 determined to be entitled to added regular benefits; or

3313 (b) Has no, or insufficient, wages on the basis of
3314 which he could establish a new benefit year that would include
3315 such week, his benefit year having expired prior to such week; and

3316 (c) (i) Has no right to unemployment benefits or
3317 allowances, as the case may be, under the Railroad Unemployment
3318 Insurance Act, the Trade Expansion Act of 1962, the Automotive
3319 Products Trade Act of 1965, and such other federal laws as are
3320 specified in regulations issued by the United States Secretary of
3321 Labor; and

3322 (ii) Has not received and is not seeking
3323 unemployment benefits under the Unemployment Compensation Law of
3324 the Virgin Islands or of Canada; but if he is seeking such
3325 benefits and the appropriate agency finally determines that he is
3326 not entitled to benefits under such law, he is considered an
3327 exhaustee; however, the reference in this subsection to the Virgin
3328 Islands shall be inapplicable effective on the day on which the
3329 United States Secretary of Labor approves under Section 3304(a) of

3330 the Internal Revenue Code of 1954, an unemployment compensation
3331 law submitted to the Secretary by the Virgin Islands for approval.

3332 (9) "State law" means the unemployment insurance law of
3333 any state, approved by the United States Secretary of Labor under
3334 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section
3335 3304).

3336 C. Except when the result would be inconsistent with the
3337 other provisions of this section, as provided in the regulations
3338 of the department, the provisions of this chapter which apply to
3339 claims for, or the payment of, regular benefits shall apply to
3340 claims for, and the payment of, extended benefits.

3341 D. An individual shall be eligible to receive extended
3342 benefits with respect to any week of unemployment in his
3343 eligibility period only if the department finds that with respect
3344 to such week:

3345 (1) He is an "exhaustee" as defined in subsection B(8)
3346 of this section.

3347 (2) He has satisfied the requirements of this chapter
3348 for the receipt of regular benefits that are applicable to
3349 individuals claiming extended benefits, including not being
3350 subject to a disqualification for the receipt of benefits.

3351 (3) For a week beginning after September 25, 1982, he
3352 has, during his base period, been paid wages for insured work
3353 equal to not less than forty (40) times his weekly benefit amount;
3354 he has been paid wages for insured work during at least two (2)
3355 quarters of his base period, and he has, during that quarter of

3356 his base period in which his total wages were highest, been paid
3357 wages for insured work equal to not less than twenty-six (26)
3358 times the minimum weekly benefit amount.

3359 E. The weekly extended benefit amount payable to an
3360 individual for a week of total unemployment in his eligibility
3361 period shall be an amount equal to the weekly benefit amount
3362 payable to him during his applicable benefit year; however,
3363 benefits paid to individuals during eligibility periods beginning
3364 before October 1, 1983, shall be computed to the next higher
3365 multiple of One Dollar (\$1.00), if not a multiple of One Dollar
3366 (\$1.00); and benefits paid to individuals during eligibility
3367 periods beginning on or after October 1, 1983, shall be computed
3368 to the next lower multiple of One Dollar (\$1.00), if not a
3369 multiple of One Dollar (\$1.00). In no event shall the weekly
3370 extended benefit amount payable to an individual be more than two
3371 (2) times the amount of the reimbursement of the federal share of
3372 extended benefits paid.

3373 F. (1) The total extended benefit amount payable to any
3374 eligible individual with respect to his applicable benefit year
3375 shall be the least of the following amounts:

3376 (a) Fifty percent (50%) of the total amount of
3377 regular benefits which were payable to him under this chapter in
3378 his applicable benefit year; however, benefits paid to individuals
3379 during eligibility periods beginning before October 1, 1983, shall
3380 be computed to the next higher multiple of One Dollar (\$1.00), if
3381 not a multiple of One Dollar (\$1.00), and benefits paid to

3382 individuals during eligibility periods beginning on or after
3383 October 1, 1983, shall be computed to the next lower multiple of
3384 One Dollar (\$1.00), if not a multiple of One Dollar (\$1.00); or

3385 (b) Thirteen (13) times his weekly benefit amount
3386 which was payable to him under this chapter for a week of total
3387 unemployment in the applicable benefit year.

3388 (2) The total extended benefits otherwise payable to an
3389 individual who is filing an interstate claim under the interstate
3390 benefit payment plan shall not exceed two (2) weeks whenever an
3391 extended benefit period is not in effect for such week in the
3392 state where the claim is filed.

3393 (3) In no event shall the total extended benefit amount
3394 payable to any eligible individual with respect to his applicable
3395 benefit year be more than two (2) times the amount of the
3396 reimbursement of the federal share of extended benefits paid.

3397 G. (1) Whenever an extended benefit period is to become
3398 effective in this state as a result of a state "on" indicator, or
3399 an extended benefit period is to be terminated in this state as a
3400 result of state "off" indicators, the department shall make an
3401 appropriate public announcement.

3402 (2) Computations required by the provisions of
3403 subsection B(4) shall be made by the department, in accordance
3404 with regulations prescribed by the United States Secretary of
3405 Labor.

3406 H. Extended benefits paid under the provisions of this
3407 section which are not reimbursable from federal funds shall be
3408 charged to the experience-rating record of base period employers.

3409 I. (1) Notwithstanding the provisions of subsections C and
3410 D of this section, an individual shall be disqualified for receipt
3411 of extended benefits if the department finds that during any week
3412 of his eligibility period:

3413 (a) He has failed either to apply for or to accept
3414 an offer of suitable work (as defined under paragraph (3)) to
3415 which he was referred by the department; or

3416 (b) He has failed to furnish tangible evidence
3417 that he has actively engaged in a systematic and sustained effort
3418 to find work, unless such individual is not actively engaged in
3419 seeking work because such individual is:

3420 (i) Before any court of the United States or
3421 any state pursuant to a lawfully issued summons to appear for jury
3422 duty;

3423 (ii) Hospitalized for treatment of an
3424 emergency or a life-threatening condition.

3425 The entitlement to benefits of any individual who is
3426 determined not to be actively engaged in seeking work in any week
3427 for the foregoing reasons shall be decided pursuant to the able
3428 and available requirements in Section 71-5-511 without regard to
3429 the disqualification provisions otherwise applicable under Section
3430 71-5-541. The conditions prescribed in clauses (i) and (ii) of

3431 this subparagraph (b) must be applied in the same manner to
3432 individuals filing claims for regular benefits.

3433 (2) Such disqualification shall begin with the week in
3434 which such failure occurred and shall continue until he has been
3435 employed in each of eight (8) subsequent weeks (whether or not
3436 consecutive) and has earned remuneration for personal services
3437 performed for an employer, as in this chapter defined, equal to
3438 not less than eight (8) times his weekly extended benefit amount.

3439 (3) For the purpose of subparagraph (a) of paragraph
3440 (1) the term "suitable work" means any work which is within the
3441 individual's capabilities to perform, if:

3442 (a) The gross average weekly remuneration payable
3443 for the work exceeds the sum of the individual's weekly extended
3444 benefit amount plus the amount, if any, of supplemental
3445 unemployment benefits (as defined in Section 501(c)(17)(D) of the
3446 Internal Revenue Code of 1954) payable to such individual for such
3447 week;

3448 (b) The wages payable for the work equal the
3449 higher of the minimum wages provided by Section 6(a)(1) of the
3450 Fair Labor Standards Act of 1938 (without regard to any
3451 exemption), or the state or local minimum wage; and

3452 (c) The position was offered to the individual in
3453 writing or was listed with the state employment service; and

3454 (d) Such work otherwise meets the definition of
3455 "suitable work" for regular benefits contained in Section

3456 71-5-513A(4) to the extent that such criteria of suitability are
3457 not inconsistent with the provisions of this paragraph (3); and

3458 (e) The individual cannot furnish satisfactory
3459 evidence to the department that his prospects for obtaining work
3460 in his customary occupation within a reasonably short period are
3461 good. If such evidence is deemed satisfactory for this purpose,
3462 the determination of whether any work is suitable with respect to
3463 such individual shall be made in accordance with the definition of
3464 suitable work contained in Section 71-5-513A(4) without regard to
3465 the definition specified by this paragraph (3).

3466 (4) Notwithstanding any provisions of subsection I to
3467 the contrary, no work shall be deemed to be suitable work for an
3468 individual which does not accord with the labor standard
3469 provisions set forth herein under Section 71-5-513A(4).

3470 (5) The employment service shall refer any claimant
3471 entitled to extended benefits under this section to any suitable
3472 work which meets the criteria prescribed in paragraph (3).

3473 (6) An individual shall be disqualified for extended
3474 benefits for the week, or fraction thereof, which immediately
3475 follows the day on which he left work voluntarily without good
3476 cause (as defined in Section 71-5-513A(1)), was discharged for
3477 misconduct connected with his work, or refused suitable work
3478 (except as provided in subsection I of this section), and for each
3479 week thereafter until he has earned remuneration for personal
3480 services performed for an employer, as in this chapter defined,

3481 equal to not less than eight (8) times his weekly benefit amount,
3482 as determined in each case.

3483 (7) The provisions of paragraphs I(1) through (6) of
3484 this section shall not apply to claims for weeks of unemployment
3485 beginning after March 6, 1993, and before January 1, 1995, and
3486 during that period the provisions of this chapter applicable to
3487 claims for regular compensation shall apply.

3488 J. Notwithstanding any other provisions of this chapter, if
3489 the benefit year of any individual ends within an extended benefit
3490 period, the remaining balance of extended benefits that such
3491 individual would, but for this section, be entitled to receive in
3492 that extended benefit period, with respect to weeks of
3493 unemployment beginning after the end of the benefit year, shall be
3494 reduced (but not below zero) by the product of the number of weeks
3495 for which the individual received any amounts as trade
3496 readjustment allowances within that benefit year, multiplied by
3497 the individual's weekly benefit amount for extended benefits.

3498 **SECTION 49.** Section 73-30-25, Mississippi Code of 1972, is
3499 reenacted as follows:

3500 73-30-25. It is not the intent of this article to regulate
3501 against members of other duly regulated professions in this state
3502 who do counseling in the normal course of the practice of their
3503 own profession. This article does not apply to:

3504 (a) Any person registered, certified or licensed by the
3505 state to practice any other occupation or profession while
3506 rendering counseling services in the performance of the occupation

3507 or profession for which he or she is registered, certified or
3508 licensed;

3509 (b) Certified school counselors when they are
3510 practicing counseling within the scope of their employment;

3511 (c) Certified vocational counselors when they are
3512 practicing vocational counseling within the scope of their
3513 employment;

3514 (d) [Deleted]

3515 (e) Student interns or trainees in counseling pursuing
3516 a course of study in counseling in a regionally or nationally
3517 accredited institution of higher learning or training institution
3518 if activities and services constitute a part of the supervised
3519 course of study, provided that such persons be designated a
3520 counselor intern;

3521 (f) [Deleted]

3522 (g) [Deleted]

3523 (h) Duly ordained ministers or clergy while functioning
3524 in their ministerial capacity and duly accredited Christian
3525 Science practitioners;

3526 (i) Professional employees of regional mental health
3527 centers, state mental hospitals, vocational rehabilitation
3528 institutions, youth court counselors and employees of the
3529 Mississippi Department of Employment Security or other
3530 governmental agency so long as they practice within the scope of
3531 their employment;

3532 (j) Professional employees of alcohol or drug abuse
3533 centers or treatment facilities, whether privately or publicly
3534 funded, so long as they practice within the scope of their
3535 employment;

3536 (k) Private employment counselors;

3537 (l) Any nonresident temporarily employed in this state
3538 to render counseling services for not more than thirty (30) days
3539 in any year, if in the opinion of the board the person would
3540 qualify for a license under this article and if the person holds
3541 any license required for counselors in his or her home state or
3542 country; and

3543 (m) [Deleted]

3544 **SECTION 50.** Section 43-1-30, Mississippi Code of 1972, is
3545 reenacted as follows:

3546 43-1-30. (1) There is created the Mississippi TANF
3547 Implementation Council. It shall serve as the independent, single
3548 state advisory and review council for assuring Mississippi's
3549 compliance with the federal Personal Responsibility and Work
3550 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as
3551 amended. The council shall further cooperation between
3552 government, education and the private sector in meeting the needs
3553 of the TANF program. It shall also further cooperation between
3554 the business and labor communities, education and training
3555 delivery systems, and between businesses in developing highly
3556 skilled workers for high skill, high paying jobs in Mississippi.

3557 (2) The council shall be comprised of thirteen (13) public
3558 members and certain ex officio nonvoting members. All public
3559 members of the council shall be appointed as follows by the
3560 Governor:

3561 Ten (10) members shall be representatives from business and
3562 industry, provided that no fewer than five (5) members are from
3563 the manufacturing and industry sector who are also serving as
3564 members of private industry councils established within the state,
3565 and one (1) member may be a representative of a nonprofit
3566 organization. Three (3) members shall be recipients or former
3567 recipients of TANF assistance appointed from the state at large.

3568 The ex officio nonvoting members of the council shall consist
3569 of the following, or their designees:

3570 (a) The Executive Director of the Mississippi
3571 Department of Human Services;

3572 (b) The Executive Director of the Mississippi
3573 Department of Employment Security;

3574 (c) The Executive Director of the Mississippi
3575 Development Authority;

3576 (d) The State Superintendent of Public Education;

3577 (e) The Director of the Mississippi Community College
3578 Board;

3579 (f) The Executive Director of the Division of Medicaid;

3580 (g) The Commissioner of the Mississippi Department of
3581 Corrections; and

3582 (h) The Director of the Mississippi Cooperative
3583 Extension Service.

3584 (3) The Governor shall designate one (1) public member to
3585 serve as chairman of the council for a term of two (2) years and
3586 until a successor as chairman is appointed and qualified.

3587 (4) The term of office for public members appointed by the
3588 Governor shall be four (4) years and until their successors are
3589 appointed and qualified.

3590 (5) Any vacancy shall be filled for the unexpired term by
3591 the Governor in the manner of the original appointment, unless
3592 otherwise specified in this section.

3593 (6) Public members shall receive a per diem as authorized in
3594 Section 25-3-69, for each day actually engaged in meetings of the
3595 council, and shall be reimbursed for mileage and necessary
3596 expenses incurred in the performance of their duties, as provided
3597 in Section 25-3-41.

3598 (7) The council shall:

3599 (a) Annually review and recommend policies and programs
3600 to the Governor and the Legislature that will implement and meet
3601 federal requirements under the TANF program.

3602 (b) Annually review and recommend policies and programs
3603 to the Governor and to the Legislature that will enable citizens
3604 of Mississippi to acquire the skills necessary to maximize their
3605 economic self-sufficiency.

3606 (c) Review the provision of services and the use of
3607 funds and resources under the TANF program, and under all

3608 state-financed job training and job retraining programs, and
3609 advise the Governor and the Legislature on methods of coordinating
3610 such provision of services and use of funds and resources
3611 consistent with the laws and regulations governing such programs.

3612 (d) Assist in developing outcome and output measures to
3613 measure the success of the Department of Human Services' efforts
3614 in implementing the TANF program. These recommendations shall be
3615 made to the Department of Human Services at such times as required
3616 in the event that the department implements new programs to comply
3617 with the TANF program requirements.

3618 (e) Collaborate with the Mississippi Development
3619 Authority, local planning and development districts and local
3620 industrial development boards, and shall develop an economic
3621 development plan for the creation of manufacturing jobs in each of
3622 the counties in the state that has an unemployment rate of ten
3623 percent (10%) or more, which shall include, but not be limited to,
3624 procedures for business development, entrepreneurship and
3625 financial and technical assistance.

3626 (8) A majority of the members of the council shall
3627 constitute a quorum for the conduct of meetings and all actions of
3628 the council shall be by a majority of the members present at a
3629 meeting.

3630 (9) The council shall adopt rules and regulations as it
3631 deems necessary to carry out its responsibilities under this
3632 section and under applicable federal human resources programs.

3633 (10) The council may make and enter into contracts and
3634 interagency agreements as may be necessary and proper.

3635 (11) The council is authorized to commit and expend monies
3636 appropriated to it by the Legislature for its authorized purposes.
3637 The council is authorized to solicit, accept and expend public and
3638 private gifts, grants, awards and contributions related to
3639 furtherance of its statutory duties.

3640 (12) Funds for the operations of the council shall be
3641 derived from federal funds for the operation of state councils
3642 pursuant to applicable federal human resources programs and from
3643 such other monies appropriated to it by the Legislature.

3644 **SECTION 51.** Section 43-17-5, Mississippi Code of 1972, is
3645 reenacted as follows:

3646 43-17-5. (1) The amount of Temporary Assistance for Needy
3647 Families (TANF) benefits which may be granted for any dependent
3648 child and a needy caretaker relative shall be determined by the
3649 county department with due regard to the resources and necessary
3650 expenditures of the family and the conditions existing in each
3651 case, and in accordance with the rules and regulations made by the
3652 Department of Human Services which shall not be less than the
3653 Standard of Need in effect for 1988, and shall be sufficient when
3654 added to all other income (except that any income specified in the
3655 federal Social Security Act, as amended, may be disregarded) and
3656 support available to the child to provide such child with a
3657 reasonable subsistence compatible with decency and health. The
3658 first family member in the dependent child's budget may receive an

3659 amount not to exceed Two Hundred Dollars (\$200.00) per month; the
3660 second family member in the dependent child's budget may receive
3661 an amount not to exceed Thirty-six Dollars (\$36.00) per month; and
3662 each additional family member in the dependent child's budget an
3663 amount not to exceed Twenty-four Dollars (\$24.00) per month. The
3664 maximum for any individual family member in the dependent child's
3665 budget may be exceeded for foster or medical care or in cases of
3666 children with an intellectual disability or a physical disability.
3667 TANF benefits granted shall be specifically limited only (a) to
3668 children existing or conceived at the time the caretaker relative
3669 initially applies and qualifies for such assistance, unless this
3670 limitation is specifically waived by the department, or (b) to a
3671 child born following a twelve-consecutive-month period of
3672 discontinued benefits by the caretaker relative.

3673 (2) TANF benefits in Mississippi shall be provided to the
3674 recipient family by an online electronic benefits transfer system.

3675 (3) The Department of Human Services shall deny TANF
3676 benefits to the following categories of individuals, except for
3677 individuals and families specifically exempt or excluded for good
3678 cause as allowed by federal statute or regulation:

3679 (a) Families without a minor child residing with the
3680 custodial parent or other adult caretaker relative of the child;

3681 (b) Families which include an adult who has received
3682 TANF assistance for sixty (60) months after the commencement of
3683 the Mississippi TANF program, whether or not such period of time
3684 is consecutive;

3685 (c) Families not assigning to the state any rights a
3686 family member may have, on behalf of the family member or of any
3687 other person for whom the family member has applied for or is
3688 receiving such assistance, to support from any other person, as
3689 required by law;

3690 (d) Families who fail to cooperate in establishing
3691 paternity or obtaining child support, as required by law;

3692 (e) Any individual who has not attained eighteen (18)
3693 years of age, is not married to the head of household, has a minor
3694 child at least twelve (12) weeks of age in his or her care, and
3695 has not successfully completed a high school education or its
3696 equivalent, if such individual does not participate in educational
3697 activities directed toward the attainment of a high school diploma
3698 or its equivalent, or an alternative educational or training
3699 program approved by the department;

3700 (f) Any individual who has not attained eighteen (18)
3701 years of age, is not married, has a minor child in his or her
3702 care, and does not reside in a place or residence maintained by a
3703 parent, legal guardian or other adult relative or the individual
3704 as such parent's, guardian's or adult relative's own home;

3705 (g) Any minor child who has been, or is expected by a
3706 parent or other caretaker relative of the child to be, absent from
3707 the home for a period of more than thirty (30) days;

3708 (h) Any individual who is a parent or other caretaker
3709 relative of a minor child who fails to notify the department of
3710 the absence of the minor child from the home for the thirty-day

3711 period specified in paragraph (g), by the end of the five-day
3712 period that begins with the date that it becomes clear to the
3713 individual that the minor child will be absent for the thirty-day
3714 period;

3715 (i) Any individual who fails to comply with the
3716 provisions of the Employability Development Plan signed by the
3717 individual which prescribe those activities designed to help the
3718 individual become and remain employed, or to participate
3719 satisfactorily in the assigned work activity, as authorized under
3720 subsection (6) (c) and (d), or who does not engage in applicant job
3721 search activities within the thirty-day period for TANF
3722 application approval after receiving the advice and consultation
3723 of eligibility workers and/or caseworkers of the department
3724 providing a detailed description of available job search venues in
3725 the individual's county of residence or the surrounding counties;

3726 (j) A parent or caretaker relative who has not engaged
3727 in an allowable work activity once the department determines the
3728 parent or caretaker relative is ready to engage in work, or once
3729 the parent or caretaker relative has received TANF assistance
3730 under the program for twenty-four (24) months, whether or not
3731 consecutive, whichever is earlier;

3732 (k) Any individual who is fleeing to avoid prosecution,
3733 or custody or confinement after conviction, under the laws of the
3734 jurisdiction from which the individual flees, for a crime, or an
3735 attempt to commit a crime, which is a felony under the laws of the
3736 place from which the individual flees, or who is violating a

3737 condition of probation or parole imposed under federal or state
3738 law;

3739 (l) Aliens who are not qualified under federal law;

3740 (m) For a period of ten (10) years following
3741 conviction, individuals convicted in federal or state court of
3742 having made a fraudulent statement or representation with respect
3743 to the individual's place of residence in order to receive TANF,
3744 food stamps or Supplemental Security Income (SSI) assistance under
3745 Title XVI or Title XIX simultaneously from two (2) or more states;

3746 (n) Individuals who are recipients of federal
3747 Supplemental Security Income (SSI) assistance; and

3748 (o) Individuals who are eighteen (18) years of age or
3749 older who are not in compliance with the drug testing and
3750 substance use disorder treatment requirements of Section 43-17-6.

3751 (4) (a) Any person who is otherwise eligible for TANF
3752 benefits, including custodial and noncustodial parents, shall be
3753 required to attend school and meet the monthly attendance
3754 requirement as provided in this subsection if all of the following
3755 apply:

3756 (i) The person is under age twenty (20);

3757 (ii) The person has not graduated from a public or
3758 private high school or obtained a High School Equivalency Diploma
3759 equivalent;

3760 (iii) The person is physically able to attend
3761 school and is not excused from attending school; and

3762 (iv) If the person is a parent or caretaker
3763 relative with whom a dependent child is living, child care is
3764 available for the child.

3765 The monthly attendance requirement under this subsection
3766 shall be attendance at the school in which the person is enrolled
3767 for each day during a month that the school conducts classes in
3768 which the person is enrolled, with not more than two (2) absences
3769 during the month for reasons other than the reasons listed in
3770 paragraph (e)(iv) of this subsection. Persons who fail to meet
3771 participation requirements in this subsection shall be subject to
3772 sanctions as provided in paragraph (f) of this subsection.

3773 (b) As used in this subsection, "school" means any one
3774 (1) of the following:

3775 (i) A school as defined in Section 37-13-91(2);
3776 (ii) A vocational, technical and adult education
3777 program; or

3778 (iii) A course of study meeting the standards
3779 established by the State Department of Education for the granting
3780 of a declaration of equivalency of high school graduation.

3781 (c) If any compulsory-school-age child, as defined in
3782 Section 37-13-91(2), to which TANF eligibility requirements apply
3783 is not in compliance with the compulsory school attendance
3784 requirements of Section 37-13-91(6), the superintendent of schools
3785 of the school district in which the child is enrolled or eligible
3786 to attend shall notify the county department of human services of
3787 the child's noncompliance. The Department of Human Services shall

3788 review school attendance information as provided under this
3789 paragraph at all initial eligibility determinations and upon
3790 subsequent report of unsatisfactory attendance.

3791 (d) The signature of a person on an application for
3792 TANF benefits constitutes permission for the release of school
3793 attendance records for that person or for any child residing with
3794 that person. The department shall request information from the
3795 child's school district about the child's attendance in the school
3796 district's most recently completed semester of attendance. If
3797 information about the child's previous school attendance is not
3798 available or cannot be verified, the department shall require the
3799 child to meet the monthly attendance requirement for one (1)
3800 semester or until the information is obtained. The department
3801 shall use the attendance information provided by a school district
3802 to verify attendance for a child. The department shall review
3803 with the parent or caretaker relative a child's claim that he or
3804 she has a good cause for not attending school.

3805 A school district shall provide information to the department
3806 about the attendance of a child who is enrolled in a public school
3807 in the district within five (5) working days of the receipt of a
3808 written request for that information from the department. The
3809 school district shall define how many hours of attendance count as
3810 a full day and shall provide that information, upon request, to
3811 the department. In reporting attendance, the school district may
3812 add partial days' absence together to constitute a full day's
3813 absence.

3814 If a school district fails to provide to the department the
3815 information about the school attendance of any child within
3816 fifteen (15) working days after a written request, the department
3817 shall notify the Department of Audit within three (3) working days
3818 of the school district's failure to comply with that requirement.
3819 The Department of Audit shall begin audit proceedings within five
3820 (5) working days of notification by the Department of Human
3821 Services to determine the school district's compliance with the
3822 requirements of this subsection (4). If the Department of Audit
3823 finds that the school district is not in compliance with the
3824 requirements of this subsection, the school district shall be
3825 penalized as follows: The Department of Audit shall notify the
3826 State Department of Education of the school district's
3827 noncompliance, and the Department of Education shall reduce the
3828 calculation of the school district's average daily attendance
3829 (ADA) that is used to determine the allocation of Mississippi
3830 Adequate Education Program funds by the number of children for
3831 which the district has failed to provide to the Department of
3832 Human Services the required information about the school
3833 attendance of those children. The reduction in the calculation of
3834 the school district's ADA under this paragraph shall be effective
3835 for a period of one (1) year.

3836 (e) A child who is required to attend school to meet
3837 the requirements under this subsection shall comply except when
3838 there is good cause, which shall be demonstrated by any of the
3839 following circumstances:

3840 (i) The minor parent is the caretaker of a child
3841 less than twelve (12) weeks old; or

3842 (ii) The department determines that child care
3843 services are necessary for the minor parent to attend school and
3844 there is no child care available; or

3845 (iii) The child is prohibited by the school
3846 district from attending school and an expulsion is pending. This
3847 exemption no longer applies once the teenager has been expelled;
3848 however, a teenager who has been expelled and is making
3849 satisfactory progress towards obtaining a High School Equivalency
3850 Diploma equivalent shall be eligible for TANF benefits; or

3851 (iv) The child failed to attend school for one or
3852 more of the following reasons:

3853 1. Illness, injury or incapacity of the child
3854 or the minor parent's child;

3855 2. Court-required appearances or temporary
3856 incarceration;

3857 3. Medical or dental appointments for the
3858 child or minor parent's child;

3859 4. Death of a close relative;

3860 5. Observance of a religious holiday;

3861 6. Family emergency;

3862 7. Breakdown in transportation;

3863 8. Suspension; or

3864 9. Any other circumstance beyond the control
3865 of the child, as defined in regulations of the department.

3866 (f) Upon determination that a child has failed without
3867 good cause to attend school as required, the department shall
3868 provide written notice to the parent or caretaker relative
3869 (whoever is the primary recipient of the TANF benefits) that
3870 specifies:

3871 (i) That the family will be sanctioned in the next
3872 possible payment month because the child who is required to attend
3873 school has failed to meet the attendance requirement of this
3874 subsection;

3875 (ii) The beginning date of the sanction, and the
3876 child to whom the sanction applies;

3877 (iii) The right of the child's parents or
3878 caretaker relative (whoever is the primary recipient of the TANF
3879 benefits) to request a fair hearing under this subsection.

3880 The child's parent or caretaker relative (whoever is the
3881 primary recipient of the TANF benefits) may request a fair hearing
3882 on the department's determination that the child has not been
3883 attending school. If the child's parents or caretaker relative
3884 does not request a fair hearing under this subsection, or if,
3885 after a fair hearing has been held, the hearing officer finds that
3886 the child without good cause has failed to meet the monthly
3887 attendance requirement, the department shall discontinue or deny
3888 TANF benefits to the child thirteen (13) years old, or older, in
3889 the next possible payment month. The department shall discontinue
3890 or deny twenty-five percent (25%) of the family grant when a child
3891 six (6) through twelve (12) years of age without good cause has

3892 failed to meet the monthly attendance requirement. Both the child
3893 and family sanction may apply when children in both age groups
3894 fail to meet the attendance requirement without good cause. A
3895 sanction applied under this subsection shall be effective for one
3896 (1) month for each month that the child failed to meet the monthly
3897 attendance requirement. In the case of a dropout, the sanction
3898 shall remain in force until the parent or caretaker relative
3899 provides written proof from the school district that the child has
3900 reenrolled and met the monthly attendance requirement for one (1)
3901 calendar month. Any month in which school is in session for at
3902 least ten (10) days during the month may be used to meet the
3903 attendance requirement under this subsection. This includes
3904 attendance at summer school. The sanction shall be removed the
3905 next possible payment month.

3906 (5) All parents or caretaker relatives shall have their
3907 dependent children receive vaccinations and booster vaccinations
3908 against those diseases specified by the State Health Officer under
3909 Section 41-23-37 in accordance with the vaccination and booster
3910 vaccination schedule prescribed by the State Health Officer for
3911 children of that age, in order for the parents or caretaker
3912 relatives to be eligible or remain eligible to receive TANF
3913 benefits. Proof of having received such vaccinations and booster
3914 vaccinations shall be given by presenting the certificates of
3915 vaccination issued by any health care provider licensed to
3916 administer vaccinations, and submitted on forms specified by the
3917 State Board of Health. If the parents without good cause do not

3918 have their dependent children receive the vaccinations and booster
3919 vaccinations as required by this subsection and they fail to
3920 comply after thirty (30) days' notice, the department shall
3921 sanction the family's TANF benefits by twenty-five percent (25%)
3922 for the next payment month and each subsequent payment month until
3923 the requirements of this subsection are met.

3924 (6) (a) If the parent or caretaker relative applying for
3925 TANF assistance is work eligible, as determined by the Department
3926 of Human Services, the person shall be required to engage in an
3927 allowable work activity once the department determines the parent
3928 or caretaker relative is determined work eligible, or once the
3929 parent or caretaker relative has received TANF assistance under
3930 the program for twenty-four (24) months, whether or not
3931 consecutive, whichever is earlier. No TANF benefits shall be
3932 given to any person to whom this section applies who fails without
3933 good cause to comply with the Employability Development Plan
3934 prepared by the department for the person, or who has refused to
3935 accept a referral or offer of employment, training or education in
3936 which he or she is able to engage, subject to the penalties
3937 prescribed in paragraph (e) of this subsection. A person shall be
3938 deemed to have refused to accept a referral or offer of
3939 employment, training or education if he or she:

3940 (i) Willfully fails to report for an interview
3941 with respect to employment when requested to do so by the
3942 department; or

3943 (ii) Willfully fails to report to the department
3944 the result of a referral to employment; or

3945 (iii) Willfully fails to report for allowable work
3946 activities as prescribed in paragraphs (c) and (d) of this
3947 subsection.

3948 (b) The Department of Human Services shall operate a
3949 statewide work program for TANF recipients to provide work
3950 activities and supportive services to enable families to become
3951 self-sufficient and improve their competitive position in the
3952 workforce in accordance with the requirements of the federal
3953 Personal Responsibility and Work Opportunity Reconciliation Act of
3954 1996 (Public Law 104-193), as amended, and the regulations
3955 promulgated thereunder, and the Deficit Reduction Act of 2005
3956 (Public Law 109-171), as amended. Within sixty (60) days after
3957 the initial application for TANF benefits, the TANF recipient must
3958 participate in a job search skills training workshop or a job
3959 readiness program, which shall include resume writing, job search
3960 skills, employability skills and, if available at no charge, the
3961 General Aptitude Test Battery or its equivalent. All adults who
3962 are not specifically exempt shall be referred by the department
3963 for allowable work activities. An adult may be exempt from the
3964 mandatory work activity requirement for the following reasons:

3965 (i) Incapacity;

3966 (ii) Temporary illness or injury, verified by
3967 physician's certificate;

3968 (iii) Is in the third trimester of pregnancy, and
3969 there are complications verified by the certificate of a
3970 physician, nurse practitioner, physician assistant, or any other
3971 licensed health care professional practicing under a protocol with
3972 a licensed physician;

3973 (iv) Caretaker of a child under twelve (12)
3974 months, for not more than twelve (12) months of the sixty-month
3975 maximum benefit period;

3976 (v) Caretaker of an ill or incapacitated person,
3977 as verified by physician's certificate;

3978 (vi) Age, if over sixty (60) or under eighteen
3979 (18) years of age;

3980 (vii) Receiving treatment for substance abuse, if
3981 the person is in compliance with the substance abuse treatment
3982 plan;

3983 (viii) In a two-parent family, the caretaker of a
3984 severely disabled child, as verified by a physician's certificate;
3985 or

3986 (ix) History of having been a victim of domestic
3987 violence, which has been reported as required by state law and is
3988 substantiated by police reports or court records, and being at
3989 risk of further domestic violence, shall be exempt for a period as
3990 deemed necessary by the department but not to exceed a total of
3991 twelve (12) months, which need not be consecutive, in the
3992 sixty-month maximum benefit period. For the purposes of this

3993 subparagraph (ix), "domestic violence" means that an individual
3994 has been subjected to:

- 3995 1. Physical acts that resulted in, or
3996 threatened to result in, physical injury to the individual;
- 3997 2. Sexual abuse;
- 3998 3. Sexual activity involving a dependent
3999 child;
- 4000 4. Being forced as the caretaker relative of
4001 a dependent child to engage in nonconsensual sexual acts or
4002 activities;
- 4003 5. Threats of, or attempts at, physical or
4004 sexual abuse;
- 4005 6. Mental abuse; or
- 4006 7. Neglect or deprivation of medical care.

4007 (c) For all families, all adults who are not
4008 specifically exempt shall be required to participate in work
4009 activities for at least the minimum average number of hours per
4010 week specified by federal law or regulation, not fewer than twenty
4011 (20) hours per week (thirty-five (35) hours per week for
4012 two-parent families) of which are attributable to the following
4013 allowable work activities:

- 4014 (i) Unsubsidized employment;
- 4015 (ii) Subsidized private employment;
- 4016 (iii) Subsidized public employment;

4017 (iv) Work experience (including work associated
4018 with the refurbishing of publicly assisted housing), if sufficient
4019 private employment is not available;

4020 (v) On-the-job training;

4021 (vi) Job search and job readiness assistance
4022 consistent with federal TANF regulations;

4023 (vii) Community service programs;

4024 (viii) Vocational educational training (not to
4025 exceed twelve (12) months with respect to any individual);

4026 (ix) The provision of child care services to an
4027 individual who is participating in a community service program;

4028 (x) Satisfactory attendance at high school or in a
4029 course of study leading to a high school equivalency certificate,
4030 for heads of household under age twenty (20) who have not
4031 completed high school or received such certificate;

4032 (xi) Education directly related to employment, for
4033 heads of household under age twenty (20) who have not completed
4034 high school or received such equivalency certificate.

4035 (d) The following are allowable work activities which
4036 may be attributable to hours in excess of the minimum specified in
4037 paragraph (c) of this subsection:

4038 (i) Job skills training directly related to
4039 employment;

4040 (ii) Education directly related to employment for
4041 individuals who have not completed high school or received a high
4042 school equivalency certificate;

4043 (iii) Satisfactory attendance at high school or in
4044 a course of study leading to a high school equivalency, for
4045 individuals who have not completed high school or received such
4046 equivalency certificate;

4047 (iv) Job search and job readiness assistance
4048 consistent with federal TANF regulations.

4049 (e) If any adult or caretaker relative refuses to
4050 participate in allowable work activity as required under this
4051 subsection (6), the following full family TANF benefit penalty
4052 will apply, subject to due process to include notification,
4053 conciliation and a hearing if requested by the recipient:

4054 (i) For the first violation, the department shall
4055 terminate the TANF assistance otherwise payable to the family for
4056 a two-month period or until the person has complied with the
4057 required work activity, whichever is longer;

4058 (ii) For the second violation, the department
4059 shall terminate the TANF assistance otherwise payable to the
4060 family for a six-month period or until the person has complied
4061 with the required work activity, whichever is longer;

4062 (iii) For the third violation, the department
4063 shall terminate the TANF assistance otherwise payable to the
4064 family for a twelve-month period or until the person has complied
4065 with the required work activity, whichever is longer;

4066 (iv) For the fourth violation, the person shall be
4067 permanently disqualified.

4068 For a two-parent family, unless prohibited by state or
4069 federal law, Medicaid assistance shall be terminated only for the
4070 person whose failure to participate in allowable work activity
4071 caused the family's TANF assistance to be sanctioned under this
4072 paragraph (e), unless an individual is pregnant, but shall not be
4073 terminated for any other person in the family who is meeting that
4074 person's applicable work requirement or who is not required to
4075 work. Minor children shall continue to be eligible for Medicaid
4076 benefits regardless of the disqualification of their parent or
4077 caretaker relative for TANF assistance under this subsection (6),
4078 unless prohibited by state or federal law.

4079 (f) Any person enrolled in a two-year or four-year
4080 college program who meets the eligibility requirements to receive
4081 TANF benefits, and who is meeting the applicable work requirements
4082 and all other applicable requirements of the TANF program, shall
4083 continue to be eligible for TANF benefits while enrolled in the
4084 college program for as long as the person meets the requirements
4085 of the TANF program, unless prohibited by federal law.

4086 (g) No adult in a work activity required under this
4087 subsection (6) shall be employed or assigned (i) when any other
4088 individual is on layoff from the same or any substantially
4089 equivalent job within six (6) months before the date of the TANF
4090 recipient's employment or assignment; or (ii) if the employer has
4091 terminated the employment of any regular employee or otherwise
4092 caused an involuntary reduction of its workforce in order to fill
4093 the vacancy so created with an adult receiving TANF assistance.

4094 The Mississippi Department of Employment Security, established
4095 under Section 71-5-101, shall appoint one or more impartial
4096 hearing officers to hear and decide claims by employees of
4097 violations of this paragraph (g). The hearing officer shall hear
4098 all the evidence with respect to any claim made hereunder and such
4099 additional evidence as he may require and shall make a
4100 determination and the reason therefor. The claimant shall be
4101 promptly notified of the decision of the hearing officer and the
4102 reason therefor. Within ten (10) days after the decision of the
4103 hearing officer has become final, any party aggrieved thereby may
4104 secure judicial review thereof by commencing an action, in the
4105 circuit court of the county in which the claimant resides, against
4106 the department for the review of such decision, in which action
4107 any other party to the proceeding before the hearing officer shall
4108 be made a defendant. Any such appeal shall be on the record which
4109 shall be certified to the court by the department in the manner
4110 provided in Section 71-5-531, and the jurisdiction of the court
4111 shall be confined to questions of law which shall render its
4112 decision as provided in that section.

4113 (7) The Department of Human Services may provide child care
4114 for eligible participants who require such care so that they may
4115 accept employment or remain employed. The department may also
4116 provide child care for those participating in the TANF program
4117 when it is determined that they are satisfactorily involved in
4118 education, training or other allowable work activities. The
4119 department may contract with Head Start agencies to provide child

4120 care services to TANF recipients. The department may also arrange
4121 for child care by use of contract or vouchers, provide vouchers in
4122 advance to a caretaker relative, reimburse a child care provider,
4123 or use any other arrangement deemed appropriate by the department,
4124 and may establish different reimbursement rates for child care
4125 services depending on the category of the facility or home. Any
4126 center-based or group home child care facility under this
4127 subsection shall be licensed by the State Department of Health
4128 pursuant to law. When child care is being provided in the child's
4129 own home, in the home of a relative of the child, or in any other
4130 unlicensed setting, the provision of such child care may be
4131 monitored on a random basis by the Department of Human Services or
4132 the State Department of Health. Transitional child care
4133 assistance may be continued if it is necessary for parents to
4134 maintain employment once support has ended, unless prohibited
4135 under state or federal law. Transitional child care assistance
4136 may be provided for up to twenty-four (24) months after the last
4137 month during which the family was eligible for TANF assistance, if
4138 federal funds are available for such child care assistance.

4139 (8) The Department of Human Services may provide
4140 transportation or provide reasonable reimbursement for
4141 transportation expenses that are necessary for individuals to be
4142 able to participate in allowable work activity under the TANF
4143 program.

4144 (9) Medicaid assistance shall be provided to a family of
4145 TANF program participants for up to twenty-four (24) consecutive

4146 calendar months following the month in which the participating
4147 family would be ineligible for TANF benefits because of increased
4148 income, expiration of earned income disregards, or increased hours
4149 of employment of the caretaker relative; however, Medicaid
4150 assistance for more than twelve (12) months may be provided only
4151 if a federal waiver is obtained to provide such assistance for
4152 more than twelve (12) months and federal and state funds are
4153 available to provide such assistance.

4154 (10) The department shall require applicants for and
4155 recipients of public assistance from the department to sign a
4156 personal responsibility contract that will require the applicant
4157 or recipient to acknowledge his or her responsibilities to the
4158 state.

4159 (11) The department shall enter into an agreement with the
4160 State Personnel Board and other state agencies that will allow
4161 those TANF participants who qualify for vacant jobs within state
4162 agencies to be placed in state jobs. State agencies participating
4163 in the TANF work program shall receive any and all benefits
4164 received by employers in the private sector for hiring TANF
4165 recipients. This subsection (11) shall be effective only if the
4166 state obtains any necessary federal waiver or approval and if
4167 federal funds are available therefor. Not later than September 1,
4168 2021, the department shall prepare a report, which shall be
4169 provided to the Chairmen of the House and Senate Public Health
4170 Committees and to any other member of the Legislature upon

4171 request, on the history, status, outcomes and effectiveness of the
4172 agreements required under this subsection.

4173 (12) Any unspent TANF funds remaining from the prior fiscal
4174 year may be expended for any TANF allowable activities.

4175 (13) The Mississippi Department of Human Services shall
4176 provide TANF applicants information and referral to programs that
4177 provide information about birth control, prenatal health care,
4178 abstinence education, marriage education, family preservation and
4179 fatherhood. Not later than September 1, 2021, the department
4180 shall prepare a report, which shall be provided to the Chairmen of
4181 the House and Senate Public Health Committees and to any other
4182 member of the Legislature upon request, on the history, status,
4183 outcomes and effectiveness of the information and referral
4184 requirements under this subsection.

4185 (14) No new TANF program requirement or restriction
4186 affecting a person's eligibility for TANF assistance, or allowable
4187 work activity, which is not mandated by federal law or regulation
4188 may be implemented by the Department of Human Services after July
4189 1, 2004, unless such is specifically authorized by an amendment to
4190 this section by the Legislature.

4191 **SECTION 52.** Section 43-19-45, Mississippi Code of 1972, is
4192 reenacted as follows:

4193 43-19-45. (1) The Child Support Unit shall establish a
4194 state parent locator service for the purpose of locating absent
4195 and nonsupporting parents and alleged parents, which will utilize
4196 all appropriate public and private locator sources. In order to

4197 carry out the responsibilities imposed under Sections 43-19-31
4198 through 43-19-53, the Child Support Unit may secure, by
4199 administrative subpoena from the customer records of public
4200 utilities and cable television companies, the names and addresses
4201 of individuals and the names and addresses of employers of such
4202 individuals that would enable the location of parents or alleged
4203 parents who have a duty to provide support and maintenance for
4204 their children. The Child Support Unit may also administratively
4205 subpoena any and all financial information, including account
4206 numbers, names and social security numbers of record for assets,
4207 accounts, and account balances from any individual, financial
4208 institution, business or other entity, public or private, needed
4209 to establish, modify or enforce a support order. No entity
4210 complying with an administrative subpoena to supply the requested
4211 information of whatever nature shall be liable in any civil action
4212 or proceeding on account of such compliance. Full faith and
4213 credit shall be given to all uniform administrative subpoenas
4214 issued by other state child support units. The recipient of an
4215 administrative subpoena shall supply the Child Support Unit, other
4216 state and federal IV-D agencies, its attorneys, investigators,
4217 probation officers, county or district attorneys in this state,
4218 all information relative to the location, employment,
4219 employment-related benefits including, but not limited to,
4220 availability of medical insurance, income and property of such
4221 parents and alleged parents and with all information on hand
4222 relative to the location and prosecution of any person who has, by

4223 means of a false statement or misrepresentation or by
4224 impersonation or other fraudulent device, obtained Temporary
4225 Assistance for Needy Families (TANF) to which he or she was not
4226 entitled, notwithstanding any provision of law making such
4227 information confidential. The Mississippi Department of
4228 Information Technology Services and any other agency in this state
4229 using the facilities of the Mississippi Department of Information
4230 Technology Services are directed to permit the Child Support Unit
4231 access to their files, inclusive of those maintained for other
4232 state agencies, for the purpose of locating absent and
4233 nonsupporting parents and alleged parents, except to the extent
4234 that any such access would violate any valid federal statute or
4235 regulation issued pursuant thereto. The Child Support Unit, other
4236 state and federal IV-D agencies, its attorneys, investigators,
4237 probation officers, or county or district attorneys, shall use
4238 such information only for the purpose of investigating or
4239 enforcing the support liability of such absent parents or alleged
4240 parents or for the prosecution of other persons mentioned herein.
4241 Neither the Child Support Unit nor those authorities shall use the
4242 information, or disclose it, for any other purpose. All records
4243 maintained pursuant to the provisions of Sections 43-19-31 through
4244 43-19-53 shall be confidential and shall be available only to the
4245 Child Support Unit, other state and federal IV-D agencies, the
4246 attorneys, investigators and other staff employed or under
4247 contract under Sections 43-19-31 through 43-19-53, district or
4248 county attorneys, probation departments, child support units in

4249 other states, and courts having jurisdiction in paternity, support
4250 or abandonment proceedings. The Child Support Unit may release to
4251 the public the name, photo, last-known address, arrearage amount
4252 and other necessary information of a parent who has a judgment
4253 against him for child support and is currently in arrears in the
4254 payment of this support. Such release may be included in a "Most
4255 Wanted List" or other media in order to solicit assistance.

4256 (2) The Child Support Unit shall have the authority to
4257 secure information from the records of the Mississippi Department
4258 of Employment Security that may be necessary to locate absent and
4259 nonsupporting parents and alleged parents under the provisions of
4260 Sections 43-19-31 through 43-19-53. Upon request of the Child
4261 Support Unit, all departments, boards, bureaus and agencies of the
4262 state shall provide to the Child Support Unit verification of
4263 employment or payment and the address and social security number
4264 of any person designated as an absent or nonsupporting parent or
4265 alleged parent. In addition, upon request of the Child Support
4266 Unit, the Mississippi Department of Employment Security, or any
4267 private employer or payor of any income to a person designated as
4268 an absent or nonsupporting parent or alleged parent, shall provide
4269 to the Child Support Unit verification of employment or payment
4270 and the address and social security number of the person so
4271 designated. Full faith and credit shall be given to such notices
4272 issued by child support units in other states. All such records
4273 and information shall be confidential and shall not be used for
4274 any purposes other than those specified by Sections 43-19-31

4275 through 43-19-53. The violation of the provisions of this
4276 subsection shall be unlawful and any person convicted of violating
4277 the provisions of this subsection shall be guilty of a misdemeanor
4278 and shall pay a fine of not more than Two Hundred Dollars
4279 (\$200.00).

4280 (3) Federal and state IV-D agencies shall have access to the
4281 state parent locator service and any system used by the Child
4282 Support Unit to locate an individual for purposes relating to
4283 motor vehicles or law enforcement. No employer or other source of
4284 income who complies with this section shall be liable in any civil
4285 action or proceeding brought by the obligor or obligee on account
4286 of such compliance.

4287 **SECTION 53.** Section 43-19-46, Mississippi Code of 1972, is
4288 reenacted as follows:

4289 43-19-46. (1) Each employer paying wages, salary or
4290 commission and doing business in Mississippi shall report to the
4291 Directory of New Hires within the Mississippi Department of Human
4292 Services:

4293 (a) The hiring of any person who resides or works in
4294 this state to whom the employer anticipates paying wages, salary
4295 or commission; and

4296 (b) The hiring or return to work of any employee who
4297 was laid off, furloughed, separated, granted leave without pay or
4298 was terminated from employment.

4299 (2) Employers shall report, by mailing or by other means
4300 authorized by the Department of Human Services, a copy of the

4301 employee's W-4 form or its equivalent that will result in timely
4302 reporting. Each employer shall submit reports within fifteen (15)
4303 days of the hiring, rehiring or return to work of the employee.

4304 The report shall contain:

4305 (a) The employee's name, address, social security
4306 number and the date of birth;

4307 (b) The employer's name, address, and federal and state
4308 withholding tax identification numbers; and

4309 (c) The date upon which the employee began or resumed
4310 employment, or is scheduled to begin or otherwise resume
4311 employment.

4312 (3) The department shall retain the information, which shall
4313 be forwarded to the federal registry of new hires.

4314 (4) The Department of Human Services may operate the
4315 program, may enter into a mutual agreement with the Mississippi
4316 Department of Employment Security or the Department of Revenue, or
4317 both, for the operation of the Directory of New Hires Program, or
4318 the Department of Human Services may contract for that service, in
4319 which case the department shall maintain administrative control of
4320 the program.

4321 (5) In cases in which an employer fails to report
4322 information, as required by this section, an administratively
4323 levied civil penalty in an amount not to exceed Five Hundred
4324 Dollars (\$500.00) shall apply if the failure is the result of a
4325 conspiracy between the employer and employee to not supply the
4326 required report or to supply a false or incomplete report. The

4327 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).

4328 Appeal shall be as provided in Section 43-19-58.

4329 **SECTION 54.** Section 57-62-5, Mississippi Code of 1972, is
4330 reenacted as follows:

4331 **[For businesses or industries that received or applied for**
4332 **incentive payments prior to July 1, 2005, this section shall read**
4333 **as follows:]**

4334 57-62-5. As used in this chapter, the following words and
4335 phrases shall have the meanings ascribed in this section unless
4336 the context clearly indicates otherwise:

4337 (a) "Qualified business or industry" means any
4338 corporation, limited liability company, partnership, sole
4339 proprietorship, business trust or other legal entity and subunits
4340 or affiliates thereof, pursuant to rules and regulations of the
4341 MDA, which provides an average annual salary, excluding benefits
4342 which are not subject to Mississippi income taxes, of at least one
4343 hundred twenty-five percent (125%) of the most recently published
4344 state average annual wage or the most recently published average
4345 annual wage of the county in which the qualified business or
4346 industry is located as determined by the Mississippi Department of
4347 Employment Security, whichever is the lesser. An establishment
4348 shall not be considered to be a qualified business or industry
4349 unless it offers, or will offer within one hundred eighty (180)
4350 days of the date it receives the first incentive payment pursuant
4351 to the provisions of this chapter, a basic health benefits plan to
4352 the individuals it employs in new direct jobs in this state which

4353 is approved by the MDA. Qualified business or industry does not
4354 include retail business or gaming business;

4355 (b) "New direct job" means full-time employment in this
4356 state in a qualified business or industry that has qualified to
4357 receive an incentive payment pursuant to this chapter, which
4358 employment did not exist in this state before the date of approval
4359 by the MDA of the application of the qualified business or
4360 industry pursuant to the provisions of this chapter. "New direct
4361 job" shall include full-time employment in this state of employees
4362 who are employed by an entity other than the establishment that
4363 has qualified to receive an incentive payment and who are leased
4364 to the qualified business or industry, if such employment did not
4365 exist in this state before the date of approval by the MDA of the
4366 application of the establishment;

4367 (c) "Full-time job" means a job of at least thirty-five
4368 (35) hours per week;

4369 (d) "Estimated direct state benefits" means the tax
4370 revenues projected by the MDA to accrue to the state as a result
4371 of the qualified business or industry;

4372 (e) "Estimated direct state costs" means the costs
4373 projected by the MDA to accrue to the state as a result of the
4374 qualified business or industry;

4375 (f) "Estimated net direct state benefits" means the
4376 estimated direct state benefits less the estimated direct state
4377 costs;

4378 (g) "Net benefit rate" means the estimated net direct
4379 state benefits computed as a percentage of gross payroll, provided
4380 that:

4381 (i) Except as otherwise provided in this paragraph
4382 (g), the net benefit rate may be variable and shall not exceed
4383 four percent (4%) of the gross payroll; and shall be set in the
4384 sole discretion of the MDA;

4385 (ii) In no event shall incentive payments,
4386 cumulatively, exceed the estimated net direct state benefits;

4387 (h) "Gross payroll" means wages for new direct jobs of
4388 the qualified business or industry; and

4389 (i) "MDA" means the Mississippi Development Authority.

4390 **[For businesses or industries that received or applied for**
4391 **incentive payments from and after July 1, 2005, but prior to July**
4392 **1, 2010, this section shall read as follows:]**

4393 57-62-5. As used in this chapter, the following words and
4394 phrases shall have the meanings ascribed in this section unless
4395 the context clearly indicates otherwise:

4396 (a) "Qualified business or industry" means any
4397 corporation, limited liability company, partnership, sole
4398 proprietorship, business trust or other legal entity and subunits
4399 or affiliates thereof, pursuant to rules and regulations of the
4400 MDA, which:

4401 (i) Is a data/information processing enterprise
4402 meeting minimum criteria established by the MDA that provides an
4403 average annual salary, excluding benefits which are not subject to

4404 Mississippi income taxes, of at least one hundred percent (100%)
4405 of the most recently published state average annual wage or the
4406 most recently published average annual wage of the county in which
4407 the qualified business or industry is located as determined by the
4408 Mississippi Department of Employment Security, whichever is the
4409 lesser, and creates not less than two hundred (200) new direct
4410 jobs if the enterprise is located in a Tier One or Tier Two area
4411 (as such areas are designated in accordance with Section
4412 57-73-21), or which creates not less than one hundred (100) new
4413 jobs if the enterprise is located in a Tier Three area (as such
4414 areas are designated in accordance with Section 57-73-21);

4415 (ii) Is a manufacturing or distribution enterprise
4416 meeting minimum criteria established by the MDA that provides an
4417 average annual salary, excluding benefits which are not subject to
4418 Mississippi income taxes, of at least one hundred ten percent
4419 (110%) of the most recently published state average annual wage or
4420 the most recently published average annual wage of the county in
4421 which the qualified business or industry is located as determined
4422 by the Mississippi Department of Employment Security, whichever is
4423 the lesser, invests not less than Twenty Million Dollars
4424 (\$20,000,000.00) in land, buildings and equipment, and creates not
4425 less than fifty (50) new direct jobs if the enterprise is located
4426 in a Tier One or Tier Two area (as such areas are designated in
4427 accordance with Section 57-73-21), or which creates not less than
4428 twenty (20) new jobs if the enterprise is located in a Tier Three

4429 area (as such areas are designated in accordance with Section
4430 57-73-21);

4431 (iii) Is a corporation, limited liability company,
4432 partnership, sole proprietorship, business trust or other legal
4433 entity and subunits or affiliates thereof, pursuant to rules and
4434 regulations of the MDA, which provides an average annual salary,
4435 excluding benefits which are not subject to Mississippi income
4436 taxes, of at least one hundred twenty-five percent (125%) of the
4437 most recently published state average annual wage or the most
4438 recently published average annual wage of the county in which the
4439 qualified business or industry is located as determined by the
4440 Mississippi Department of Employment Security, whichever is the
4441 lesser, and creates not less than twenty-five (25) new direct jobs
4442 if the enterprise is located in a Tier One or Tier Two area (as
4443 such areas are designated in accordance with Section 57-73-21), or
4444 which creates not less than ten (10) new jobs if the enterprise is
4445 located in a Tier Three area (as such areas are designated in
4446 accordance with Section 57-73-21). An establishment shall not be
4447 considered to be a qualified business or industry unless it
4448 offers, or will offer within one hundred eighty (180) days of the
4449 date it receives the first incentive payment pursuant to the
4450 provisions of this chapter, a basic health benefits plan to the
4451 individuals it employs in new direct jobs in this state which is
4452 approved by the MDA. Qualified business or industry does not
4453 include retail business or gaming business; or

4454 (iv) Is a research and development or a technology
4455 intensive enterprise meeting minimum criteria established by the
4456 MDA that provides an average annual salary, excluding benefits
4457 which are not subject to Mississippi income taxes, of at least one
4458 hundred fifty percent (150%) of the most recently published state
4459 average annual wage or the most recently published average annual
4460 wage of the county in which the qualified business or industry is
4461 located as determined by the Mississippi Department of Employment
4462 Security, whichever is the lesser, and creates not less than ten
4463 (10) new direct jobs.

4464 An establishment shall not be considered to be a qualified
4465 business or industry unless it offers, or will offer within one
4466 hundred eighty (180) days of the date it receives the first
4467 incentive payment pursuant to the provisions of this chapter, a
4468 basic health benefits plan to the individuals it employs in new
4469 direct jobs in this state which is approved by the MDA. Qualified
4470 business or industry does not include retail business or gaming
4471 business.

4472 (b) "New direct job" means full-time employment in this
4473 state in a qualified business or industry that has qualified to
4474 receive an incentive payment pursuant to this chapter, which
4475 employment did not exist in this state before the date of approval
4476 by the MDA of the application of the qualified business or
4477 industry pursuant to the provisions of this chapter. "New direct
4478 job" shall include full-time employment in this state of employees
4479 who are employed by an entity other than the establishment that

4480 has qualified to receive an incentive payment and who are leased
4481 to the qualified business or industry, if such employment did not
4482 exist in this state before the date of approval by the MDA of the
4483 application of the establishment.

4484 (c) "Full-time job" or "full-time employment" means a
4485 job of at least thirty-five (35) hours per week.

4486 (d) "Estimated direct state benefits" means the tax
4487 revenues projected by the MDA to accrue to the state as a result
4488 of the qualified business or industry.

4489 (e) "Estimated direct state costs" means the costs
4490 projected by the MDA to accrue to the state as a result of the
4491 qualified business or industry.

4492 (f) "Estimated net direct state benefits" means the
4493 estimated direct state benefits less the estimated direct state
4494 costs.

4495 (g) "Net benefit rate" means the estimated net direct
4496 state benefits computed as a percentage of gross payroll, provided
4497 that:

4498 (i) Except as otherwise provided in this paragraph
4499 (g), the net benefit rate may be variable and shall not exceed
4500 four percent (4%) of the gross payroll; and shall be set in the
4501 sole discretion of the MDA;

4502 (ii) In no event shall incentive payments,
4503 cumulatively, exceed the estimated net direct state benefits.

4504 (h) "Gross payroll" means wages for new direct jobs of
4505 the qualified business or industry.

4506 (i) "MDA" means the Mississippi Development Authority.

4507 **[For businesses or industries that apply for incentive**
4508 **payments from and after July 1, 2010, this section shall read as**
4509 **follows:]**

4510 57-62-5. As used in this chapter, the following words and
4511 phrases shall have the meanings ascribed in this section unless
4512 the context clearly indicates otherwise:

4513 (a) "Qualified business or industry" means any
4514 corporation, limited liability company, partnership, sole
4515 proprietorship, business trust or other legal entity and subunits
4516 or affiliates thereof, pursuant to rules and regulations of the
4517 MDA, which:

4518 (i) Is a data/information processing enterprise
4519 meeting minimum criteria established by the MDA that provides an
4520 average annual salary, excluding benefits which are not subject to
4521 Mississippi income taxes, of at least one hundred percent (100%)
4522 of the most recently published state average annual wage or the
4523 most recently published average annual wage of the county in which
4524 the qualified business or industry is located as determined by the
4525 Mississippi Department of Employment Security, whichever is the
4526 lesser, and creates not less than two hundred (200) new direct
4527 jobs;

4528 (ii) Is a corporation, limited liability company,
4529 partnership, sole proprietorship, business trust or other legal
4530 entity and subunits or affiliates thereof, pursuant to rules and
4531 regulations of the MDA, which provides an average annual salary,

4532 excluding benefits which are not subject to Mississippi income
4533 taxes, of at least one hundred ten percent (110%) of the most
4534 recently published state average annual wage or the most recently
4535 published average annual wage of the county in which the qualified
4536 business or industry is located as determined by the Mississippi
4537 Department of Employment Security, whichever is the lesser, and
4538 creates not less than twenty-five (25) new direct jobs; or

4539 (iii) Is a corporation, limited liability company,
4540 partnership, sole proprietorship, business trust or other legal
4541 entity and subunits or affiliates thereof, pursuant to rules and
4542 regulations of the MDA, which is a manufacturer that:

4543 1. Provides an average annual salary,
4544 excluding benefits which are not subject to Mississippi income
4545 taxes, of at least one hundred ten percent (110%) of the most
4546 recently published state average annual wage or the most recently
4547 published average annual wage of the county in which the qualified
4548 business or industry is located as determined by the Mississippi
4549 Department of Employment Security, whichever is the lesser;

4550 2. Has a minimum of five thousand (5,000)
4551 existing employees as of the last day of the previous calendar
4552 year; and

4553 3. MDA determines will create not less than
4554 three thousand (3,000) new direct jobs within forty-eight (48)
4555 months of the date the MDA determines that the applicant is
4556 qualified to receive incentive payments.

4557 An establishment shall not be considered to be a qualified
4558 business or industry unless it offers, or will offer within one
4559 hundred eighty (180) days of the date it receives the first
4560 incentive payment pursuant to the provisions of this chapter, a
4561 basic health benefits plan to the individuals it employs in new
4562 direct jobs in this state which is approved by the MDA. Qualified
4563 business or industry does not include retail business or gaming
4564 business, or any medical cannabis establishment as defined in the
4565 Mississippi Medical Cannabis Act.

4566 (b) "New direct job" means full-time employment in this
4567 state in a qualified business or industry that has qualified to
4568 receive an incentive payment pursuant to this chapter, which
4569 employment did not exist in this state:

4570 (i) Before the date of approval by the MDA of the
4571 application of the qualified business or industry pursuant to the
4572 provisions of this chapter; or

4573 (ii) Solely with respect to any farm equipment
4574 manufacturer that locates its North American headquarters to
4575 Mississippi between January 1, 2018, and December 31, 2020, before
4576 a specific date determined by the MDA that falls on or after the
4577 date that the MDA first issues to such farm equipment manufacturer
4578 one or more written commitments or offers of any incentives in
4579 connection with the new headquarters project and related
4580 facilities expected to result in the creation of such new job.

4581 "New direct job" shall include full-time employment in this
4582 state of employees who are employed by an entity other than the

4583 establishment that has qualified to receive an incentive payment
4584 and who are leased to the qualified business or industry, if such
4585 employment did not exist in this state before the date of approval
4586 by the MDA of the application of the establishment.

4587 (c) "Full-time job" or "full-time employment" means a
4588 job of at least thirty-five (35) hours per week.

4589 (d) "Gross payroll" means wages for new direct jobs of
4590 the qualified business or industry.

4591 (e) "MDA" means the Mississippi Development Authority.

4592 **SECTION 55.** Section 57-62-9, Mississippi Code of 1972, is
4593 reenacted as follows:

4594 **[For businesses or industries that received or applied for**
4595 **incentive payments prior to July 1, 2005, this section shall read**
4596 **as follows:]**

4597 57-62-9. (1) Except as otherwise provided in this section,
4598 a qualified business or industry that meets the qualifications
4599 specified in this chapter may receive quarterly incentive payments
4600 for a period not to exceed ten (10) years from the Department of
4601 Revenue pursuant to the provisions of this chapter in an amount
4602 which shall be equal to the net benefit rate multiplied by the
4603 actual gross payroll of new direct jobs for a calendar quarter as
4604 verified by the Mississippi Department of Employment Security, but
4605 not to exceed the amount of money previously paid into the fund by
4606 the employer. A qualified business or industry that is a project
4607 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4608 which the ten-year period will begin. Such date may not be later

4609 than sixty (60) months after the date the business or industry
4610 applied for incentive payments.

4611 (2) (a) A qualified business or industry that is a project
4612 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4613 receive incentive payments for an additional period not to exceed
4614 five (5) years beyond the expiration date of the initial ten-year
4615 period if:

4616 (i) The qualified business or industry creates at
4617 least three thousand (3,000) new direct jobs within five (5) years
4618 after the date the business or industry commences commercial
4619 production;

4620 (ii) Within five (5) years after the date the
4621 business or industry commences commercial production, the average
4622 annual wage of the jobs is at least one hundred fifty percent
4623 (150%) of the most recently published state average annual wage or
4624 the most recently published average annual wage of the county in
4625 which the qualified business or industry is located as determined
4626 by the Mississippi Department of Employment Security, whichever is
4627 the lesser. The criteria for the average annual wage requirement
4628 shall be based upon the state average annual wage or the average
4629 annual wage of the county whichever is appropriate, at the time of
4630 creation of the minimum number of jobs, and the threshold
4631 established at that time will remain constant for the duration of
4632 the additional period; and

4633 (iii) The qualified business or industry meets and
4634 maintains the job and wage requirements of subparagraphs (i) and

4635 (ii) of this paragraph (a) for four (4) consecutive calendar
4636 quarters.

4637 (b) A qualified business or industry that is a project
4638 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4639 incentive payments for the additional period provided in paragraph
4640 (a) of this subsection (2) may apply to the MDA to receive
4641 incentive payments for an additional period not to exceed ten (10)
4642 years beyond the expiration date of the additional period provided
4643 in paragraph (a) of this subsection (2) if:

4644 (i) The qualified business or industry creates at
4645 least four thousand (4,000) new direct jobs after qualifying for
4646 the additional incentive period provided in paragraph (a) of this
4647 subsection (2) but before the expiration of the additional period.
4648 For purposes of determining whether the business or industry meets
4649 the minimum jobs requirement of this subparagraph (i), the number
4650 of jobs the business or industry created in order to meet the
4651 minimum jobs requirement of paragraph (a) of this subsection (2)
4652 shall be subtracted from the minimum jobs requirement of this
4653 subparagraph (i);

4654 (ii) The average annual wage of the jobs is at
4655 least one hundred fifty percent (150%) of the most recently
4656 published state average annual wage or the most recently published
4657 average annual wage of the county in which the qualified business
4658 or industry is located as determined by the Mississippi Department
4659 of Employment Security, whichever is the lesser. The criteria for
4660 the average annual wage requirement shall be based upon the state

4661 average annual wage or the average annual wage of the county
4662 whichever is appropriate, at the time of creation of the minimum
4663 number of jobs, and the threshold established at that time will
4664 remain constant for the duration of the additional period; and

4665 (iii) The qualified business or industry meets and
4666 maintains the job and wage requirements of subparagraphs (i) and
4667 (ii) of this paragraph (b) for four (4) consecutive calendar
4668 quarters.

4669 (3) In order to receive incentive payments, an establishment
4670 shall apply to the MDA. The application shall be on a form
4671 prescribed by the MDA and shall contain such information as may be
4672 required by the MDA to determine if the applicant is qualified.

4673 (4) In order to qualify to receive such payments, the
4674 establishment applying shall be required to:

4675 (a) Be engaged in a qualified business or industry;

4676 (b) Provide an average salary, excluding benefits which
4677 are not subject to Mississippi income taxes, of at least one
4678 hundred twenty-five percent (125%) of the most recently published
4679 state average annual wage or the most recently published average
4680 annual wage of the county in which the qualified business or
4681 industry is located as determined by the Mississippi Department of
4682 Employment Security, whichever is the lesser. The criteria for
4683 this requirement shall be based upon the state average annual wage
4684 or the average annual wage of the county whichever is appropriate,
4685 at the time of application, and the threshold established upon
4686 application will remain constant for the duration of the project;

4687 (c) The business or industry must create and maintain a
4688 minimum of ten (10) full-time jobs in counties that have an
4689 average unemployment rate over the previous twelve-month period
4690 which is at least one hundred fifty percent (150%) of the most
4691 recently published state unemployment rate, as determined by the
4692 Mississippi Department of Employment Security or in Tier Three
4693 counties as determined under Section 57-73-21. In all other
4694 counties, the business or industry must create and maintain a
4695 minimum of twenty-five (25) full-time jobs. The criteria for this
4696 requirement shall be based on the designation of the county at the
4697 time of the application. The threshold established upon the
4698 application will remain constant for the duration of the project.
4699 The business or industry must meet its job creation commitment
4700 within twenty-four (24) months of the application approval.
4701 However, if the qualified business or industry is applying for
4702 incentive payments for an additional period under subsection (2)
4703 of this section, the business or industry must comply with the
4704 applicable job and wage requirements of subsection (2) of this
4705 section.

4706 (5) The MDA shall determine if the applicant is qualified to
4707 receive incentive payments. If the applicant is determined to be
4708 qualified by the MDA, the MDA shall conduct a cost/benefit
4709 analysis to determine the estimated net direct state benefits and
4710 the net benefit rate applicable for a period not to exceed ten
4711 (10) years and to estimate the amount of gross payroll for the
4712 period. If the applicant is determined to be qualified to receive

4713 incentive payments for an additional period under subsection (2)
4714 of this section, the MDA shall conduct a cost/benefit analysis to
4715 determine the estimated net direct state benefits and the net
4716 benefit rate applicable for the appropriate additional period and
4717 to estimate the amount of gross payroll for the additional period.
4718 In conducting such cost/benefit analysis, the MDA shall consider
4719 quantitative factors, such as the anticipated level of new tax
4720 revenues to the state along with the cost to the state of the
4721 qualified business or industry, and such other criteria as deemed
4722 appropriate by the MDA, including the adequacy of retirement
4723 benefits that the business or industry provides to individuals it
4724 employs in new direct jobs in this state. In no event shall
4725 incentive payments, cumulatively, exceed the estimated net direct
4726 state benefits. Once the qualified business or industry is
4727 approved by the MDA, an agreement shall be deemed to exist between
4728 the qualified business or industry and the State of Mississippi,
4729 requiring the continued incentive payment, together with any
4730 amount due pursuant to subsection (8) of this section, if
4731 applicable, to be made as long as the qualified business or
4732 industry retains its eligibility.

4733 (6) Upon approval of such an application, the MDA shall
4734 notify the Department of Revenue and shall provide it with a copy
4735 of the approved application and the estimated net direct state
4736 benefits. The Department of Revenue may require the qualified
4737 business or industry to submit such additional information as may
4738 be necessary to administer the provisions of this chapter. The

4739 qualified business or industry shall report to the Department of
4740 Revenue periodically to show its continued eligibility for
4741 incentive payments. The qualified business or industry may be
4742 audited by the Department of Revenue to verify such eligibility.
4743 In addition, the State Auditor may conduct performance and
4744 compliance audits under this chapter according to Section
4745 7-7-211(o) and may bill the oversight agency.

4746 (7) If the qualified business or industry is located in an
4747 area that has been declared by the Governor to be a disaster area
4748 and as a result of the disaster the business or industry is unable
4749 to create or maintain the full-time jobs required by this section:

4750 (a) The Commissioner of Revenue may extend the period
4751 of time that the business or industry may receive incentive
4752 payments for a period of time not to exceed two (2) years;

4753 (b) The Commissioner of Revenue may waive the
4754 requirement that a certain number of jobs be maintained for a
4755 period of time not to exceed twenty-four (24) months; and

4756 (c) The MDA may extend the period of time within which
4757 the jobs must be created for a period of time not to exceed
4758 twenty-four (24) months.

4759 (8) Notwithstanding any other provision of this section to
4760 the contrary, from and after January 1, 2023, if the amount of the
4761 incentive payment that a qualified business or industry is
4762 eligible to receive under this chapter is less than the amount
4763 that the incentive payment would have been if the payment had been
4764 calculated using any applicable income tax rates in Section 27-7-5

4765 that were in effect before January 1, 2023, then the qualified
4766 business or industry also shall receive a grant equal to the
4767 difference between such two (2) amounts. Further, the term
4768 "incentive payment," as such term is used in this chapter, shall
4769 be deemed to not refer to or otherwise include any grant payment
4770 payable to a qualified business or industry pursuant to this
4771 subsection.

4772 **[For businesses or industries that received or applied for**
4773 **incentive payments from and after July 1, 2005, but prior to July**
4774 **1, 2010, this section shall read as follows:]**

4775 57-62-9. (1) (a) Except as otherwise provided in this
4776 section, a qualified business or industry that meets the
4777 qualifications specified in this chapter may receive quarterly
4778 incentive payments for a period not to exceed ten (10) years from
4779 the Department of Revenue pursuant to the provisions of this
4780 chapter in an amount which shall be equal to the net benefit rate
4781 multiplied by the actual gross payroll of new direct jobs for a
4782 calendar quarter as verified by the Mississippi Department of
4783 Employment Security, but not to exceed:

4784 (i) Ninety percent (90%) of the amount of money
4785 previously paid into the fund by the employer if the employer
4786 provides an average annual salary, excluding benefits which are
4787 not subject to Mississippi income taxes, of at least one hundred
4788 seventy-five percent (175%) of the most recently published state
4789 average annual wage or the most recently published average annual
4790 wage of the county in which the qualified business or industry is

4791 located as determined by the Mississippi Department of Employment
4792 Security, whichever is the lesser;

4793 (ii) Eighty percent (80%) of the amount of money
4794 previously paid into the fund by the employer if the employer
4795 provides an average annual salary, excluding benefits which are
4796 not subject to Mississippi income taxes, of at least one hundred
4797 twenty-five percent (125%) but less than one hundred seventy-five
4798 percent (175%) of the most recently published state average annual
4799 wage or the most recently published average annual wage of the
4800 county in which the qualified business or industry is located as
4801 determined by the Mississippi Department of Employment Security,
4802 whichever is the lesser; or

4803 (iii) Seventy percent (70%) of the amount of money
4804 previously paid into the fund by the employer if the employer
4805 provides an average annual salary, excluding benefits which are
4806 not subject to Mississippi income taxes, of less than one hundred
4807 twenty-five percent (125%) of the most recently published state
4808 average annual wage or the most recently published average annual
4809 wage of the county in which the qualified business or industry is
4810 located as determined by the Mississippi Department of Employment
4811 Security, whichever is the lesser.

4812 (b) A qualified business or industry that is a project
4813 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4814 which the ten-year period will begin. Such date may not be later
4815 than sixty (60) months after the date the business or industry
4816 applied for incentive payments.

4817 (2) (a) A qualified business or industry that is a project
4818 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4819 receive incentive payments for an additional period not to exceed
4820 five (5) years beyond the expiration date of the initial ten-year
4821 period if:

4822 (i) The qualified business or industry creates at
4823 least three thousand (3,000) new direct jobs within five (5) years
4824 after the date the business or industry commences commercial
4825 production;

4826 (ii) Within five (5) years after the date the
4827 business or industry commences commercial production, the average
4828 annual wage of the jobs is at least one hundred fifty percent
4829 (150%) of the most recently published state average annual wage or
4830 the most recently published average annual wage of the county in
4831 which the qualified business or industry is located as determined
4832 by the Mississippi Department of Employment Security, whichever is
4833 the lesser. The criteria for the average annual wage requirement
4834 shall be based upon the state average annual wage or the average
4835 annual wage of the county whichever is appropriate, at the time of
4836 creation of the minimum number of jobs, and the threshold
4837 established at that time will remain constant for the duration of
4838 the additional period; and

4839 (iii) The qualified business or industry meets and
4840 maintains the job and wage requirements of subparagraphs (i) and
4841 (ii) of this paragraph (a) for four (4) consecutive calendar
4842 quarters.

4843 (b) A qualified business or industry that is a project
4844 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4845 incentive payments for the additional period provided in paragraph
4846 (a) of this subsection (2) may apply to the MDA to receive
4847 incentive payments for an additional period not to exceed ten (10)
4848 years beyond the expiration date of the additional period provided
4849 in paragraph (a) of this subsection (2) if:

4850 (i) The qualified business or industry creates at
4851 least four thousand (4,000) new direct jobs after qualifying for
4852 the additional incentive period provided in paragraph (a) of this
4853 subsection (2) but before the expiration of the additional period.
4854 For purposes of determining whether the business or industry meets
4855 the minimum jobs requirement of this subparagraph (i), the number
4856 of jobs the business or industry created in order to meet the
4857 minimum jobs requirement of paragraph (a) of this subsection (2)
4858 shall be subtracted from the minimum jobs requirement of this
4859 subparagraph (i);

4860 (ii) The average annual wage of the jobs is at
4861 least one hundred fifty percent (150%) of the most recently
4862 published state average annual wage or the most recently published
4863 average annual wage of the county in which the qualified business
4864 or industry is located as determined by the Mississippi Department
4865 of Employment Security, whichever is the lesser. The criteria for
4866 the average annual wage requirement shall be based upon the state
4867 average annual wage or the average annual wage of the county
4868 whichever is appropriate, at the time of creation of the minimum

4869 number of jobs, and the threshold established at that time will
4870 remain constant for the duration of the additional period; and

4871 (iii) The qualified business or industry meets and
4872 maintains the job and wage requirements of subparagraphs (i) and
4873 (ii) of this paragraph (b) for four (4) consecutive calendar
4874 quarters.

4875 (3) In order to receive incentive payments, an establishment
4876 shall apply to the MDA. The application shall be on a form
4877 prescribed by the MDA and shall contain such information as may be
4878 required by the MDA to determine if the applicant is qualified.

4879 (4) (a) In order to qualify to receive such payments, the
4880 establishment applying shall be required to meet the definition of
4881 the term "qualified business or industry";

4882 (b) The criteria for the average annual salary
4883 requirement shall be based upon the state average annual wage or
4884 the average annual wage of the county whichever is appropriate, at
4885 the time of application, and the threshold established upon
4886 application will remain constant for the duration of the project;

4887 (c) The business or industry must meet its job creation
4888 commitment within twenty-four (24) months of the application
4889 approval. However, if the qualified business or industry is
4890 applying for incentive payments for an additional period under
4891 subsection (2) of this section, the business or industry must
4892 comply with the applicable job and wage requirements of subsection
4893 (2) of this section.

4894 (5) (a) The MDA shall determine if the applicant is
4895 qualified to receive incentive payments.

4896 (b) If the applicant is determined to be qualified to
4897 receive incentive payments for an additional period under
4898 subsection (2) of this section, the MDA shall conduct a
4899 cost/benefit analysis to determine the estimated net direct state
4900 benefits and the net benefit rate applicable for the appropriate
4901 additional period and to estimate the amount of gross payroll for
4902 the additional period. In conducting such cost/benefit analysis,
4903 the MDA shall consider quantitative factors, such as the
4904 anticipated level of new tax revenues to the state along with the
4905 cost to the state of the qualified business or industry, and such
4906 other criteria as deemed appropriate by the MDA, including the
4907 adequacy of retirement benefits that the business or industry
4908 provides to individuals it employs in new direct jobs in this
4909 state. In no event shall incentive payments, cumulatively, exceed
4910 the estimated net direct state benefits. Once the qualified
4911 business or industry is approved by the MDA, an agreement shall be
4912 deemed to exist between the qualified business or industry and the
4913 State of Mississippi, requiring the continued incentive payment,
4914 together with any amount due pursuant to subsection (8) of this
4915 section, if applicable, to be made as long as the qualified
4916 business or industry retains its eligibility.

4917 (6) Upon approval of such an application, the MDA shall
4918 notify the Department of Revenue and shall provide it with a copy
4919 of the approved application and the estimated net direct state

4920 benefits. The Department of Revenue may require the qualified
4921 business or industry to submit such additional information as may
4922 be necessary to administer the provisions of this chapter. The
4923 qualified business or industry shall report to the Department of
4924 Revenue periodically to show its continued eligibility for
4925 incentive payments. The qualified business or industry may be
4926 audited by the Department of Revenue to verify such eligibility.
4927 In addition, the State Auditor may conduct performance and
4928 compliance audits under this chapter according to Section
4929 7-7-211(o) and may bill the oversight agency.

4930 (7) If the qualified business or industry is located in an
4931 area that has been declared by the Governor to be a disaster area
4932 and as a result of the disaster the business or industry is unable
4933 to create or maintain the full-time jobs required by this section:

4934 (a) The Commissioner of Revenue may extend the period
4935 of time that the business or industry may receive incentive
4936 payments for a period of time not to exceed two (2) years;

4937 (b) The Commissioner of Revenue may waive the
4938 requirement that a certain number of jobs be maintained for a
4939 period of time not to exceed twenty-four (24) months; and

4940 (c) The MDA may extend the period of time within which
4941 the jobs must be created for a period of time not to exceed
4942 twenty-four (24) months.

4943 (8) Notwithstanding any other provision of this section to
4944 the contrary, from and after January 1, 2023, if the amount of the
4945 incentive payment that a qualified business or industry is

4946 eligible to receive under this chapter is less than the amount
4947 that the incentive payment would have been if the payment had been
4948 calculated using any applicable income tax rates in Section 27-7-5
4949 that were in effect before January 1, 2023, then the qualified
4950 business or industry also shall receive a grant equal to the
4951 difference between such two (2) amounts. Further, the term
4952 "incentive payment," as such term is used in this chapter, shall
4953 be deemed to not refer to or otherwise include any grant payment
4954 payable to a qualified business or industry pursuant to this
4955 subsection.

4956 **[For businesses or industries that apply for incentive**
4957 **payments from and after July 1, 2010, this section shall read as**
4958 **follows:]**

4959 57-62-9. (1) (a) Except as otherwise provided in this
4960 section, a qualified business or industry that meets the
4961 qualifications specified in this chapter may receive quarterly
4962 incentive payments for a period not to exceed ten (10) years from
4963 the Department of Revenue pursuant to the provisions of this
4964 chapter in an amount which shall be equal to ninety percent (90%)
4965 of the amount of actual income tax withheld for employees with new
4966 direct jobs, but in no event more than four percent (4%) of the
4967 total annual salary paid for new direct jobs during such period,
4968 excluding benefits which are not subject to Mississippi income
4969 taxes.

4970 (b) A qualified business or industry that is a project
4971 as defined in Section 57-75-5(f)(iv)1 may elect the date upon

4972 which the ten-year period will begin. Such date may not be later
4973 than sixty (60) months after the date the business or industry
4974 applied for incentive payments.

4975 (c) A qualified business or industry as defined in
4976 Section 57-62-5(a)(iii) may elect the date upon which the ten-year
4977 period will begin and may elect to begin receiving incentive
4978 payments as early as the second quarter after that date.

4979 Incentive payments will be calculated on all jobs above the
4980 existing number of jobs as of the date the MDA determines that the
4981 applicant is qualified to receive incentive payments. In the
4982 event that the qualified business or industry falls below the
4983 number of existing jobs at the time of determination that the
4984 applicant is qualified to receive the incentive payment, the
4985 incentive payment shall cease until the qualified business or
4986 industry once again exceeds that number. If after forty-eight
4987 (48) months, the qualified business or industry has failed to
4988 create at least three thousand (3,000) new direct jobs, incentive
4989 payments shall cease and the qualified business or industry shall
4990 not be qualified to receive further incentive payments.

4991 (2) (a) A qualified business or industry that is a project
4992 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
4993 receive incentive payments for an additional period not to exceed
4994 five (5) years beyond the expiration date of the initial ten-year
4995 period if:

4996 (i) The qualified business or industry creates at
4997 least three thousand (3,000) new direct jobs within five (5) years

4998 after the date the business or industry commences commercial
4999 production;

5000 (ii) Within five (5) years after the date the
5001 business or industry commences commercial production, the average
5002 annual wage of the jobs is at least one hundred fifty percent
5003 (150%) of the most recently published state average annual wage or
5004 the most recently published average annual wage of the county in
5005 which the qualified business or industry is located as determined
5006 by the Mississippi Department of Employment Security, whichever is
5007 the lesser. The criteria for the average annual wage requirement
5008 shall be based upon the state average annual wage or the average
5009 annual wage of the county whichever is appropriate, at the time of
5010 creation of the minimum number of jobs, and the threshold
5011 established at that time will remain constant for the duration of
5012 the additional period; and

5013 (iii) The qualified business or industry meets and
5014 maintains the job and wage requirements of subparagraphs (i) and
5015 (ii) of this paragraph (a) for four (4) consecutive calendar
5016 quarters.

5017 (b) A qualified business or industry that is a project
5018 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
5019 incentive payments for the additional period provided in paragraph
5020 (a) of this subsection (2) may apply to the MDA to receive
5021 incentive payments for an additional period not to exceed ten (10)
5022 years beyond the expiration date of the additional period provided
5023 in paragraph (a) of this subsection (2) if:

5024 (i) The qualified business or industry creates at
5025 least four thousand (4,000) new direct jobs after qualifying for
5026 the additional incentive period provided in paragraph (a) of this
5027 subsection (2) but before the expiration of the additional period.
5028 For purposes of determining whether the business or industry meets
5029 the minimum jobs requirement of this subparagraph (i), the number
5030 of jobs the business or industry created in order to meet the
5031 minimum jobs requirement of paragraph (a) of this subsection (2)
5032 shall be subtracted from the minimum jobs requirement of this
5033 subparagraph (i);

5034 (ii) The average annual wage of the jobs is at
5035 least one hundred fifty percent (150%) of the most recently
5036 published state average annual wage or the most recently published
5037 average annual wage of the county in which the qualified business
5038 or industry is located as determined by the Mississippi Department
5039 of Employment Security, whichever is the lesser. The criteria for
5040 the average annual wage requirement shall be based upon the state
5041 average annual wage or the average annual wage of the county
5042 whichever is appropriate, at the time of creation of the minimum
5043 number of jobs, and the threshold established at that time will
5044 remain constant for the duration of the additional period; and

5045 (iii) The qualified business or industry meets and
5046 maintains the job and wage requirements of subparagraphs (i) and
5047 (ii) of this paragraph (b) for four (4) consecutive calendar
5048 quarters.

5049 (3) In order to receive incentive payments, an establishment
5050 shall apply to the MDA. The application shall be on a form
5051 prescribed by the MDA and shall contain such information as may be
5052 required by the MDA to determine if the applicant is qualified.

5053 (4) (a) In order to qualify to receive such payments, the
5054 establishment applying shall be required to meet the definition of
5055 the term "qualified business or industry";

5056 (b) The criteria for the average annual salary
5057 requirement shall be based upon the state average annual wage or
5058 the average annual wage of the county whichever is appropriate, at
5059 the time of application, and the threshold established upon
5060 application will remain constant for the duration of the project;

5061 (c) Except as otherwise provided for a qualified
5062 business or industry as defined in Section 57-62-5(a)(iii), the
5063 business or industry must meet its job creation commitment within
5064 twenty-four (24) months of the application approval. However, if
5065 the qualified business or industry is applying for incentive
5066 payments for an additional period under subsection (2) of this
5067 section, the business or industry must comply with the applicable
5068 job and wage requirements of subsection (2) of this section.

5069 (5) (a) The MDA shall determine if the applicant is
5070 qualified to receive incentive payments.

5071 (b) If the applicant is determined to be qualified to
5072 receive incentive payments for an additional period under
5073 subsection (2) of this section, the MDA shall conduct an analysis
5074 to estimate the amount of gross payroll for the appropriate

5075 additional period. Incentive payments, cumulatively, shall not
5076 exceed ninety percent (90%) of the amount of actual income tax
5077 withheld for employees with new direct jobs, but in no event more
5078 than four percent (4%) of the total annual salary paid for new
5079 direct jobs during the additional period, excluding benefits which
5080 are not subject to Mississippi income taxes. Once the qualified
5081 business or industry is approved by the MDA, an agreement shall be
5082 deemed to exist between the qualified business or industry and the
5083 State of Mississippi, requiring the continued incentive payment,
5084 together with any amount due pursuant to subsection (8) of this
5085 section, if applicable, to be made as long as the qualified
5086 business or industry retains its eligibility.

5087 (6) Upon approval of such an application, the MDA shall
5088 notify the Department of Revenue and shall provide it with a copy
5089 of the approved application and the minimum job and salary
5090 requirements. The Department of Revenue may require the qualified
5091 business or industry to submit such additional information as may
5092 be necessary to administer the provisions of this chapter. The
5093 qualified business or industry shall report to the Department of
5094 Revenue periodically to show its continued eligibility for
5095 incentive payments. The qualified business or industry may be
5096 audited by the Department of Revenue to verify such eligibility.
5097 In addition, the State Auditor may conduct performance and
5098 compliance audits under this chapter according to Section
5099 7-7-211(o) and may bill the oversight agency.

5100 (7) If the qualified business or industry is located in an
5101 area that has been declared by the Governor to be a disaster area
5102 and as a result of the disaster the business or industry is unable
5103 to create or maintain the full-time jobs required by this section:

5104 (a) The Commissioner of Revenue may extend the period
5105 of time that the business or industry may receive incentive
5106 payments for a period of time not to exceed two (2) years;

5107 (b) The Commissioner of Revenue may waive the
5108 requirement that a certain number of jobs be maintained for a
5109 period of time not to exceed twenty-four (24) months; and

5110 (c) The MDA may extend the period of time within which
5111 the jobs must be created for a period of time not to exceed
5112 twenty-four (24) months.

5113 (8) Notwithstanding any other provision of this section to
5114 the contrary, from and after January 1, 2023, if the amount of the
5115 incentive payment that a qualified business or industry is
5116 eligible to receive under this chapter is less than the amount
5117 that the incentive payment would have been if the payment had been
5118 calculated using any applicable income tax rates in Section 27-7-5
5119 that were in effect before January 1, 2023, then the qualified
5120 business or industry also shall receive a grant equal to the
5121 difference between such two (2) amounts. Further, the term
5122 "incentive payment," as such term is used in this chapter, shall
5123 be deemed to not refer to or otherwise include any grant payment
5124 payable to a qualified business or industry pursuant to this
5125 subsection.

5126 **SECTION 56.** Section 57-75-5, Mississippi Code of 1972, is
5127 reenacted as follows:

5128 57-75-5. Words and phrases used in this chapter shall have
5129 meanings as follows, unless the context clearly indicates a
5130 different meaning:

5131 (a) "Act" means the Mississippi Major Economic Impact
5132 Act as originally enacted or as hereafter amended.

5133 (b) "Authority" means the Mississippi Major Economic
5134 Impact Authority created pursuant to the act.

5135 (c) "Bonds" means general obligation bonds, interim
5136 notes and other evidences of debt of the State of Mississippi
5137 issued pursuant to this chapter.

5138 (d) "Facility related to the project" means and
5139 includes any of the following, as the same may pertain to the
5140 project within the project area: (i) facilities to provide
5141 potable and industrial water supply systems, sewage and waste
5142 disposal systems and water, natural gas and electric transmission
5143 systems to the site of the project; (ii) airports, airfields and
5144 air terminals; (iii) rail lines; (iv) port facilities; (v)
5145 highways, streets and other roadways; (vi) public school
5146 buildings, classrooms and instructional facilities, training
5147 facilities and equipment, including any functionally related
5148 facilities; (vii) parks, outdoor recreation facilities and
5149 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
5150 art centers, cultural centers, folklore centers and other public
5151 facilities; (ix) health care facilities, public or private; and

5152 (x) fire protection facilities, equipment and elevated water
5153 tanks.

5154 (e) "Person" means any natural person, corporation,
5155 association, partnership, limited liability company, receiver,
5156 trustee, guardian, executor, administrator, fiduciary,
5157 governmental unit, public agency, political subdivision, or any
5158 other group acting as a unit, and the plural as well as the
5159 singular.

5160 (f) "Project" means:

5161 (i) Any industrial, commercial, research and
5162 development, warehousing, distribution, transportation,
5163 processing, mining, United States government or tourism enterprise
5164 together with all real property required for construction,
5165 maintenance and operation of the enterprise with an initial
5166 capital investment of not less than Three Hundred Million Dollars
5167 (\$300,000,000.00) from private or United States government sources
5168 together with all buildings, and other supporting land and
5169 facilities, structures or improvements of whatever kind required
5170 or useful for construction, maintenance and operation of the
5171 enterprise; or with an initial capital investment of not less than
5172 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
5173 or United States government sources together with all buildings
5174 and other supporting land and facilities, structures or
5175 improvements of whatever kind required or useful for construction,
5176 maintenance and operation of the enterprise and which creates at
5177 least one thousand (1,000) net new full-time jobs; or which

5178 creates at least one thousand (1,000) net new full-time jobs which
5179 provides an average salary, excluding benefits which are not
5180 subject to Mississippi income taxation, of at least one hundred
5181 twenty-five percent (125%) of the most recently published average
5182 annual wage of the state as determined by the Mississippi
5183 Department of Employment Security. "Project" shall include any
5184 addition to or expansion of an existing enterprise if such
5185 addition or expansion has an initial capital investment of not
5186 less than Three Hundred Million Dollars (\$300,000,000.00) from
5187 private or United States government sources, or has an initial
5188 capital investment of not less than One Hundred Fifty Million
5189 Dollars (\$150,000,000.00) from private or United States government
5190 sources together with all buildings and other supporting land and
5191 facilities, structures or improvements of whatever kind required
5192 or useful for construction, maintenance and operation of the
5193 enterprise and which creates at least one thousand (1,000) net new
5194 full-time jobs; or which creates at least one thousand (1,000) net
5195 new full-time jobs which provides an average salary, excluding
5196 benefits which are not subject to Mississippi income taxation, of
5197 at least one hundred twenty-five percent (125%) of the most
5198 recently published average annual wage of the state as determined
5199 by the Mississippi Department of Employment Security. "Project"
5200 shall also include any ancillary development or business resulting
5201 from the enterprise, of which the authority is notified, within
5202 three (3) years from the date that the enterprise entered into

5203 commercial production, that the project area has been selected as
5204 the site for the ancillary development or business.

5205 (ii) 1. Any major capital project designed to
5206 improve, expand or otherwise enhance any active duty or reserve
5207 United States armed services bases and facilities or any major
5208 Mississippi National Guard training installations, their support
5209 areas or their military operations, upon designation by the
5210 authority that any such base was or is at risk to be recommended
5211 for closure or realignment pursuant to the Defense Base Closure
5212 and Realignment Act of 1990, as amended, or other applicable
5213 federal law; or any major development project determined by the
5214 authority to be necessary to acquire or improve base properties
5215 and to provide employment opportunities through construction of
5216 projects as defined in Section 57-3-5, which shall be located on
5217 or provide direct support service or access to such military
5218 installation property in the event of closure or reduction of
5219 military operations at the installation.

5220 2. Any major study or investigation related
5221 to such a facility, installation or base, upon a determination by
5222 the authority that the study or investigation is critical to the
5223 expansion, retention or reuse of the facility, installation or
5224 base.

5225 3. Any project as defined in Section 57-3-5,
5226 any business or enterprise determined to be in the furtherance of
5227 the public purposes of this act as determined by the authority or
5228 any facility related to such project each of which shall be,

5229 directly or indirectly, related to any military base or other
5230 military-related facility no longer operated by the United States
5231 armed services or the Mississippi National Guard.

5232 (iii) Any enterprise to be maintained, improved or
5233 constructed in Tishomingo County by or for a National Aeronautics
5234 and Space Administration facility in such county.

5235 (iv) 1. Any major capital project with an initial
5236 capital investment from private sources of not less than Seven
5237 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
5238 at least three thousand (3,000) jobs meeting criteria established
5239 by the Mississippi Development Authority.

5240 2. "Project" shall also include any ancillary
5241 development or business resulting from an enterprise operating a
5242 project as defined in item 1 of this paragraph (f)(iv), of which
5243 the authority is notified, within three (3) years from the date
5244 that the enterprise entered into commercial production, that the
5245 state has been selected as the site for the ancillary development
5246 or business.

5247 (v) Any manufacturing, processing or industrial
5248 project determined by the authority, in its sole discretion, to
5249 contribute uniquely and significantly to the economic growth and
5250 development of the state, and which meets the following criteria:

5251 1. The project shall create at least two
5252 thousand (2,000) net new full-time jobs meeting criteria
5253 established by the authority, which criteria shall include, but
5254 not be limited to, the requirement that such jobs must be held by

5255 persons eligible for employment in the United States under
5256 applicable state and federal law.

5257 2. The project and any facility related to
5258 the project shall include a total investment from private sources
5259 of not less than Sixty Million Dollars (\$60,000,000.00), or from
5260 any combination of sources of not less than Eighty Million Dollars
5261 (\$80,000,000.00).

5262 (vi) Any real property owned or controlled by the
5263 National Aeronautics and Space Administration, the United States
5264 government, or any agency thereof, which is legally conveyed to
5265 the State of Mississippi or to the State of Mississippi for the
5266 benefit of the Mississippi Major Economic Impact Authority, its
5267 successors and assigns pursuant to Section 212 of Public Law
5268 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

5269 (vii) Any major capital project related to the
5270 establishment, improvement, expansion and/or other enhancement of
5271 any active duty military installation and having a minimum capital
5272 investment from any source or combination of sources other than
5273 the State of Mississippi of at least Forty Million Dollars
5274 (\$40,000,000.00), and which will create at least four hundred
5275 (400) military installation related full-time jobs, which jobs may
5276 be military jobs, civilian jobs or a combination of military and
5277 civilian jobs. The authority shall require that binding
5278 commitments be entered into requiring that the minimum
5279 requirements for the project provided for in this subparagraph
5280 shall be met not later than July 1, 2008.

5281 (viii) Any major capital project with an initial
5282 capital investment from any source or combination of sources of
5283 not less than Ten Million Dollars (\$10,000,000.00) which will
5284 create at least eighty (80) full-time jobs which provide an
5285 average annual salary, excluding benefits which are not subject to
5286 Mississippi income taxes, of at least one hundred thirty-five
5287 percent (135%) of the most recently published average annual wage
5288 of the state or the most recently published average annual wage of
5289 the county in which the project is located as determined by the
5290 Mississippi Department of Employment Security, whichever is the
5291 lesser. The authority shall require that binding commitments be
5292 entered into requiring that:

5293 1. The minimum requirements for the project
5294 provided for in this subparagraph shall be met; and

5295 2. That if such commitments are not met, all
5296 or a portion of the funds provided by the state for the project as
5297 determined by the authority shall be repaid.

5298 (ix) Any regional retail shopping mall with an
5299 initial capital investment from private sources in excess of One
5300 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
5301 footage in excess of eight hundred thousand (800,000) square feet,
5302 which will create at least seven hundred (700) full-time jobs with
5303 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
5304 authority shall require that binding commitments be entered into
5305 requiring that:

5306 1. The minimum requirements for the project
5307 provided for in this subparagraph shall be met; and

5308 2. That if such commitments are not met, all
5309 or a portion of the funds provided by the state for the project as
5310 determined by the authority shall be repaid.

5311 (x) Any major capital project with an initial
5312 capital investment from any source or combination of sources of
5313 not less than Seventy-five Million Dollars (\$75,000,000.00) which
5314 will create at least one hundred twenty-five (125) full-time jobs
5315 which provide an average annual salary, excluding benefits which
5316 are not subject to Mississippi income taxes, of at least one
5317 hundred thirty-five percent (135%) of the most recently published
5318 average annual wage of the state or the most recently published
5319 average annual wage of the county in which the project is located
5320 as determined by the Mississippi Department of Employment
5321 Security, whichever is the greater. The authority shall require
5322 that binding commitments be entered into requiring that:

5323 1. The minimum requirements for the project
5324 provided for in this subparagraph shall be met; and

5325 2. That if such commitments are not met, all
5326 or a portion of the funds provided by the state for the project as
5327 determined by the authority shall be repaid.

5328 (xi) Any potential major capital project that the
5329 authority has determined is feasible to recruit.

5330 (xii) Any project built according to the
5331 specifications and federal provisions set forth by the National

5332 Aeronautics and Space Administration Center Operations Directorate
5333 at Stennis Space Center for the purpose of consolidating common
5334 services from National Aeronautics and Space Administration
5335 centers in human resources, procurement, financial management and
5336 information technology located on land owned or controlled by the
5337 National Aeronautics and Space Administration, which will create
5338 at least four hundred seventy (470) full-time jobs.

5339 (xiii) Any major capital project with an initial
5340 capital investment from any source or combination of sources of
5341 not less than Ten Million Dollars (\$10,000,000.00) which will
5342 create at least two hundred fifty (250) full-time jobs. The
5343 authority shall require that binding commitments be entered into
5344 requiring that:

5345 1. The minimum requirements for the project
5346 provided for in this subparagraph shall be met; and

5347 2. That if such commitments are not met, all
5348 or a portion of the funds provided by the state for the project as
5349 determined by the authority shall be repaid.

5350 (xiv) Any major pharmaceutical facility with a
5351 capital investment of not less than Fifty Million Dollars
5352 (\$50,000,000.00) made after July 1, 2002, through four (4) years
5353 after the initial date of any loan or grant made by the authority
5354 for such project, which will maintain at least seven hundred fifty
5355 (750) full-time employees. The authority shall require that
5356 binding commitments be entered into requiring that:

5357 1. The minimum requirements for the project
5358 provided for in this subparagraph shall be met; and

5359 2. That if such commitments are not met, all
5360 or a portion of the funds provided by the state for the project as
5361 determined by the authority shall be repaid.

5362 (xv) Any pharmaceutical manufacturing, packaging
5363 and distribution facility with an initial capital investment from
5364 any local or federal sources of not less than Five Hundred
5365 Thousand Dollars (\$500,000.00) which will create at least ninety
5366 (90) full-time jobs. The authority shall require that binding
5367 commitments be entered into requiring that:

5368 1. The minimum requirements for the project
5369 provided for in this subparagraph shall be met; and

5370 2. That if such commitments are not met, all
5371 or a portion of the funds provided by the state for the project as
5372 determined by the authority shall be repaid.

5373 (xvi) Any major industrial wood processing
5374 facility with an initial capital investment of not less than One
5375 Hundred Million Dollars (\$100,000,000.00) which will create at
5376 least one hundred twenty-five (125) full-time jobs which provide
5377 an average annual salary, excluding benefits which are not subject
5378 to Mississippi income taxes, of at least Thirty Thousand Dollars
5379 (\$30,000.00). The authority shall require that binding
5380 commitments be entered into requiring that:

5381 1. The minimum requirements for the project
5382 provided for in this subparagraph shall be met; and

5383 2. That if such commitments are not met, all
5384 or a portion of the funds provided by the state for the project as
5385 determined by the authority shall be repaid.

5386 (xvii) Any technical, engineering,
5387 manufacturing-logistic service provider with an initial capital
5388 investment of not less than One Million Dollars (\$1,000,000.00)
5389 which will create at least ninety (90) full-time jobs. The
5390 authority shall require that binding commitments be entered into
5391 requiring that:

5392 1. The minimum requirements for the project
5393 provided for in this subparagraph shall be met; and

5394 2. That if such commitments are not met, all
5395 or a portion of the funds provided by the state for the project as
5396 determined by the authority shall be repaid.

5397 (xviii) Any major capital project with an initial
5398 capital investment from any source or combination of sources other
5399 than the State of Mississippi of not less than Six Hundred Million
5400 Dollars (\$600,000,000.00) which will create at least four hundred
5401 fifty (450) full-time jobs with an average annual salary,
5402 excluding benefits which are not subject to Mississippi income
5403 taxes, of at least Seventy Thousand Dollars (\$70,000.00). The
5404 authority shall require that binding commitments be entered into
5405 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 (xix) Any major coal and/or petroleum coke
5412 gasification project with an initial capital investment from any
5413 source or combination of sources other than the State of
5414 Mississippi of not less than Eight Hundred Million Dollars
5415 (\$800,000,000.00), which will create at least two hundred (200)
5416 full-time jobs with an average annual salary, excluding benefits
5417 which are not subject to Mississippi income taxes, of at least
5418 Forty-five Thousand Dollars (\$45,000.00). The authority shall
5419 require that binding commitments be entered into requiring that:

5420 1. The minimum requirements for the project
5421 provided for in this subparagraph shall be met; and

5422 2. That if such commitments are not met, all
5423 or a portion of the funds provided by the state for the project as
5424 determined by the authority shall be repaid.

5425 (xx) Any planned mixed use development located on
5426 not less than four thousand (4,000) acres of land that will
5427 consist of commercial, recreational, resort, tourism and
5428 residential development with a capital investment from private
5429 sources of not less than Four Hundred Seventy-five Million Dollars
5430 (\$475,000,000.00) in the aggregate in any one (1) or any
5431 combination of tourism projects that will create at least three
5432 thousand five hundred (3,500) jobs in the aggregate. For the
5433 purposes of this paragraph (f) (xx), the term "tourism project"

5434 means and has the same definition as that term has in Section
5435 57-28-1. In order to meet the minimum capital investment required
5436 under this paragraph (f)(xx), at least Two Hundred Thirty-seven
5437 Million Five Hundred Thousand Dollars (\$237,500,000.00) of such
5438 investment must be made not later than June 1, 2015, and the
5439 remainder of the minimum capital investment must be made not later
5440 than June 1, 2017. In order to meet the minimum number of jobs
5441 required to be created under this paragraph (f)(xx), at least one
5442 thousand seven hundred fifty (1,750) of such jobs must be created
5443 not later than June 1, 2015, and the remainder of the jobs must be
5444 created not later than June 1, 2017. The authority shall require
5445 that binding commitments be entered into requiring that:

5446 1. The minimum requirements for the project
5447 provided for in this subparagraph shall be met; and

5448 2. That if such commitments are not met, all
5449 or a portion of the funds provided by the state for the project as
5450 determined by the authority shall be repaid.

5451 (xxi) Any enterprise owning or operating an
5452 automotive manufacturing and assembly plant and its affiliates for
5453 which construction begins after March 2, 2007, and not later than
5454 December 1, 2007, with an initial capital investment from private
5455 sources of not less than Five Hundred Million Dollars
5456 (\$500,000,000.00) which will create at least one thousand five
5457 hundred (1,500) jobs meeting criteria established by the
5458 authority, which criteria shall include, but not be limited to,
5459 the requirement that such jobs must be held by persons eligible

5460 for employment in the United States under applicable state and
5461 federal law. The authority shall require that binding commitments
5462 be entered into requiring that:

5463 1. The minimum requirements for the project
5464 provided for in this subparagraph shall be met; and

5465 2. That if such commitments are not met, all
5466 or a portion of the funds provided by the state for the project as
5467 determined by the authority shall be repaid.

5468 (xxii) Any enterprise owning or operating a major
5469 powertrain component manufacturing and assembly plant for which
5470 construction begins after May 11, 2007, and not later than
5471 December 1, 2007, with an initial capital investment from private
5472 sources of not less than Three Hundred Million Dollars
5473 (\$300,000,000.00) which will create at least five hundred (500)
5474 new full-time jobs meeting criteria established by the authority,
5475 which criteria shall include, but not be limited to, the
5476 requirement that such jobs must be held by persons eligible for
5477 employment in the United States under applicable state and federal
5478 law, and the requirement that the average annual wages and taxable
5479 benefits of such jobs shall be at least one hundred twenty-five
5480 percent (125%) of the most recently published average annual wage
5481 of the state or the most recently published average annual wage of
5482 the county in which the project is located as determined by the
5483 Mississippi Department of Employment Security, whichever is the
5484 lesser. The authority shall require that binding commitments be
5485 entered into requiring that:

5486 1. The minimum requirements for the project
5487 provided for in this subparagraph shall be met; and

5488 2. That if such commitments are not met, all
5489 or a portion of the funds provided by the state for the project as
5490 determined by the authority shall be repaid.

5491 (xxiii) Any biological and agricultural defense
5492 project operated by an agency of the government of the United
5493 States with an initial capital investment of not less than Four
5494 Hundred Fifty Million Dollars (\$450,000,000.00) from any source
5495 other than the State of Mississippi and its subdivisions, which
5496 will create at least two hundred fifty (250) new full-time jobs.
5497 All jobs created by the project must be held by persons eligible
5498 for employment in the United States under applicable state and
5499 federal law.

5500 (xxiv) Any enterprise owning or operating an
5501 existing tire manufacturing plant which adds to such plant capital
5502 assets of not less than Twenty-five Million Dollars
5503 (\$25,000,000.00) after January 1, 2009, and that maintains at
5504 least one thousand two hundred (1,200) full-time jobs in this
5505 state at one (1) location with an average annual salary, excluding
5506 benefits which are not subject to Mississippi income taxes, of at
5507 least Forty-five Thousand Dollars (\$45,000.00). The authority
5508 shall require that binding commitments be entered into requiring
5509 that:

5510 1. The minimum requirements for the project
5511 provided for in this subparagraph shall be met; and

5512 2. That if such commitments are not met, all
5513 or a portion of the funds provided by the state for the project as
5514 determined by the authority shall be repaid.

5515 (xxv) Any enterprise owning or operating a
5516 facility for the manufacture of composite components for the
5517 aerospace industry which will have an investment from private
5518 sources of not less than One Hundred Seventy-five Million Dollars
5519 (\$175,000,000.00) by not later than December 31, 2015, and which
5520 will result in the full-time employment at the project site of not
5521 less than two hundred seventy-five (275) persons by December 31,
5522 2011, and not less than four hundred twenty-five (425) persons by
5523 December 31, 2013, and not less than eight hundred (800) persons
5524 by December 31, 2017, all with an average annual compensation,
5525 excluding benefits which are not subject to Mississippi income
5526 taxes, of at least Fifty-three Thousand Dollars (\$53,000.00). The
5527 authority shall require that binding commitments be entered into
5528 requiring that:

5529 1. The minimum requirements for the project
5530 provided for in this subparagraph shall be met; and

5531 2. That if such commitments are not met, all
5532 or a portion of the funds provided by the state for the project as
5533 determined by the authority shall be repaid.

5534 (xxvi) Any enterprise owning or operating a
5535 facility for the manufacture of pipe which will have an investment
5536 from any source other than the State of Mississippi and its
5537 subdivisions of not less than Three Hundred Million Dollars

5538 (\$300,000,000.00) by not later than December 31, 2015, and which
5539 will create at least five hundred (500) new full-time jobs within
5540 five (5) years after the start of commercial production and
5541 maintain such jobs for at least ten (10) years, all with an
5542 average annual compensation, excluding benefits which are not
5543 subject to Mississippi income taxes, of at least Thirty-two
5544 Thousand Dollars (\$32,000.00). The authority shall require that
5545 binding commitments be entered into requiring that:

5546 1. The minimum requirements for the project
5547 provided for in this subparagraph shall be met; and

5548 2. That if such commitments are not met, all
5549 or a portion of the funds provided by the state for the project as
5550 determined by the authority shall be repaid.

5551 (xxvii) Any enterprise owning or operating a
5552 facility for the manufacture of solar panels which will have an
5553 investment from any source other than the State of Mississippi and
5554 its subdivisions of not less than One Hundred Thirty-two Million
5555 Dollars (\$132,000,000.00) by not later than December 31, 2015, and
5556 which will create at least five hundred (500) new full-time jobs
5557 within five (5) years after the start of commercial production and
5558 maintain such jobs for at least ten (10) years, all with an
5559 average annual compensation, excluding benefits which are not
5560 subject to Mississippi income taxes, of at least Thirty-four
5561 Thousand Dollars (\$34,000.00). The authority shall require that
5562 binding commitments be entered into requiring that:

5563 1. The minimum requirements for the project
5564 provided for in this subparagraph shall be met; and

5565 2. That if such commitments are not met, all
5566 or a portion of the funds provided by the state for the project as
5567 determined by the authority shall be repaid.

5568 (xxviii) 1. Any enterprise owning or operating an
5569 automotive parts manufacturing plant and its affiliates for which
5570 construction begins after June 1, 2013, and not later than June
5571 30, 2014, with an initial capital investment of not less than
5572 Three Hundred Million Dollars (\$300,000,000.00) which will create
5573 at least five hundred (500) new full-time jobs meeting criteria
5574 established by the authority, which criteria shall include, but
5575 not be limited to, the requirement that such jobs must be held by
5576 persons eligible for employment in the United States under
5577 applicable state and federal law, and the requirement that the
5578 average annual wages and taxable benefits of such jobs shall be at
5579 least one hundred ten percent (110%) of the most recently
5580 published average annual wage of the state or the most recently
5581 published average annual wage of the county in which the project
5582 is located as determined by the Mississippi Department of
5583 Employment Security, whichever is the lesser. The authority shall
5584 require that binding commitments be entered into requiring that:

5585 a. The minimum requirements for the
5586 project provided for in this subparagraph shall be met; and

5587 b. That if such commitments are not met,
5588 all or a portion of the funds provided by the state for the
5589 project as determined by the authority shall be repaid.

5590 2. It is anticipated that the project defined
5591 in this subparagraph (xxviii) will expand in three (3) additional
5592 phases, will create an additional five hundred (500) full-time
5593 jobs meeting the above criteria in each phase, and will invest an
5594 additional Three Hundred Million Dollars (\$300,000,000.00) per
5595 phase.

5596 (xxix) Any enterprise engaged in the manufacture
5597 of tires or other related rubber or automotive products for which
5598 construction of a plant begins after January 1, 2016, and is
5599 substantially completed no later than December 31, 2022, and for
5600 which such enterprise commits to an aggregate capital investment
5601 by such enterprise and its affiliates of not less than One Billion
5602 Four Hundred Fifty Million Dollars (\$1,450,000,000.00) and the
5603 creation thereby of at least two thousand five hundred (2,500) new
5604 full-time jobs meeting criteria established by the authority,
5605 which criteria shall include, but not be limited to, the
5606 requirement that such jobs must be held by persons eligible for
5607 employment in the United States under applicable state and federal
5608 law, and the requirement that the average annual salary or wage,
5609 excluding the value of any benefits which are not subject to
5610 Mississippi income tax, of such jobs shall be at least Forty
5611 Thousand Dollars (\$40,000.00). The authority shall require that
5612 binding commitments be entered into requiring that:

5613 1. Minimum requirements for investment and
5614 jobs for the project shall be met; and

5615 2. If such requirements are not met, all or a
5616 portion of the funds provided by the state for the project may, as
5617 determined by the authority, be subject to repayment by such
5618 enterprise and/or its affiliates, together with any penalties or
5619 damages required by the authority in connection therewith.

5620 (xxx) Any enterprise owning or operating a
5621 maritime fabrication and assembly facility for which construction
5622 begins after February 1, 2016, and concludes not later than
5623 December 31, 2018, with an initial capital investment in land,
5624 buildings and equipment not less than Sixty-eight Million Dollars
5625 (\$68,000,000.00) and will create not less than one thousand
5626 (1,000) new full-time jobs meeting criteria established by the
5627 authority, which criteria shall include, but not be limited to,
5628 the requirement that such jobs must be held by persons eligible
5629 for employment in the United States under applicable state and
5630 federal law, and the requirement that the average annual
5631 compensation, excluding benefits which are not subject to
5632 Mississippi income taxes, of at least Forty Thousand Dollars
5633 (\$40,000.00). The authority shall require that binding
5634 commitments be entered into requiring that:

5635 1. The minimum requirements for the project
5636 provided for in this subparagraph shall be met; and

5637 2. If such commitments are not met, all or a
5638 portion of the funds provided by the state for the project may, as

5639 determined by the authority, be subject to repayment by such
5640 enterprise, together with any penalties or damages required by the
5641 authority in connection therewith.

5642 (xxxi) Each of the projects defined in this
5643 paragraph (f)(xxxi)1 and 2 that are undertaken by affiliated
5644 enterprises, together with any or all of the projects defined in
5645 this paragraph (f)(xxxi)3 and/or 4 if they are undertaken by the
5646 same or other enterprises affiliated with those enterprises that
5647 undertake projects defined in this paragraph (f)(xxxi)1 and 2:

5648 1. An enterprise engaged in the manufacturing
5649 and production of recycled flat-rolled aluminum or related
5650 products for which construction of recycled aluminum flat-rolled
5651 mill begins after January 1, 2023, and is substantially completed
5652 no later than December 31, 2026; and

5653 2. An enterprise engaged in the manufacturing
5654 and production of biocarbon from biomass for which construction of
5655 the biocarbon manufacturing facility begins after December 1,
5656 2022, and is substantially completed no later than December 31,
5657 2026; provided that such series of projects may additionally, but
5658 shall not be required to, include:

5659 3. Any other affiliated enterprise that
5660 undertakes the development and operation of a new industrial or
5661 commercial facility in the state, excluding any area or areas
5662 designated by the authority in a written agreement between such
5663 enterprise or any affiliate thereof, for which the construction of

5664 any such facility begins after January 1, 2023, and is
5665 substantially completed no later than December 31, 2029; and/or

5666 4. An enterprise engaged in the development
5667 and operation of port activities (e.g., the loading and unloading
5668 of barges, rail cars and trucks, the storage and handling of
5669 materials, and other port-related operations) in support of all or
5670 any of the enterprises enumerated in this paragraph (f)(xxxi)1, 2
5671 and 3, or otherwise in support of an existing electric arc furnace
5672 steel mill producing flat-rolled steel and related products; and
5673 for which the parent enterprise of such affiliated enterprises
5674 enumerated in this paragraph (f)(xxxi)1, 2, 3 and/or 4 commits to
5675 an aggregate, collective capital investment by one or more or any
5676 combination of such enterprises and their affiliates, as well as
5677 by any co-located customers, of not less than Two Billion Five
5678 Hundred Million Dollars (\$2,500,000,000.00) and the creation
5679 thereby of at least one thousand (1,000) new full-time jobs
5680 meeting criteria established by the authority, which criteria
5681 shall include, but not be limited to, the requirement that such
5682 jobs must be held by persons eligible for employment in the United
5683 States under applicable state and federal law, and the requirement
5684 that the average annual salary or wage, excluding the value of any
5685 benefits which are not subject to Mississippi income tax, of such
5686 jobs shall be at least Ninety-three Thousand Dollars (\$93,000.00).
5687 The authority shall require that binding commitments be entered
5688 into requiring that:

5689 a. Minimum requirements for investment
5690 and jobs for such affiliated projects shall be met; and

5691 b. If such requirements are not
5692 collectively met, all or a portion of the funds provided by the
5693 state for such affiliated projects may, as determined by the
5694 authority, be subject to repayment by such enterprises and/or
5695 their affiliates, together with any penalties or damages required
5696 by the authority in connection therewith.

5697 For purposes of this paragraph (f)(xxxi), A. a co-located
5698 customer shall mean a person who locates and operates any new
5699 manufacturing, processing, warehousing and/or distribution
5700 facility within the project area for the project defined in this
5701 paragraph (f)(xxxi)1 and utilizes, directly or indirectly, in its
5702 operations any aluminum or related products produced by such
5703 project, and B. an affiliated enterprise or an affiliate means a
5704 related business entity which shares a common direct or indirect
5705 ownership with the enterprise owning or operating a project as
5706 defined in this paragraph (f)(xxxi)1, 2, 3 or 4. References in
5707 the act to a project, as defined by this paragraph (f)(xxxi) shall
5708 mean any one of, any combination or all of the projects as defined
5709 in this paragraph (f)(xxxi)1, 2, 3 or 4.

5710 (g) (i) "Project area" means the project site,
5711 together with any area or territory within the state lying within
5712 sixty-five (65) miles of any portion of the project site whether
5713 or not such area or territory be contiguous; however, for the
5714 project defined in paragraph (f)(iv) of this section the term

5715 "project area" means any area or territory within the state. The
5716 project area shall also include all territory within a county if
5717 any portion of such county lies within sixty-five (65) miles of
5718 any portion of the project site. "Project site" means the real
5719 property on which the principal facilities of the enterprise will
5720 operate. The provisions of this subparagraph (i) shall not apply
5721 to a project as defined in paragraph (f)(xxi) of this section.

5722 (ii) For the purposes of a project as defined in
5723 paragraph (f)(xxi) of this section, the term "project area" means
5724 the acreage authorized in the certificate of convenience and
5725 necessity issued by the Mississippi Development Authority to a
5726 regional economic development alliance under Section 57-64-1 et
5727 seq.

5728 (iii) For the purposes of a project as defined in
5729 paragraph (f)(xxxii) of this section, the term "project area"
5730 means the acreage specified by the authority in written agreement
5731 with the enterprise undertaking such project and/or an affiliate
5732 thereof.

5733 (h) "Public agency" means:

5734 (i) Any department, board, commission, institution
5735 or other agency or instrumentality of the state;

5736 (ii) Any city, town, county, political
5737 subdivision, school district or other district created or existing
5738 under the laws of the state or any public agency of any such city,
5739 town, county, political subdivision or district or any other

5740 public entity created or existing under local and private
5741 legislation;

5742 (iii) Any department, commission, agency or
5743 instrumentality of the United States of America; and

5744 (iv) Any other state of the United States of
5745 America which may be cooperating with respect to location of the
5746 project within the state, or any agency thereof.

5747 (i) "State" means State of Mississippi.

5748 (j) "Fee-in-lieu" means a negotiated fee to be paid by
5749 the project in lieu of any franchise taxes imposed on the project
5750 by Chapter 13, Title 27, Mississippi Code of 1972. The
5751 fee-in-lieu shall not be less than Twenty-five Thousand Dollars
5752 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an
5753 enterprise operating an existing project defined in paragraph
5754 (f)(iv)¹ of this section; however, a fee-in-lieu shall not be
5755 negotiated for other existing enterprises that fall within the
5756 definition of the term "project."

5757 (k) (i) "Affiliate" means a subsidiary or related
5758 business entity which shares a common direct or indirect ownership
5759 with the enterprise owning or operating a project as defined in
5760 paragraph (f)(xxi), paragraph (f)(xxviii) or paragraph (f)(xxix)
5761 of this section. The subsidiary or related business must provide
5762 services directly related to the core activities of the project.

5763 (ii) For the purposes of a project as defined in
5764 paragraph (f)(xxxii) of this section, an "affiliated enterprise" or
5765 an "affiliate" means a related business entity which shares a

5766 common direct or indirect ownership with the enterprise owning or
5767 operating a project as defined in paragraph (f)(xxxi)1, 2, 3 or 4
5768 of this section.

5769 (1) "Tier One supplier" means a supplier of a project
5770 as defined in paragraph (f)(xxi) of this section that is certified
5771 by the enterprise owning the project and creates a minimum of
5772 fifty (50) new full-time jobs.

5773 **SECTION 57.** Section 57-80-7, Mississippi Code of 1972, is
5774 reenacted as follows:

5775 57-80-7. (1) From and after December 31, 2000, the
5776 following counties may apply to the MDA for the issuance of a
5777 certificate of public convenience and necessity:

5778 (a) Any county of this state which has an annualized
5779 unemployment rate that is at least two hundred percent (200%) of
5780 the state's unemployment rate as of December 31 of any year after
5781 December 31, 2000, as determined by the Mississippi Department of
5782 Employment Security's most recently published data;

5783 (b) Any county of this state in which thirty percent
5784 (30%) or more of the population of the county is at or below the
5785 federal poverty level according to the official data compiled by
5786 the United States Census Bureau as of August 30, 2000, for
5787 counties that apply before December 31, 2002, or the most recent
5788 official data compiled by the United States Census Bureau for
5789 counties that apply from and after December 31, 2002; or

5790 (c) Any county of this state having an eligible
5791 supervisors district.

5792 (2) The application, at a minimum, must contain (a) the
5793 Mississippi Department of Employment Security's most recently
5794 published figures that reflect the annualized unemployment rate of
5795 the applying county as of December 31 or the most recent official
5796 data by the United States Census Bureau required by subsection (1)
5797 of this section, as the case may be, and (b) an order or
5798 resolution of the county consenting to the designation of the
5799 county as a growth and prosperity county.

5800 (3) Any municipality of a designated growth and prosperity
5801 county or within an eligible supervisors district and not more
5802 than eight (8) miles from the boundary of the county that meets
5803 the criteria of subsection (1)(b) of this section may by order or
5804 resolution of the municipality consent to participation in the
5805 Growth and Prosperity Program.

5806 (4) No incentive or tax exemption shall be given under this
5807 chapter without the consent of the affected county or
5808 municipality.

5809 **SECTION 58.** Section 69-2-5, Mississippi Code of 1972, is
5810 reenacted as follows:

5811 69-2-5. (1) The Mississippi Cooperative Extension Service
5812 shall act as a clearinghouse for the dissemination of information
5813 regarding programs and services which may be available to help
5814 those persons and businesses which have been adversely affected by
5815 the present emergency in the agricultural community. The
5816 Cooperative Extension Service shall develop a plan of assistance
5817 which shall identify all programs and services available within

5818 the state which can be of assistance to those affected by the
5819 present emergency. The Department of Agriculture and Commerce,
5820 Department of Finance and Administration, Department of Human
5821 Services, Department of Mental Health, State Department of Health,
5822 Board of Trustees of State Institutions of Higher Learning,
5823 Mississippi Community College Board, Research and Development
5824 Center, Mississippi Development Authority, Department of
5825 Employment Security, Office of the Governor, Board of Vocational
5826 and Technical Education, Mississippi Authority for Educational
5827 Television, and other agencies of the state which have programs
5828 and services that can be of assistance to those affected by the
5829 present emergency, shall provide information regarding their
5830 programs and services to the Cooperative Extension Service for use
5831 in the clearinghouse. The types of programs and services shall
5832 include, but not be limited to, financial counseling, farm and
5833 small business management, employment services, labor market
5834 information, job retraining, vocational and technical training,
5835 food stamp programs, personal counseling, health services, and
5836 free or low cost legal services. The clearinghouse shall provide
5837 a single contact point to provide program information and referral
5838 services to individuals interested or needing services from
5839 state-funded assistance programs affecting agriculture,
5840 horticulture, aquaculture and other agribusinesses or related
5841 industries. Such assistance information shall identify all monies
5842 available under the Small Business Financing Act, the Business
5843 Investment Act, the Emerging Crops Fund legislation and any other

5844 sources which may be used singularly or combined, to provide a
5845 comprehensive financing package. The provisions of this section
5846 in establishing a single contact point for information and
5847 referral services shall not be construed to authorize the hiring
5848 of additional personnel.

5849 (2) The Cooperative Extension Service may accept monetary or
5850 in-kind contributions, gifts and grants for the establishment or
5851 operation of the clearinghouse.

5852 (3) The Cooperative Extension Service shall establish a
5853 method for the dissemination of information to those who can be
5854 benefited by the existing programs and services of the state.

5855 (4) The Cooperative Extension Service shall file an annual
5856 report with the Governor, Lieutenant Governor and Speaker of the
5857 House of Representatives regarding the efforts which have been
5858 made in the clearinghouse operation. The report shall also
5859 recommend any additional measures, including legislation, which
5860 may be needed or desired in providing programs and benefits to
5861 those affected by the agricultural emergency.

5862 **SECTION 59.** Section 7-1-355, Mississippi Code of 1972, is
5863 reenacted as follows:

5864 7-1-355. (1) The Mississippi Department of Employment
5865 Security, Office of the Governor, is designated as the sole
5866 administrator of all programs for which the state is the prime
5867 sponsor under Title 1(B) of Public Law 105-220, Workforce
5868 Investment Act of 1998, and the regulations promulgated
5869 thereunder, and may take all necessary action to secure to this

5870 state the benefits of that legislation. The Mississippi
5871 Department of Employment Security, Office of the Governor, may
5872 receive and disburse funds for those programs that become
5873 available to it from any source.

5874 (2) The Mississippi Department of Employment Security,
5875 Office of the Governor, shall establish guidelines on the amount
5876 and/or percentage of indirect and/or administrative expenses by
5877 the local fiscal agent or the Workforce Development Center
5878 operator. The Mississippi Department of Employment Security,
5879 Office of the Governor, shall develop an accountability system and
5880 make an annual report to the Legislature before December 31 of
5881 each year on Workforce Investment Act activities. The report
5882 shall include, but is not limited to, the following:

5883 (a) The total number of individuals served through the
5884 Workforce Development Centers and the percentage and number of
5885 individuals for which a quarterly follow-up is provided;

5886 (b) The number of individuals who receive core services
5887 by each center;

5888 (c) The number of individuals who receive intensive
5889 services by each center;

5890 (d) The number of Workforce Investment Act vouchers
5891 issued by the Workforce Development Centers including:

5892 (i) A list of schools and colleges to which these
5893 vouchers were issued and the average cost per school of the
5894 vouchers; and

5895 (ii) A list of the types of programs for which
5896 these vouchers were issued;

5897 (e) The number of individuals placed in a job through
5898 Workforce Development Centers;

5899 (f) The monies and the amount retained for
5900 administrative and other costs received from Workforce Investment
5901 Act funds for each agency or organization that Workforce
5902 Investment Act funds flow through as a percentage and actual
5903 dollar amount of all Workforce Investment Act funds received.

5904 **SECTION 60.** Section 60, Chapter 572, Laws of 2004, as
5905 amended by Section 58, Chapter 30, Laws of the First Extraordinary
5906 Session of 2008, as amended by Section 58, Chapter 559, Laws of
5907 2010 Regular Session, as amended by Section 59, Chapter 471, Laws
5908 of 2011, as amended by Section 58, Chapter 515, Laws of 2012, as
5909 amended by Section 58, Chapter 451, Laws of 2019, as amended by
5910 Section 7, Chapter 476, Laws of 2020, is amended as follows:

5911 Section 60. Sections 8 through 59 of this act shall stand
5912 repealed on July 1, * * * 2028.

5913 **SECTION 61.** Section 25-1-98, Mississippi Code of 1972, is
5914 amended as follows:

5915 25-1-98. (1) (a) In addition to any other times required
5916 by statute, all state offices shall be open and staffed for the
5917 normal conduct of business from 8:00 a.m. until 5:00 p.m., Monday
5918 through Friday, except on legal holidays as set forth in Section
5919 3-3-7. The Governor may designate certain state offices and
5920 institutions as providers of essential services and require that

5921 they be open and staffed on legal holidays. The Board of
5922 Directors of the Mississippi Industries for the Blind may, in its
5923 discretion, require that its offices and operations be open and
5924 staffed on legal holidays. Employees required to work on legal
5925 holidays shall earn compensatory leave under the provisions of
5926 Section 25-3-92. No employee shall receive additional vacation or
5927 sick leave benefits for working on a legal holiday, nor shall this
5928 section be construed to authorize any additional compensation as
5929 an alternative to the accrual of compensatory leave except as
5930 specifically provided for in a legislative appropriation. The
5931 provisions of this section shall not be construed to limit the
5932 hours of operation of any agency or to abrogate any action taken
5933 during hours other than those stated, nor shall these provisions
5934 apply to any offices that do not customarily stay open five (5)
5935 days a week. The provisions of this section shall not apply to
5936 the military department of the State of Mississippi or to the
5937 armories, field training sites, air bases or other installations
5938 of the Mississippi National Guard.

5939 (b) A workday for a state employee in a full-time
5940 employment position shall be eight (8) hours in duration at a
5941 minimum exclusive of time off for meals. The appointing authority
5942 shall develop work schedules which ensure that each full-time
5943 employee works a full workday and shall provide the State Auditor
5944 with a copy of the regular work schedule of the appointing
5945 authority.

5946 (2) An appointing authority of any state service agency
5947 within the meaning of Section 25-9-107 may authorize telework for
5948 one or more of its employees in accordance with a telework policy,
5949 approved by the State Personnel Board, as provided in subsection
5950 (3) of this section.

5951 (3) In order to implement a telework policy for one or more
5952 of its employees, an appointing authority shall:

5953 (a) Determine whether or not telework is in the best
5954 interest of the agency. In doing so, the appointing authority
5955 shall seek guidance from the State Personnel Board in determining
5956 what forms of work activities can be effectively and efficiently
5957 managed through a telework arrangement;

5958 (b) Establish procedures to protect any information
5959 that is privileged or confidential under state or federal law;

5960 (c) Require all teleworking employees to sign a
5961 telework agreement that includes their work schedule, provides for
5962 supervisory oversight through the review of work product and
5963 deliverables on a regular basis, requires the protection of
5964 privileged or confidential information that is managed remotely on
5965 an agency computer or other devices, establishes protocols for
5966 accessibility to coworkers and clients, workplace safety, and any
5967 other matters deemed appropriate by the appointing authority; and

5968 (d) Establish work schedules that ensure that some
5969 personnel are at the appointing authority's offices to provide
5970 direct contact with the public.

5971 (4) For purposes of subsections (2) and (3) of this section,
5972 the term "telework" shall mean a work flexibility arrangement
5973 under which an employee performs duties, responsibilities, or
5974 other authorized activities from an approved worksite other than
5975 the location from which the employee would otherwise work.

5976 (5) All agencies that allow employees to telework shall
5977 report to the State Personnel Board the names of the employees,
5978 their job titles, office schedule and telework schedule, who are
5979 performing telework for their agencies. On or before December 31
5980 of each year, the State Personnel Board shall make a report
5981 related to the utilization of telework policies to the Chairmen of
5982 the House and Senate Appropriations Committees, the
5983 Accountability, Efficiency and Transparency Committees, and the
5984 Joint Legislative Committee on Performance Evaluation and
5985 Expenditure Review.

5986 (6) The State Personnel Board may promulgate rules for the
5987 administration of this section which shall be binding upon state
5988 service agencies within the meaning of Section 25-9-107.

5989 (7) Subsections (2) through (6) of this section shall stand
5990 repealed on July 1, * * * 2025.

5991 **SECTION 62.** Section 71-5-355, Mississippi Code of 1972, is
5992 amended as follows:

5993 71-5-355. (1) As used in this section, the following words
5994 and phrases shall have the following meanings, unless the context
5995 clearly requires otherwise:

5996 (a) "Tax year" means any period beginning on January 1
5997 and ending on December 31 of a year.

5998 (b) "Computation date" means June 30 of any calendar
5999 year immediately preceding the tax year during which the
6000 particular contribution rates are effective.

6001 (c) "Effective date" means January 1 of the tax year.

6002 (d) Except as hereinafter provided, "payroll" means the
6003 total of all wages paid for employment by an employer as defined
6004 in Section 71-5-11, subsection H, plus the total of all
6005 remuneration paid by such employer excluded from the definition of
6006 wages by Section 71-5-351. For the computation of modified rates,
6007 "payroll" means the total of all wages paid for employment by an
6008 employer as defined in Section 71-5-11, subsection H.

6009 (e) For the computation of modified rates, "eligible
6010 employer" means an employer whose experience-rating record has
6011 been chargeable with benefits throughout the thirty-six (36)
6012 consecutive calendar-month period ending on the computation date,
6013 except that any employer who has not been subject to the
6014 Mississippi Employment Security Law for a period of time
6015 sufficient to meet the thirty-six (36) consecutive calendar-month
6016 requirement shall be an eligible employer if his or her
6017 experience-rating record has been chargeable throughout not less
6018 than the twelve (12) consecutive calendar-month period ending on
6019 the computation date. No employer shall be considered eligible
6020 for a contribution rate less than five and four-tenths percent
6021 (5.4%) with respect to any tax year, who has failed to file any

6022 two (2) quarterly reports within the qualifying period by
6023 September 30 following the computation date. No employer or
6024 employing unit shall be eligible for a contribution rate of less
6025 than five and four-tenths percent (5.4%) for the tax year in which
6026 the employing unit is found by the department to be in violation
6027 of Section 71-5-19(2) or (3) and for the next two (2) succeeding
6028 tax years. No representative of such employing unit who was a
6029 party to a violation as described in Section 71-5-19(2) or (3), if
6030 such representative was or is an employing unit in this state,
6031 shall be eligible for a contribution rate of less than five and
6032 four-tenths percent (5.4%) for the tax year in which such
6033 violation was detected by the department and for the next two (2)
6034 succeeding tax years.

6035 (f) With respect to any tax year, "reserve ratio" means
6036 the ratio which the total amount available for the payment of
6037 benefits in the Unemployment Compensation Fund, excluding any
6038 amount which has been credited to the account of this state under
6039 Section 903 of the Social Security Act, as amended, and which has
6040 been appropriated for the expenses of administration pursuant to
6041 Section 71-5-457 whether or not withdrawn from such account, on
6042 October 31 (close of business) of each calendar year bears to the
6043 aggregate of the taxable payrolls of all employers for the twelve
6044 (12) calendar months ending on June 30 next preceding.

6045 (g) "Modified rates" means the rates of employer
6046 unemployment insurance contributions determined under the

6047 provisions of this chapter and the rates of newly subject
6048 employers, as provided in Section 71-5-353.

6049 (h) For the computation of modified rates, "qualifying
6050 period" means a period of not less than the thirty-six (36)
6051 consecutive calendar months ending on the computation date
6052 throughout which an employer's experience-rating record has been
6053 chargeable with benefits; except that with respect to any eligible
6054 employer who has not been subject to this article for a period of
6055 time sufficient to meet the thirty-six (36) consecutive
6056 calendar-month requirement, "qualifying period" means the period
6057 ending on the computation date throughout which his or her
6058 experience-rating record has been chargeable with benefits, but in
6059 no event less than the twelve (12) consecutive calendar-month
6060 period ending on the computation date throughout which his or her
6061 experience-rating record has been so chargeable.

6062 (i) The "exposure criterion" (EC) is defined as the
6063 cash balance of the Unemployment Compensation Fund which is
6064 available for the payment of benefits as of November 16 of each
6065 calendar year or the next working day if November 16 falls on a
6066 holiday or a weekend, divided by the total wages, exclusive of
6067 wages paid by all state agencies, all political subdivisions,
6068 reimbursable nonprofit corporations, and tax-exempt public service
6069 employment, for the twelve-month period ending June 30 immediately
6070 preceding such date. The EC shall be computed to four (4) decimal
6071 places and rounded up if any fraction remains. Notwithstanding
6072 any other provision contained herein, the date for determining the

6073 cash balance of the Unemployment Compensation Fund which is
6074 available for the payment of benefits for the calendar years 2020
6075 and 2021 shall be December 31.

6076 (j) The "cost rate criterion" (CRC) is defined as
6077 follows: Beginning with January 1974, the benefits paid for the
6078 twelve-month period ending December 1974 are summed and divided by
6079 the total wages for the twelve-month period ending on June 30,
6080 1975. Similar ratios are computed by subtracting the earliest
6081 month's benefit payments and adding the benefits of the next month
6082 in the sequence and dividing each sum of twelve (12) months'
6083 benefits by the total wages for the twelve-month period ending on
6084 the June 30 which is nearest to the final month of the period used
6085 to compute the numerator. If December is the final month of the
6086 period used to compute the numerator, then the twelve-month period
6087 ending the following June 30 will be used for the denominator.
6088 Benefits and total wages used in the computation of the cost rate
6089 criterion shall exclude all benefits and total wages applicable to
6090 state agencies, political subdivisions, reimbursable nonprofit
6091 corporations, and tax-exempt PSE employment.

6092 The CRC shall be computed as the average for the highest
6093 monthly value of the cost rate criterion computations during each
6094 of the economic cycles since the calendar year 1974 as defined by
6095 the National Bureau of Economic Research. The CRC shall be
6096 computed to four (4) decimal places and any remainder shall be
6097 rounded up.

6098 The CRC shall be adjusted only through annual computations
6099 and additions of future economic cycles.

6100 (k) "Size of fund index" (SOFI) is defined as the ratio
6101 of the exposure criterion (EC) to the cost rate criterion (CRC).
6102 The target size of fund index will be fixed at 1.0. If the
6103 insured unemployment rate (IUR) exceeds a four and five-tenths
6104 percent (4.5%) average for the most recent completed July to June
6105 period, the target SOFI will be .8 and will remain at that level
6106 until the computed SOFI (the average exposure criterion of the
6107 current year and the preceding year divided by the average cost
6108 rate criterion) equals 1.0 or the average IUR falls to four and
6109 five-tenths percent (4.5%) or less for any period July to June.
6110 However, if the IUR falls below two and five-tenths percent (2.5%)
6111 for any period July to June the target SOFI shall be 1.2 until
6112 such time as the computed SOFI is equal to or greater than 1.0 or
6113 the IUR is equal to or greater than two and five-tenths percent
6114 (2.5%), at which point the target SOFI shall return to 1.0.

6115 (1) No employer's unemployment contribution general
6116 experience rate plus individual unemployment experience rate shall
6117 exceed five and four-tenths percent (5.4%). Accrual rules shall
6118 apply for purposes of computing contribution rates including
6119 associated functions.

6120 (m) The term "general experience rate" has the same
6121 meaning as the minimum tax rate.

6122 (2) Modified rates:

6123 (a) For any tax year, when the reserve ratio on the
6124 preceding November 16, in the case of any tax year, equals or
6125 exceeds three percent (3%), the modified rates, as hereinafter
6126 prescribed, shall be in effect. In computation of this reserve
6127 ratio, any remainder shall be rounded down.

6128 (b) Modified rates shall be determined for the tax year
6129 for each eligible employer on the basis of his or her
6130 experience-rating record in the following manner:

6131 (i) The department shall maintain an
6132 experience-rating record for each employer. Nothing in this
6133 chapter shall be construed to grant any employer or individuals
6134 performing services for him or her any prior claim or rights to
6135 the amounts paid by the employer into the fund.

6136 (ii) Benefits paid to an eligible individual shall
6137 be charged against the experience-rating record of his or her base
6138 period employers in the proportion to which the wages paid by each
6139 base period employer bears to the total wages paid to the
6140 individual by all the base period employers, provided that
6141 benefits shall not be charged to an employer's experience-rating
6142 record if the department finds that the individual:

6143 1. Voluntarily left the employ of such
6144 employer without good cause attributable to the employer or to
6145 accept other work;

6146 2. Was discharged by such employer for
6147 misconduct connected with his or her work;

6148 3. Refused an offer of suitable work by such
6149 employer without good cause, and the department further finds that
6150 such benefits are based on wages for employment for such employer
6151 prior to such voluntary leaving, discharge or refusal of suitable
6152 work, as the case may be;

6153 4. Had base period wages which included wages
6154 for previously uncovered services as defined in Section
6155 71-5-511(e) to the extent that the Unemployment Compensation Fund
6156 is reimbursed for such benefits pursuant to Section 121 of Public
6157 Law 94-566;

6158 5. Extended benefits paid under the
6159 provisions of Section 71-5-541 which are not reimbursable from
6160 federal funds shall be charged to the experience-rating record of
6161 base period employers;

6162 6. Is still working for such employer on a
6163 regular part-time basis under the same employment conditions as
6164 hired. Provided, however, that benefits shall be charged against
6165 an employer if an eligible individual is paid benefits who is
6166 still working for such employer on a part-time "as-needed" basis;

6167 7. Was hired to replace a United States
6168 serviceman or servicewoman called into active duty and was laid
6169 off upon the return to work by that serviceman or servicewoman,
6170 unless such employer is a state agency or other political
6171 subdivision or instrumentality of the state;

6172 8. Was paid benefits during any week while in
6173 training with the approval of the department, under the provisions

6174 of Section 71-5-513B, or for any week while in training approved
6175 under Section 236(a)(1) of the Trade Act of 1974, under the
6176 provisions of Section 71-5-513C;

6177 9. Is not required to serve the one-week
6178 waiting period as described in Section 71-5-505(2). In that
6179 event, only the benefits paid in lieu of the waiting period week
6180 may be noncharged; or

6181 10. Was paid benefits as a result of a
6182 fraudulent claim, provided notification was made to the
6183 Mississippi Department of Employment Security in writing or by
6184 email by the employer, within ten (10) days of the mailing of the
6185 notice of claim filed to the employer's last-known address.

6186 (iii) Notwithstanding any other provision
6187 contained herein, an employer shall not be noncharged when the
6188 department finds that the employer or the employer's agent of
6189 record was at fault for failing to respond timely or adequately to
6190 the request of the department for information relating to an
6191 unemployment claim that was subsequently determined to be
6192 improperly paid, unless the employer or the employer's agent of
6193 record shows good cause for having failed to respond timely or
6194 adequately to the request of the department for information. For
6195 purposes of this subparagraph "good cause" means an event that
6196 prevents the employer or employer's agent of record from timely
6197 responding, and includes a natural disaster, emergency or similar
6198 event, or an illness on the part of the employer, the employer's
6199 agent of record, or their staff charged with responding to such

6200 inquiries when there is no other individual who has the knowledge
6201 or ability to respond. Any agency error that resulted in a delay
6202 in, or the failure to deliver notice to, the employer or the
6203 employer's agent of record shall also be considered good cause for
6204 purposes of this subparagraph.

6205 (iv) The department shall compute a benefit ratio
6206 for each eligible employer, which shall be the quotient obtained
6207 by dividing the total benefits charged to his or her
6208 experience-rating record during the period his or her
6209 experience-rating record has been chargeable, but not less than
6210 the twelve (12) consecutive calendar-month period nor more than
6211 the thirty-six (36) consecutive calendar-month period ending on
6212 the computation date, by his or her total taxable payroll for the
6213 same period on which all unemployment insurance contributions due
6214 have been paid on or before the September 30 immediately following
6215 the computation date. Such benefit ratio shall be computed to the
6216 tenth of a percent (.1%), rounding any remainder to the next
6217 higher tenth.

6218 (v) 1. The unemployment insurance contribution
6219 rate for each eligible employer shall be the sum of two (2) rates:
6220 his or her individual experience rate in the range from zero
6221 percent (0%) to five and four-tenths percent (5.4%), plus a
6222 general experience rate. In no event shall the resulting
6223 unemployment insurance rate be in excess of five and four-tenths
6224 percent (5.4%), however, it is the intent of this section to
6225 provide the ability for employers to have a tax rate, the general

6226 experience rate plus the individual experience rate, of up to five
6227 and four-tenths percent (5.4%).

6228 2. The employer's individual experience rate
6229 shall be equal to his or her benefit ratio as computed under
6230 paragraph (b)(iv) of this subsection (2).

6231 3. The general experience rate shall be
6232 determined in the following manner: The department shall
6233 determine annually, for the thirty-six (36) consecutive
6234 calendar-month period ending on the computation date, the amount
6235 of benefits which were not charged to the record of any employer
6236 and of benefits which were ineffectively charged to the employer's
6237 experience-rating record. For the purposes of this item 3, the
6238 term "ineffectively charged benefits" shall include:

6239 a. The total of the amounts of benefits
6240 charged to the experience-rating records of all eligible employers
6241 which caused their benefit ratios to exceed five and four-tenths
6242 percent (5.4%);

6243 b. The total of the amounts of benefits
6244 charged to the experience-rating records of all ineligible
6245 employers which would cause their benefit ratios to exceed five
6246 and four-tenths percent (5.4%) if they were eligible employers;
6247 and

6248 c. The total of the amounts of benefits
6249 charged or chargeable to the experience-rating record of any
6250 employer who has discontinued his or her business or whose
6251 coverage has been terminated within such period; provided, that

6252 solely for the purposes of determining the amounts of
6253 ineffectively charged benefits as herein defined, a "benefit
6254 ratio" shall be computed for each ineligible employer, which shall
6255 be the quotient obtained by dividing the total benefits charged to
6256 his or her experience-rating record throughout the period ending
6257 on the computation date, during which his or her experience-rating
6258 record has been chargeable with benefits, by his or her total
6259 taxable payroll for the same period on which all unemployment
6260 insurance contributions due have been paid on or before the
6261 September 30 immediately following the computation date; and
6262 provided further, that such benefit ratio shall be computed to the
6263 tenth of one percent (.1%) and any remainder shall be rounded to
6264 the next higher tenth.

6265 The ratio of the sum of these amounts (subsection
6266 (2) (b) (v) 3a, b and c) to the taxable wages paid during the same
6267 period divided by all eligible employers whose benefit ratio did
6268 not exceed five and four-tenths percent (5.4%), computed to the
6269 next higher tenth of one percent (.1%), shall be the general
6270 experience rate; however, the general experience rate for rate
6271 year 2014 shall be two tenths of one percent (.2%) and to that
6272 will be added the employer's individual experience rate for the
6273 total unemployment insurance rate.

6274 4. a. Except as otherwise provided in this
6275 item 4, the general experience rate shall be adjusted by use of
6276 the size of fund index factor. This factor may be positive or
6277 negative, and shall be determined as follows: From the target

6278 SOFI, as defined in subsection (1)(k) of this section, subtract
6279 the simple average of the current and preceding years' exposure
6280 criterions divided by the cost rate criterion, as defined in
6281 subsection (1)(j) of this section. The result is then multiplied
6282 by the product of the CRC, as defined in subsection (1)(j) of this
6283 section, and total wages for the twelve-month period ending June
6284 30 divided by the taxable wages for the twelve-month period ending
6285 June 30. This is the percentage positive or negative added to the
6286 general experience rate. The sum of the general experience rate
6287 and the trust fund adjustment factor shall be multiplied by fifty
6288 percent (50%) and this product shall be computed to one (1)
6289 decimal place, and rounded to the next higher tenth.

6290 b. Notwithstanding the minimum rate
6291 provisions as set forth in subsection (1)(l) of this section, the
6292 general experience rate of all employers shall be reduced by seven
6293 one-hundredths of one percent (.07%) for calendar year 2013 only.

6294 5. The general experience rate shall be zero
6295 percent (0%) unless the general experience ratio for any tax year
6296 as computed and adjusted on the basis of the trust fund adjustment
6297 factor and reduced by fifty percent (50%) is an amount equal to or
6298 greater than two-tenths of one percent (.2%), then the general
6299 experience rate shall be the computed general experience ratio and
6300 adjusted on the basis of the trust fund adjustment factor and
6301 reduced by fifty percent (50%); however, in no case shall the sum
6302 of the general experience plus the individual experience
6303 unemployment insurance rate exceed five and four-tenths percent

6304 (5.4%). For rate years subsequent to 2014, Mississippi Workforce
6305 Enhancement Training contribution rate, and/or State Workforce
6306 Investment contribution rate, and/or Mississippi Works
6307 contribution rate, when in effect, shall be added to the
6308 unemployment contribution rate, regardless of whether the addition
6309 of this contribution rate causes the total contribution rate for
6310 the employer to exceed five and four-tenths percent (5.4%).

6311 6. The department shall include in its annual
6312 rate notice to employers a brief explanation of the elements of
6313 the general experience rate, and shall include in its regular
6314 publications an annual analysis of benefits not charged to the
6315 record of any employer, and of the benefit experience of employers
6316 by industry group whose benefit ratio exceeds four percent (4%),
6317 and of any other factors which may affect the size of the general
6318 experience rate.

6319 7. Notwithstanding any other provision
6320 contained herein, the general experience rate for calendar year
6321 2021 shall be zero percent (0%). Charges attributed to each
6322 employer's individual experience rate for the period March 8,
6323 2020, through June 30, 2020, will not impact the employer's
6324 individual experience rate calculations for purposes of
6325 calculating the total unemployment insurance rate for 2021 and the
6326 two (2) subsequent tax rate years. Moreover, charges attributed
6327 to each employer's individual experience rate for the period July
6328 1, 2020, through December 31, 2020, will not impact the employer's
6329 individual experience rate calculations for purposes of

6330 calculating the total unemployment insurance rate for 2022 and the
6331 two (2) subsequent tax rate years. Furthermore, noncharges as
6332 defined hereinabove caused by the COVID-19 pandemic will not be
6333 used for the purposes of calculating the general experience rate.

6334 (vi) When any employing unit in any manner
6335 succeeds to or acquires the organization, trade, business or
6336 substantially all the assets thereof of an employer, excepting any
6337 assets retained by such employer incident to the liquidation of
6338 his or her obligations, whether or not such acquiring employing
6339 unit was an employer within the meaning of Section 71-5-11,
6340 subsection H, prior to such acquisition, and continues such
6341 organization, trade or business, the experience-rating and payroll
6342 records of the predecessor employer shall be transferred as of the
6343 date of acquisition to the successor employer for the purpose of
6344 rate determination.

6345 (vii) When any employing unit succeeds to or
6346 acquires a distinct and severable portion of an organization,
6347 trade or business, the experience-rating and payroll records of
6348 such portion, if separately identifiable, shall be transferred to
6349 the successor upon:

- 6350 1. The mutual consent of the predecessor and
6351 the successor;
- 6352 2. Approval of the department;
- 6353 3. Continued operation of the transferred
6354 portion by the successor after transfer; and

6355 4. The execution and the filing with the
6356 department by the predecessor employer of a waiver relinquishing
6357 all rights to have the experience-rating and payroll records of
6358 the transferred portion used for the purpose of determining
6359 modified rates of contribution for such predecessor.

6360 (viii) If the successor was an employer subject to
6361 this chapter prior to the date of acquisition, it shall continue
6362 to pay unemployment insurance contributions at the rate applicable
6363 to it from the date the acquisition occurred until the end of the
6364 then current tax year. If the successor was not an employer prior
6365 to the date of acquisition, it shall pay unemployment insurance
6366 contributions at the rate applicable to the predecessor or, if
6367 more than one (1) predecessor and the same rate is applicable to
6368 both, the rate applicable to the predecessor or predecessors, from
6369 the date the acquisition occurred until the end of the then
6370 current tax year. If the successor was not an employer prior to
6371 the date the acquisition occurred and simultaneously acquires the
6372 businesses of two (2) or more employers to whom different rates of
6373 unemployment insurance contributions are applicable, it shall pay
6374 unemployment insurance contributions from the date of the
6375 acquisition until the end of the current tax year at a rate
6376 computed on the basis of the combined experience-rating and
6377 payroll records of the predecessors as of the computation date for
6378 such tax year. In all cases the rate of unemployment insurance
6379 contributions applicable to such successor for each succeeding tax
6380 year shall be computed on the basis of the combined

6381 experience-rating and payroll records of the successor and the
6382 predecessor or predecessors.

6383 (ix) The department shall notify each employer
6384 quarterly of the benefits paid and charged to his or her
6385 experience-rating record; and such notification, in the absence of
6386 an application for redetermination filed within thirty (30) days
6387 after the date of such notice, shall be final, conclusive and
6388 binding upon the employer for all purposes. A redetermination,
6389 made after notice and opportunity for a fair hearing, by a hearing
6390 officer designated by the department who shall consider and decide
6391 these and related applications and protests; and the finding of
6392 fact in connection therewith may be introduced into any subsequent
6393 administrative or judicial proceedings involving the determination
6394 of the rate of unemployment insurance contributions of any
6395 employer for any tax year, and shall be entitled to the same
6396 finality as is provided in this subsection with respect to the
6397 findings of fact in proceedings to redetermine the contribution
6398 rate of an employer.

6399 (x) The department shall notify each employer of
6400 his or her rate of contribution as determined for any tax year as
6401 soon as reasonably possible after September 1 of the preceding
6402 year. Such determination shall be final, conclusive and binding
6403 upon such employer unless, within thirty (30) days after the date
6404 of such notice to his or her last-known address, the employer
6405 files with the department an application for review and
6406 redetermination of his or her contribution rate, setting forth his

6407 or her reasons therefor. If the department grants such review,
6408 the employer shall be promptly notified thereof and shall be
6409 afforded an opportunity for a fair hearing by a hearing officer
6410 designated by the department who shall consider and decide these
6411 and related applications and protests; but no employer shall be
6412 allowed, in any proceeding involving his or her rate of
6413 unemployment insurance contributions or contribution liability, to
6414 contest the chargeability to his or her account of any benefits
6415 paid in accordance with a determination, redetermination or
6416 decision pursuant to Sections 71-5-515 through 71-5-533 except
6417 upon the ground that the services on the basis of which such
6418 benefits were found to be chargeable did not constitute services
6419 performed in employment for him or her, and then only in the event
6420 that he or she was not a party to such determination,
6421 redetermination, decision or to any other proceedings provided in
6422 this chapter in which the character of such services was
6423 determined. The employer shall be promptly notified of the denial
6424 of this application or of the redetermination, both of which shall
6425 become final unless, within ten (10) days after the date of notice
6426 thereof, there shall be an appeal to the department itself. Any
6427 such appeal shall be on the record before said designated hearing
6428 officer, and the decision of said department shall become final
6429 unless, within thirty (30) days after the date of notice thereof
6430 to the employer's last-known address, there shall be an appeal to
6431 the Circuit Court of the First Judicial District of Hinds County,

6432 Mississippi, in accordance with the provisions of law with respect
6433 to review of civil causes by certiorari.

6434 (3) Notwithstanding any other provision of law, the
6435 following shall apply regarding assignment of rates and transfers
6436 of experience:

6437 (a) (i) If an employer transfers its trade or
6438 business, or a portion thereof, to another employer and, at the
6439 time of the transfer, there is substantially common ownership,
6440 management or control of the two (2) employers, then the
6441 unemployment experience attributable to the transferred trade or
6442 business shall be transferred to the employer to whom such
6443 business is so transferred. The rates of both employers shall be
6444 recalculated and made effective on January 1 of the year following
6445 the year the transfer occurred.

6446 (ii) If, following a transfer of experience under
6447 subparagraph (i) of this paragraph (a), the department determines
6448 that a substantial purpose of the transfer of trade or business
6449 was to obtain a reduced liability of unemployment insurance
6450 contributions, then the experience-rating accounts of the
6451 employers involved shall be combined into a single account and a
6452 single rate assigned to such account.

6453 (b) Whenever a person who is not an employer or an
6454 employing unit under this chapter at the time it acquires the
6455 trade or business of an employer, the unemployment experience of
6456 the acquired business shall not be transferred to such person if
6457 the department finds that such person acquired the business solely

6458 or primarily for the purpose of obtaining a lower rate of
6459 unemployment insurance contributions. Instead, such person shall
6460 be assigned the new employer rate under Section 71-5-353, unless
6461 assignment of the new employer rate results in an increase of less
6462 than two percent (2%), in which case such person would be assigned
6463 the new employer rate plus an additional two percent (2%) penalty
6464 for the rate year. In determining whether the business was
6465 acquired solely or primarily for the purpose of obtaining a lower
6466 rate of unemployment insurance contributions, the department shall
6467 use objective factors which may include the cost of acquiring the
6468 business, whether the person continued the business enterprise of
6469 the acquired business, how long such business enterprise was
6470 continued, or whether a substantial number of new employees were
6471 hired for performance of duties unrelated to the business activity
6472 conducted prior to acquisition.

6473 (c) (i) If a person knowingly violates or attempts to
6474 violate paragraph (a) or (b) of this subsection or any other
6475 provision of this chapter related to determining the assignment of
6476 a contribution rate, or if a person knowingly advises another
6477 person in a way that results in a violation of such provision, the
6478 person shall be subject to the following penalties:

6479 1. If the person is an employer, then such
6480 employer shall be assigned the highest rate assignable under this
6481 chapter for the rate year during which such violation or attempted
6482 violation occurred and the three (3) rate years immediately
6483 following this rate year. However, if the person's business is

6484 already at such highest rate for any year, or if the amount of
6485 increase in the person's rate would be less than two percent (2%)
6486 for such year, then the person's tax rate shall be increased by
6487 two percent (2%) for such year. The penalty rate will apply to
6488 the successor business as well as the related entity from which
6489 the employees were transferred in an effort to obtain a lower rate
6490 of unemployment insurance contributions.

6491 2. If the person is not an employer, such
6492 person shall be subject to a civil money penalty of not more than
6493 Five Thousand Dollars (\$5,000.00). Each such transaction for
6494 which advice was given and each occurrence or reoccurrence after
6495 notification being given by the department shall be a separate
6496 offense and punishable by a separate penalty. Any such fine shall
6497 be deposited in the penalty and interest account established under
6498 Section 71-5-114.

6499 (ii) For purposes of this paragraph (c), the term
6500 "knowingly" means having actual knowledge of or acting with
6501 deliberate ignorance or reckless disregard for the prohibition
6502 involved.

6503 (iii) For purposes of this paragraph (c), the term
6504 "violates or attempts to violate" includes, but is not limited to,
6505 intent to evade, misrepresentation or willful nondisclosure.

6506 (iv) In addition to the penalty imposed by
6507 subparagraph (i) of this paragraph (c), any violation of this
6508 subsection may be punishable by a fine of not more than Ten
6509 Thousand Dollars (\$10,000.00) or by imprisonment for not more than

6510 five (5) years, or by both such fine and imprisonment. This
6511 subsection shall prohibit prosecution under any other criminal
6512 statute of this state.

6513 (d) The department shall establish procedures to
6514 identify the transfer or acquisition of a business for purposes of
6515 this subsection.

6516 (e) For purposes of this subsection:

6517 (i) "Person" has the meaning given such term by
6518 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

6519 (ii) "Employing unit" has the meaning as set forth
6520 in Section 71-5-11.

6521 (f) This subsection shall be interpreted and applied in
6522 such a manner as to meet the minimum requirements contained in any
6523 guidance or regulations issued by the United States Department of
6524 Labor.

6525 **SECTION 63.** The following shall be codified as Section
6526 71-5-146, Mississippi Code of 1972:

6527 71-5-146. (1) In order to increase fraud prevention and
6528 data integrity, the department shall have the authority to
6529 fingerprint and conduct a background investigation on every
6530 employee, contractor and subcontractor who:

6531 (a) Has access to Federal Tax Information (FTI); or

6532 (b) Is otherwise required by state or federal law or
6533 regulations to undergo a background investigation.

6534 (2) The department shall have the authority to enact
6535 policies and procedures that allow designated department
6536 employees:

6537 (a) To access and review state and federal criminal
6538 history records;

6539 (b) To fingerprint individuals identified in subsection
6540 (1) of this section;

6541 (c) To forward the fingerprints to the Federal Bureau
6542 of Investigation for a fingerprint-based national criminal history
6543 record check for the purpose of establishing and ensuring that
6544 background investigation requirements for all agency employees,
6545 contractors and subcontractors that have access to FTI are
6546 consistent with the Internal Revenue Service's background
6547 investigation requirements for access to FTI, including, but not
6548 limited to, IRS Publication 1075; and

6549 (d) To develop additional background policies and
6550 procedures as required by state or federal law or regulations.

6551 **SECTION 64.** Section 62 of this act shall take effect and be
6552 in force from and after January 1, 2023, and the remainder of this
6553 act shall take effect and be in force from and after its passage,
6554 and shall stand repealed one (1) day before its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO REENACT SECTIONS 37-153-1, 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 37-153-7, MISSISSIPPI CODE OF
6 1972, TO GIVE THE STATE WORKFORCE INVESTMENT BOARD THE DUTIES OF
7 IMPLEMENTING AND OVERSEEING CAREER COACHING PROGRAMS IN MIDDLE
8 SCHOOLS AND HIGH SCHOOLS, PROGRAMS PROVIDING SUPPORT TO COMMUNITY
9 AND JUNIOR COLLEGES FOR TRAINING NEEDS ARISING WHEN NEW BUSINESSES
10 LOCATE IN MISSISSIPPI, AND A MISSISSIPPI K-12 WORKFORCE
11 DEVELOPMENT GRANT PROGRAM TO PROVIDE EQUIPMENT AND OTHER RESOURCES
12 TO CAREER AND TECHNICAL OR OTHER WORKFORCE PROGRAMS IN PUBLIC
13 SCHOOLS; TO REVISE CERTAIN REPORTING REQUIREMENTS OF THE OFFICE OF
14 WORKFORCE DEVELOPMENT; TO AMEND REENACTED SECTION 37-153-17,
15 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEAL DATE ON THE
16 MISSISSIPPI COMPREHENSIVE WORKFORCE TRAINING AND EDUCATION
17 CONSOLIDATION ACT OF 2004; TO REENACT SECTIONS 71-5-5, 71-5-11 AND
18 71-5-19, MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE MISSISSIPPI
19 EMPLOYMENT SECURITY LAW; TO REENACT SECTIONS 71-5-101 THROUGH
20 71-5-143, MISSISSIPPI CODE OF 1972, WHICH TRANSFER THE POWERS AND
21 RESPONSIBILITIES OF THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION
22 TO THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY IN THE OFFICE
23 OF THE GOVERNOR AND PRESCRIBE THE DEPARTMENT'S POWERS AND DUTIES;
24 TO REENACT SECTION 71-5-201, MISSISSIPPI CODE OF 1972, WHICH
25 ESTABLISHES THE MISSISSIPPI STATE EMPLOYMENT SERVICE WITHIN THE
26 DEPARTMENT OF EMPLOYMENT SECURITY; TO REENACT SECTIONS 71-5-357
27 AND 71-5-359, MISSISSIPPI CODE OF 1972, WHICH PRESCRIBE
28 REGULATIONS GOVERNING NONPROFIT ORGANIZATIONS, STATE AGENCIES AND
29 POLITICAL SUBDIVISIONS UNDER THE EMPLOYMENT SECURITY LAW; TO AMEND
30 REENACTED SECTION 71-5-359, MISSISSIPPI CODE OF 1972, TO REMOVE
31 DUPLICATIVE LANGUAGE; TO REENACT SECTIONS 71-5-451 AND 71-5-457,
32 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE UNEMPLOYMENT
33 COMPENSATION FUND AND THE UNEMPLOYMENT TRUST FUND; TO REENACT
34 SECTIONS 71-5-511, 71-5-513, 71-5-517, 71-5-519, 71-5-523,
35 71-5-525, 71-5-529, 71-5-531 AND 71-5-541, MISSISSIPPI CODE OF
36 1972, WHICH PROVIDE FOR THE PAYMENT OF UNEMPLOYMENT COMPENSATION
37 BENEFITS; TO REENACT SECTION 73-30-25, MISSISSIPPI CODE OF 1972,
38 WHICH EXCLUDES CERTAIN PROFESSIONALS FROM REGULATION UNDER THE
39 LAWS GOVERNING LICENSED PROFESSIONAL COUNSELORS; TO REENACT
40 SECTION 43-1-30, MISSISSIPPI CODE OF 1972, WHICH CREATES THE
41 MISSISSIPPI TANF IMPLEMENTATION COUNCIL AND PRESCRIBES ITS POWERS
42 AND DUTIES; TO REENACT SECTION 43-17-5, MISSISSIPPI CODE OF 1972,
43 WHICH PRESCRIBES THE AMOUNT OF TEMPORARY ASSISTANCE FOR NEEDY
44 FAMILIES (TANF) BENEFITS WHICH MAY BE GRANTED TO RECIPIENTS; TO
45 REENACT SECTION 43-19-45, MISSISSIPPI CODE OF 1972, WHICH REQUIRES
46 THE CHILD SUPPORT UNIT ESTABLISHED BY THE DEPARTMENT OF HUMAN
47 SERVICES TO ESTABLISH A STATE PARENT LOCATOR SERVICE; TO REENACT
48 SECTION 43-19-46, MISSISSIPPI CODE OF 1972, WHICH REQUIRES
49 EMPLOYERS TO SUBMIT CERTAIN INFORMATION RELATING TO NEWLY HIRED
50 EMPLOYEES TO THE DIRECTORY OF NEW HIRES WITHIN THE DEPARTMENT OF
51 HUMAN SERVICES; TO REENACT SECTIONS 57-62-5 AND 57-62-9,
52 MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE MISSISSIPPI
53 ADVANTAGE JOBS ACT; TO REENACT SECTION 57-75-5, MISSISSIPPI CODE
54 OF 1972, WHICH DEFINES CERTAIN TERMS USED UNDER THE MISSISSIPPI
55 MAJOR ECONOMIC IMPACT ACT; TO REENACT SECTION 57-80-7, MISSISSIPPI
56 CODE OF 1972, WHICH RELATES TO THE GROWTH AND PROSPERITY ACT; TO

57 REENACT SECTION 69-2-5, MISSISSIPPI CODE OF 1972, WHICH PRESCRIBES
58 CERTAIN DUTIES OF THE MISSISSIPPI COOPERATIVE EXTENSION SERVICE
59 RELATING TO THE DISSEMINATION OF INFORMATION TO THE AGRICULTURAL
60 COMMUNITY; TO REENACT SECTION 7-1-355, MISSISSIPPI CODE OF 1972,
61 WHICH REQUIRES THE DEPARTMENT OF EMPLOYMENT SECURITY, OFFICE OF
62 THE GOVERNOR, TO MAKE AN ANNUAL REPORT TO THE LEGISLATURE ON
63 WORKFORCE INVESTMENT ACTIVITIES; TO AMEND SECTION 60, CHAPTER 572,
64 LAWS OF 2004, AS LAST AMENDED BY SECTION 7, CHAPTER 476, LAWS OF
65 2020, TO EXTEND THE DATE OF REPEAL ON THOSE STATUTES REENACTED BY
66 THIS ACT; TO AMEND SECTION 25-1-98, MISSISSIPPI CODE OF 1972, TO
67 EXTEND THE REPEAL DATE ON THE AUTHORITY OF STATE SERVICE AGENCIES
68 TO ALLOW TELEWORK IN ACCORDANCE WITH A POLICY APPROVED BY THE
69 STATE PERSONNEL BOARD; TO AMEND SECTION 71-5-355, MISSISSIPPI CODE
70 OF 1972, TO PROVIDE THAT THE NONCHARGES CAUSED BY THE COVID-19
71 PANDEMIC WILL NOT BE USED FOR THE PURPOSES OF CALCULATING THE
72 GENERAL EXPERIENCE RATE; TO CREATE NEW SECTION 71-5-146,
73 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI DEPARTMENT
74 OF EMPLOYMENT SECURITY TO FINGERPRINT AND CONDUCT BACKGROUND
75 INVESTIGATIONS ON CERTAIN EMPLOYEES, CONTRACTORS AND
76 SUBCONTRACTORS, AND TO ENACT POLICIES AND PROCEDURES REGARDING THE
77 SAME; AND FOR RELATED PURPOSES.

SS26\HB588PS.J

Eugene S. Clarke
Secretary of the Senate