

By: Representatives Frierson, Holland, Eaton To: Appropriations

## HOUSE BILL NO. 973

1 AN ACT TO BE KNOWN AS THE "MISSISSIPPI COMPREHENSIVE  
2 WORKFORCE TRAINING AND EDUCATION CONSOLIDATION ACT OF 2004"; TO  
3 AMEND SECTIONS 37-153-1 THROUGH 37-153-13, MISSISSIPPI CODE OF  
4 1972, TO ESTABLISH AND PRESCRIBE THE MEMBERSHIP OF THE MISSISSIPPI  
5 WORKFORCE INVESTMENT BOARD TO SUCCEED TO THE RESPONSIBILITIES OF  
6 THE MISSISSIPPI WORKFORCE DEVELOPMENT COUNCIL AND THE FORMER  
7 EXECUTIVE ORDER WORKFORCE INVESTMENT ACT BOARD IN ORDER TO  
8 COORDINATE AND IMPROVE THE EFFECTIVENESS OF ALL WORKFORCE AREA  
9 ACTIVITIES IN THE STATE OF MISSISSIPPI; TO DEFINE WORKFORCE  
10 TRAINING PROGRAMS AND EMPOWER THE STATE BOARD TO ASSIST THE  
11 GOVERNOR IN IMPLEMENTING ORGANIZATION OF THOSE PROGRAMS UNDER  
12 FEDERAL LAW; TO PROVIDE FOR FOUR LOCAL WORKFORCE INVESTMENT  
13 BOARDS; TO PROVIDE FOR COMMUNITY COLLEGE DISTRICT WORKFORCE  
14 DEVELOPMENT COUNCILS; AND TO PROVIDE FOR WORKFORCE DEVELOPMENT  
15 CENTERS; TO AMEND SECTIONS 71-5-5, 71-5-11, 71-5-19, 71-5-101,  
16 71-5-107 THROUGH 71-5-143, 71-5-201, 71-5-357, 71-5-359, 71-5-451,  
17 71-5-457, 71-5-511, 71-5-513, 71-5-517, 71-5-519, 71-5-523,  
18 71-5-525, 71-5-529, 71-5-531, 71-5-541, 73-30-25, 43-1-30,  
19 43-17-5, 43-19-45, 43-19-46, 57-62-5, 57-62-9, 57-75-5, 57-80-7  
20 AND 69-2-5, MISSISSIPPI CODE OF 1972, TO 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; TO PROVIDE FOR AN EXECUTIVE DIRECTOR OF THE  
24 DEPARTMENT OF EMPLOYMENT SECURITY APPOINTED BY THE GOVERNOR; TO  
25 CLARIFY RULEMAKING AUTHORITY OF THE DEPARTMENT; TO TRANSFER THE  
26 FUNCTION OF THE EMPLOYMENT SECURITY COMMISSION BOARD OF REVIEW TO  
27 THE EXECUTIVE DIRECTOR; AND IN CONFORMITY TO THE PROVISIONS OF  
28 THIS ACT; TO AMEND SECTION 7-1-355, MISSISSIPPI CODE OF 1972, TO  
29 REQUIRE THE MISSISSIPPI DEVELOPMENT AUTHORITY TO MAKE AN ANNUAL  
30 REPORT TO THE LEGISLATURE ON WORKFORCE INVESTMENT ACTIVITIES; TO  
31 REPEAL SECTIONS 37-151-69, 37-151-71 AND 37-151-73, MISSISSIPPI  
32 CODE OF 1972, WHICH AUTHORIZE A MISSISSIPPI WORKFORCE DEVELOPMENT  
33 COUNCIL, LOCAL DISTRICT COUNCILS AND WORKFORCE DEVELOPMENT  
34 CENTERS; TO REPEAL SECTIONS 71-5-103 AND 71-5-105, MISSISSIPPI  
35 CODE OF 1972, WHICH PROVIDE FOR THE ORGANIZATION AND COMPENSATION  
36 OF MEMBERS OF THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION; AND  
37 FOR RELATED PURPOSES.

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

39 **SECTION 1.** Section 37-153-1, Mississippi Code of 1972, is  
40 amended as follows:

41 37-153-1. This chapter shall be known and may be cited as  
42 the "Mississippi Comprehensive Workforce Training and Education  
43 Consolidation Act of 2004."

44           **SECTION 2.** Section 37-153-3, Mississippi Code of 1972, is  
45 amended as follows:

46           37-153-3. It is the intent of the Legislature by the passage  
47 of House Bill No. \_\_\_\_\_, 2004 Regular Session to establish one (1)  
48 comprehensive workforce training system in the State of  
49 Mississippi that is focused on achieving results, using resources  
50 efficiently and ensuring that workers and employers can easily  
51 access needed training services. This system shall reflect a  
52 consolidation of the Mississippi Workforce Development Advisory  
53 Council and the Workforce Investment Act Board. The purpose of  
54 House Bill No. \_\_\_\_\_, 2004 Regular Session, is to provide workforce  
55 training activities, through a statewide system that maximizes  
56 cooperation among state agencies, that increase the employment,  
57 retention and earnings of participants, and increase occupational  
58 skill attainment by participants and as a result, improve the  
59 quality of the workforce, reduce welfare dependency and enhance  
60 the productivity and competitiveness of the State of Mississippi.

61           **SECTION 3.** Section 37-153-5, Mississippi Code of 1972, is  
62 amended as follows:

63           37-153-5. For purposes of this chapter, the following words  
64 and phrases shall have the meanings respectively ascribed in this  
65 section unless the context clearly indicates otherwise:

66           (a) "State board" means the Mississippi Workforce  
67 Investment Board; and

68           (b) "District councils" means the Local Workforce  
69 Development Councils.

70           **SECTION 4.** Section 37-153-7, Mississippi Code of 1972, is  
71 amended as follows:

72           37-153-7. (1) There is created the Mississippi Workforce  
73 Investment Board. The Mississippi Workforce Investment Board  
74 shall be composed of thirty-one (31) members, of which a majority  
75 shall be representatives of business and industry in accordance  
76 with the Federal Workforce Investment Act.

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

79           (i) A representative of the Mississippi  
80 Association of Supervisors;

81           (ii) Two (2) representatives of labor  
82 organizations, who shall have been nominated by the  
83 organization(s);

84           (iii) One (1) representative of community-based  
85 organizations;

86           (iv) Fifteen (15) business members from the  
87 community and junior college local workforce development councils;

88           (v) One (1) representative of the Mississippi  
89 Association of Planning and Development Districts; and

90           (vi) Four (4) chief local officials, one from each  
91 local workforce area;

92           (vii) A business executive and veteran of the  
93 United States Armed Forces;

94           (b) The following state officials shall be members of  
95 the board:

96           (i) The Executive Director of the Mississippi  
97 Department of Employment Security, or his designee;

98           (ii) The Executive Director of the Department of  
99 Rehabilitation Services, or his designee;

100           (iii) The State Superintendent of Public  
101 Education, or his designee;

102           (iv) The Executive Director of the Mississippi  
103 Development Authority, or his designee;

104           (v) The Executive Director of the Mississippi  
105 Department of Human Services, or his designee;

106           (vi) The Executive Director of the State Board for  
107 Community and Junior Colleges, or his designee;

108           (c) The Governor, or his designee, shall serve as a  
109 member.

110           (d) Four (4) legislators, who shall serve in a  
111 nonvoting capacity, two (2) of whom shall be appointed by the  
112 Lieutenant Governor from the membership of the Mississippi Senate,  
113 and two (2) of whom shall be appointed by the Speaker of the House  
114 from the membership of the Mississippi House of Representatives.

115           (e) The Governor shall designate the chairman of the  
116 Mississippi Workforce Investment Board from among the voting  
117 members of the board, and a quorum of the board shall consist of a  
118 majority of the voting members of the board.

119           (f) The voting members of the board who are not state  
120 employees shall be entitled to reimbursement of their reasonable  
121 expenses incurred in carrying out their duties under this chapter,  
122 from any funds available for that purpose.

123           (g) The Mississippi Development Authority shall be  
124 responsible for providing necessary administrative, clerical and  
125 budget support for the Mississippi Workforce Investment Board.

126           (2) The Mississippi Development Authority shall establish  
127 limits on administrative costs for each portion of Mississippi's  
128 Workforce Development System consistent with the Federal Workforce  
129 Investment Act or any future federal workforce legislation.

130           (3) The Mississippi Workforce Investment Board shall have  
131 the following duties:

132           (a) Develop and submit to the Governor a strategic plan  
133 for an integrated state workforce development system that aligns  
134 resources and structures the system to more effectively and  
135 efficiently meet the demands of Mississippi's employers and job  
136 seekers. This plan will comply with the Federal Workforce  
137 Investment Act of 1998, as amended.

138           (b) Assist the Governor in the development and  
139 continuous improvement of the statewide workforce investment  
140 system that shall include:

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

143                   (ii) Review local training plans that reflect the  
144 use of funds from the Federal Workforce Investment Act,  
145 Wagner-Peyser Act and the Mississippi Comprehensive Workforce  
146 Training and Education Consolidation Act.

147                   (c) Recommend the designation of local workforce  
148 investment areas as required in Section 116 of the Federal  
149 Workforce Investment Act of 1998. There shall be four (4) areas  
150 that are aligned with the planning and development district  
151 structure in Mississippi. Planning and development districts will  
152 serve as the fiscal agents to fund, oversee and support the local  
153 workforce investment boards aligned with the area and the local  
154 programs and activities as delivered by the one-stop employment  
155 and training system. The planning and development districts will  
156 perform this function through the provisions of the county  
157 cooperative service districts created under Sections 19-3-101  
158 through 19-3-115.

159                   (d) Assist the Governor in the development of an  
160 allocation formula for the distribution of funds for adult  
161 employment and training activities and youth activities to local  
162 workforce investment areas.

163                   (e) Recommend comprehensive, results-oriented measures  
164 that shall be applied to all Mississippi's workforce development  
165 system programs.

166                   (f) Assist the Governor in the establishment and  
167 management of a one-stop employment and training delivery system  
168 conforming to the requirements of the Federal Workforce Investment  
169 Act of 1998, as amended, recommending policy for implementing the  
170 Governor's approved plan for employment and training activities  
171 and services within the state. In developing this one-stop career  
172 operating system, the Mississippi Workforce Investment Board, in  
173 conjunction with local workforce investment boards, shall:

174                   (i) Design broad guidelines for the delivery of  
175 workforce development programs;

176                   (ii) Identify all existing delivery agencies and  
177 other resources;

178                   (iii) Define appropriate roles of the various  
179 agencies to include an analysis of service providers' strengths  
180 and weaknesses;

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

183                   (v) Develop a financial plan to support the  
184 delivery system that shall, at a minimum, include an  
185 accountability system;

186                   (g) Assist the Governor in reducing duplication of  
187 services by requiring the Local Workforce Area Councils to  
188 designate the local community/junior college as the operator of  
189 the WIN Job Center. The board shall be authorized to utilize  
190 Federal Workforce Investment Act funds to award incentive grants  
191 of Two Hundred Thousand Dollars (\$200,000.00) to each workforce  
192 area in the state that designates the local community/junior  
193 college as the operator of the WIN Job Center. These grants will  
194 be used for the implementation and coordination of this combined  
195 approach for specialized training programs.

196                   (h) To provide authority, in accordance with any  
197 executive order of the Governor, for developing the necessary  
198 collaboration among state agencies at the highest level for  
199 accomplishing the purposes of this chapter;

200                   (i) To monitor the effectiveness of the workforce  
201 development centers and WIN job centers;

202                   (j) To advise the Governor and public schools,  
203 community/junior colleges and institutions of higher learning on  
204 effective school-to-work transition policies and programs that  
205 link students moving from high school to higher education and  
206 students moving between community colleges and four-year  
207 institutions in pursuit of academic and technical skills training;

208           (k) To work with industry to identify barriers that  
209 inhibit the delivery of quality work force education and the  
210 responsiveness of educational institutions to the needs of  
211 industry; \* \* \*

212           (l) To provide periodic assessments on effectiveness  
213 and results of the system of workforce development centers and  
214 district councils; and

215           (m) To assist the Governor in carrying out any other  
216 responsibility required by the federal Workforce Investment Act of  
217 1998, as amended.

218           (4) The Mississippi Workforce Investment Board shall  
219 coordinate all training programs and funds in the State of  
220 Mississippi.

221           Each state agency director responsible for workforce training  
222 activities shall advise the Mississippi Workforce Investment Board  
223 of appropriate federal and state requirements. Each such state  
224 agency director shall remain responsible for the actions of his  
225 agency; however, each state agency and director shall work  
226 cooperatively, and shall be individually and collectively  
227 responsible to the Governor for the successful implementation of  
228 the statewide workforce investment system. The Governor, as the  
229 Chief Executive Officer of the state, shall have complete  
230 authority to enforce cooperation among all entities within the  
231 state that utilize federal or state funding for the conduct of  
232 workforce training activities.

233           **SECTION 5.** Section 37-153-9, Mississippi Code of 1972, is  
234 amended as follows:

235           37-153-9. (1) In accordance with the Federal Workforce  
236 Investment Act of 1998, there shall be established, for each of  
237 the four (4) state workforce areas prescribed in Section 37-153-3  
238 (2)(c), a Local Workforce Investment Board to set policy for the  
239 portion of the state workforce investment system within the local  
240 area, which shall have the following advisory duties:

241 (a) To develop an integrated and coordinated district  
242 work force investment strategic plan that:

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

245 (ii) Sets short-term and long-term goals for  
246 industry-specific training and upgrading and for general  
247 development of the workforce; and

248 (iii) Provides for coordination of all training  
249 programs, including ABE/GED, Skills Enhancement and Industrial  
250 Services, and shall work collaboratively with the State Literacy  
251 Resource Center;

252 (b) To coordinate and integrate delivery of training as  
253 provided by the work force development plan;

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

256 (d) To encourage continuous improvement through  
257 evaluation and assessment; and

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

260 (2) Each community college district shall have an affiliated  
261 District Workforce Development Council. The district council  
262 shall be composed of a diverse group of fifteen (15) persons  
263 appointed by the board of trustees of the affiliated public  
264 community or junior college. The members of each district council  
265 shall be selected from persons recommended by the chambers of  
266 commerce, employee groups, industrial foundations, community  
267 organizations and local governments located in the community  
268 college district of the affiliated community college with one (1)  
269 appointee being involved in basic literacy training. However, at  
270 least eight (8) members of each district council shall be chief  
271 executive officers, plant managers that are representatives of  
272 employers in that district or service sector executives. The  
273 District Workforce Development Council affiliated with each



274 respective community or junior college shall advise the president  
275 of the community or junior college on the operation of its  
276 workforce development center/one-stop center.

277 **SECTION 6.** Section 37-153-11, Mississippi Code of 1972, is  
278 amended as follows:

279 37-153-11. (1) There are created Workforce Development  
280 Centers to provide assessment, training and placement services to  
281 individuals needing retraining, training and upgrading for local  
282 industry. Each workforce development center shall be affiliated  
283 with a separate public community or junior college district.

284 (2) Each workforce development center shall be staffed and  
285 organized locally by the affiliated community college. The  
286 workforce development center shall serve as staff to the  
287 affiliated district council.

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

292 (a) For individuals needing training and retraining:

293 (i) Recruiting, assessing, counseling and  
294 referring to training or jobs;

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

297 (iii) Basic literacy skills training and high  
298 school equivalency education;

299 (iv) Vocational and technical training, full-time  
300 or part-time; and

301 (v) Short-term skills training for educationally  
302 and economically disadvantaged adults in cooperation with  
303 federally established employment and training programs;

304 (b) For specific industries or firms within the  
305 district:

306 (i) Job analysis, testing and curriculum  
307 development;

308 (ii) Development of specific long-range training  
309 plans;

310 (iii) Industry or firm-related preemployment  
311 training;

312 (iv) Workplace basic skills and literacy training;

313 (v) Customized skills training;

314 (vi) Assistance in developing the capacity for  
315 Total Quality Management training; and

316 (vii) Technology transfer information and referral  
317 services to business of local applications of new research in  
318 cooperation with the University Research Center, the state's  
319 universities and other laboratories;

320 (c) For public schools within the district technical  
321 assistance to secondary schools in curriculum coordination,  
322 development of tech prep programs, instructional development and  
323 resource coordination; and

324 (d) For economic development, a local forum and  
325 resource center for all local industrial development groups to  
326 meet and promote regional economic development.

327 (4) Each workforce development center shall compile and make  
328 accessible to the Mississippi Workforce Investment Board necessary  
329 information for use in evaluating outcomes of its efforts and in  
330 improving the quality of programs at each community college, and  
331 shall include information on literacy initiatives. Each workforce  
332 development center shall, through an interagency management  
333 information system, maintain records on placement, length of time  
334 on the job after placement and wage rates of those placed in a  
335 form containing such information as established by the state  
336 council.

337 **SECTION 7.** Section 37-153-13, Mississippi Code of 1972, is  
338 amended as follows:

339           37-153-13. The State Board for Community and Junior Colleges  
340 is designated as the primary support agency to the workforce  
341 development centers \* \* \*. The State Board for Community and  
342 Junior Colleges may exercise the following powers:

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

345           (b) To provide the workforce development centers  
346 consistent standards and benchmarks to guide development of the  
347 local work force development system and to provide a means by  
348 which the outcomes of local services can be measured;

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

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

354                   (ii) Establishing rigorous and comprehensive local  
355 pre-employment training programs;

356                   (iii) Developing local institutional capacity to  
357 deliver Total Quality Management training;

358                   (iv) Developing local institutional capacity to  
359 transfer new technologists into the marketplace;

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

362                   (vi) Developing data for strategic planning;

363           (d) To collaborate with the Mississippi Development  
364 Authority and other economic development organizations to increase  
365 the community college systems' economic development potential;

366           (e) To administer presented and approved certification  
367 programs by the community colleges for tax credits and partnership  
368 funding for corporate training;

369           (f) To create and maintain an evaluation team that  
370 examines which kinds of curricula and programs and what forms of  
371 quality control of training are most productive so that the

372 knowledge developed at one (1) institution of education can be  
373 transferred to others;

374 (g) To develop internal capacity to provide services  
375 and to contract for services from universities and other providers  
376 directly to local institutions;

377 (h) To develop and administer an incentive  
378 certification program; and

379 (i) To develop and hire staff and purchase equipment  
380 necessary to accomplish the goals set forth in this section.

381 **SECTION 8.** Section 71-5-5, Mississippi Code of 1972, is  
382 amended as follows:

383 71-5-5. The Legislature \* \* \* finds and declares that the  
384 existence and continued operation of a federal tax upon employers,  
385 against which some portion of the contributions required under  
386 this chapter may be credited, will protect Mississippi employers  
387 from undue disadvantages in their competition with employers in  
388 other states. If at any time, upon a formal complaint to the  
389 Governor, he shall find that Title IX of the Social Security Act  
390 has been amended or repealed by Congress or has been held  
391 unconstitutional by the Supreme Court of the United States, and  
392 that, as a result thereof, the provisions of this chapter  
393 requiring Mississippi employers to pay contributions will subject  
394 them to a serious competitive disadvantage in relation to  
395 employers in other states, he shall publish such findings and  
396 proclaim that the operation of the provisions of this chapter  
397 requiring the payment of contributions and benefits shall be  
398 suspended for a period of not more than six (6) months. The  
399 Department of Employment Security shall thereupon requisition from  
400 the Unemployment Trust Fund all monies therein standing to its  
401 credit, and shall direct the State Treasurer to deposit such  
402 monies, together with any other monies in the Unemployment  
403 Compensation Fund, as a special fund in any banks or public

404 depositories in this state in which general funds of the state may  
405 be deposited.

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

408 If within the aforesaid six-months' period the Governor shall  
409 find that other federal legislation has been enacted which avoids  
410 the competitive disadvantage herein described, he shall forthwith  
411 publicly so proclaim, and upon the date of such proclamation, the  
412 provisions of this chapter requiring the payment of contributions  
413 and benefits shall again become fully operative as of the date of  
414 such suspension with the same effect as if such suspension had not  
415 occurred. If within such six-months' period no such other federal  
416 legislation is enacted or the Legislature of this state has not  
417 otherwise prescribed, the Department of Employment Security shall,  
418 under regulations prescribed by it, refund, without interest, to  
419 each employer by whom contributions have been paid his pro rata  
420 share of the total contributions paid under this chapter. Any  
421 interest or earnings of the fund shall be available to the  
422 Department of Employment Security to pay for the costs of making  
423 such refunds. When the Department of Employment Security shall  
424 have executed the duties herein prescribed and performed such  
425 other acts as are incidental to the termination of its duties  
426 under this chapter, the Governor shall by public proclamation  
427 declare that the provisions of this chapter, in their entirety,  
428 shall cease to be operative.

429 **SECTION 9.** Section 71-5-11, Mississippi Code of 1972, is  
430 amended as follows:

431 71-5-11. As used in this chapter, unless the context clearly  
432 requires otherwise:

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

436 B. "Benefits" means the money payments payable to an  
437 individual, as provided in this chapter, with respect to his  
438 unemployment.

439 C. "Benefit year" with respect to any individual means the  
440 period beginning with the first day of the first week with respect  
441 to which he first files a valid claim for benefits, and ending  
442 with the day preceding the same day of the same month in the next  
443 calendar year; and, thereafter, the period beginning with the  
444 first day of the first week with respect to which he next files  
445 his valid claim for benefits, and ending with the day preceding  
446 the same day of the same month in the next calendar year. Any  
447 claim for benefits made in accordance with Section 71-5-515 shall  
448 be deemed to be a "valid claim" for purposes of this subsection if  
449 the individual has been paid the wages for insured work required  
450 under Section 71-5-511(e).

451 D. "Contributions" means the money payments to the State  
452 Unemployment Compensation Fund required by this chapter.

453 E. "Calendar quarter" means the period of three (3)  
454 consecutive calendar months ending on March 31, June 30, September  
455 30, or December 31.

456 F. "Department" or "commission" means the Mississippi  
457 Department of Employment Security, Office of the Governor.

458 G. "Executive director" means the Executive Director of the  
459 Mississippi Department of Employment Security, Office of the  
460 Governor, appointed under Section 71-5-107.

461 H. "Employing unit" means this state or another state or any  
462 instrumentalities or any political subdivisions thereof or any of  
463 their instrumentalities or any instrumentality of more than one  
464 (1) of the foregoing or any instrumentality of any of the  
465 foregoing and one or more other states or political subdivisions,  
466 any Indian tribe as defined in Section 3306(u) of the Federal  
467 Unemployment Tax Act (FUTA), which includes any subdivision,  
468 subsidiary or business enterprise wholly owned by such Indian

469 tribe, any individual or type of organization, including any  
470 partnership, association, trust, estate, joint-stock company,  
471 insurance company, or corporation, whether domestic or foreign, or  
472 the receiver, trustee in bankruptcy, trustee or successor thereof,  
473 or the legal representative of a deceased person, which has or had  
474 in its employ one or more individuals performing services for it  
475 within this state. All individuals performing services within  
476 this state for any employing unit which maintains two (2) or more  
477 separate establishments within this state shall be deemed to be  
478 employed by a single employing unit for all the purposes of this  
479 chapter. Each individual employed to perform or to assist in  
480 performing the work of any agent or employee of an employing unit  
481 shall be deemed to be employed by such employing unit for all  
482 purposes of this chapter, whether such individual was hired or  
483 paid directly by such employing unit or by such agent or employee,  
484 provided the employing unit had actual or constructive knowledge  
485 of the work. All individuals performing services in the employ of  
486 an elected fee-paid county official, other than those related by  
487 blood or marriage within the third degree computed by the rule of  
488 the civil law to such fee-paid county official, shall be deemed to  
489 be employed by such county as the employing unit for all the  
490 purposes of this chapter. For purposes of defining an "employing  
491 unit" which shall pay contributions on remuneration paid to  
492 individuals, if two (2) or more related corporations concurrently  
493 employ the same individual and compensate such individual through  
494 a common paymaster which is one (1) of such corporations, then  
495 each such corporation shall be considered to have paid as  
496 remuneration to such individual only the amounts actually  
497 disbursed by it to such individual and shall not be considered to  
498 have paid as remuneration to such individual such amounts actually  
499 disbursed to such individual by another of such corporations.

500 I. "Employer" means:

501 (1) Any employing unit which,

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

506                   (b) For some portion of a day in each of twenty  
507 (20) different calendar weeks, whether or not such weeks were  
508 consecutive, in either the current or the preceding calendar year  
509 had in employment at least one (1) individual (irrespective of  
510 whether the same individual was in employment in each such day),  
511 except as provided in paragraph (9) of this subsection;

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

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

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

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

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

526                   (6) Any individual or employing unit which acquired its  
527 organization, trade, business, or substantially all the assets  
528 thereof, from another employing unit, if the employment record of  
529 the acquiring individual or employing unit subsequent to such  
530 acquisition, together with the employment record of the acquired  
531 organization, trade, or business prior to such acquisition, both  
532 within the same calendar year, would be sufficient to constitute  
533 an employing unit an employer subject to this chapter under  
534 paragraph (1) or (3) of this subsection;



535           (7) Any employing unit which, having become an employer  
536 under paragraph (1), (3), (5) or (6) of this subsection or under  
537 any other provisions of this chapter, has not, under Section  
538 71-5-361, ceased to be an employer subject to this chapter;

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

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

547           (b) In determining whether or not an employing  
548 unit for which service other than agricultural labor is also  
549 performed is an employer under paragraph (1) or (4)(b) of this  
550 subsection, the wages earned or the employment of an employee  
551 performing services in agricultural labor, shall not be taken into  
552 account. If an employing unit is determined an employer of  
553 agricultural labor, such employing unit shall be determined an  
554 employer for purposes of paragraph (1) of this subsection;

555           (10) All entities utilizing the services of any  
556 employee leasing firm shall be considered the employer of the  
557 individuals leased from the employee leasing firm. Temporary help  
558 firms shall be considered the employer of the individuals they  
559 provide to perform services for other individuals or  
560 organizations.

561           J. "Employment" means and includes:

562           (1) Any service performed, which was employment as  
563 defined in this section and, subject to the other provisions of  
564 this subsection, including service in interstate commerce,  
565 performed for wages or under any contract of hire, written or  
566 oral, express or implied.

567           (2) Services performed for remuneration for a  
568 principal:  
569           (a) As an agent-driver or commission-driver  
570 engaged in distributing meat products, vegetable products, fruit  
571 products, bakery products, beverages (other than milk), or laundry  
572 or dry cleaning services;  
573           (b) As a traveling or city salesman, other than as  
574 an agent-driver or commission-driver, engaged upon a full-time  
575 basis in the solicitation on behalf of, and the transmission to, a  
576 principal (except for sideline sales activities on behalf of some  
577 other person) of orders from wholesalers, retailers, contractors,  
578 or operator of hotels, restaurants, or other similar  
579 establishments for merchandise for resale or supplies for use in  
580 their business operations.

581           However, for purposes of this subsection, the term  
582 "employment" shall include services described in subsections  
583 I(2)(a) and (b) of this section, only if:

584           (i) The contract of service contemplates that  
585 substantially all of the services are to be performed personally  
586 by such individual;

587           (ii) The individual does not have a  
588 substantial investment in facilities used in connection with the  
589 performance of the services (other than in facilities for  
590 transportation); and

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

594           (3) Service performed in the employ of this state or  
595 any of its instrumentalities or any political subdivision thereof  
596 or any of its instrumentalities or any instrumentality of more  
597 than one (1) of the foregoing or any instrumentality of any of the  
598 foregoing and one or more other states or political subdivisions  
599 or any Indian tribe as defined in Section 3306(u) of the Federal

600 Unemployment Tax Act (FUTA), which includes any subdivision,  
601 subsidiary or business enterprise wholly owned by such Indian  
602 tribe; however, such service is excluded from "employment" as  
603 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)  
604 of that act and is not excluded from "employment" under subsection  
605 I(5) of this section.

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

610 (b) The organization had four (4) or more  
611 individuals in employment for some portion of a day in each of  
612 twenty (20) different weeks, whether or not such weeks were  
613 consecutive, within the current or preceding calendar year,  
614 regardless of whether they were employed at the same moment of  
615 time.

616 (5) For the purposes of subsections I(3) and (4) of  
617 this section, the term "employment" does not apply to service  
618 performed:

619 (a) In the employ of:

620 (i) A church or convention or association of  
621 churches; or

622 (ii) An organization which is operated  
623 primarily for religious purposes and which is operated,  
624 supervised, controlled, or principally supported by a church or  
625 convention or association of churches; or

626 (b) By a duly ordained, commissioned, or licensed  
627 minister of a church in the exercise of his ministry, or by a  
628 member of a religious order in the exercise of duties required by  
629 such order; or

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

633 (i) As an elected official;

634 (ii) As a member of a legislative body, or a  
635 member of the judiciary, of a state or political subdivision or a  
636 member of an Indian tribal council;

637 (iii) As a member of the State National Guard  
638 or Air National Guard;

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

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

645 1. A major nontenured policy-making or  
646 advisory position, or

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

650 (d) In a facility conducted for the purpose of  
651 carrying out a program of rehabilitation for individuals whose  
652 earning capacity is impaired by age or physical or mental  
653 deficiency or injury, or providing remunerative work for  
654 individuals who because of their impaired physical or mental  
655 capacity cannot be readily absorbed in the competitive labor  
656 market, by an individual receiving such rehabilitation or  
657 remunerative work; or

658 (e) By an inmate of a custodial or penal  
659 institution; or

660 (f) As part of an unemployment work-relief or  
661 work-training program assisted or financed in whole or in part by  
662 any federal agency or agency of a state or political subdivision  
663 thereof or of an Indian tribe, by an individual receiving such  
664 work relief or work training, unless coverage of such service is  
665 required by federal law or regulation.

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

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

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

673                           (ii) For some portion of a day in each of  
674 twenty (20) different calendar weeks, whether or not such weeks  
675 were consecutive, in either the current or the preceding calendar  
676 year, employed in agricultural labor ten (10) or more individuals,  
677 regardless of whether they were employed at the same moment of  
678 time.

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

683                           (i) If such crew leader holds a valid  
684 certificate of registration under the Farm Labor Contractor  
685 Registration Act of 1963; or substantially all the members of such  
686 crew operate or maintain tractors, mechanized harvesting or crop  
687 dusting equipment, or any other mechanized equipment, which is  
688 provided by such crew leader; and

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

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

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

698                   (ii) Such other person shall be treated as  
699 having paid cash remuneration to such individual in an amount  
700 equal to the amount of cash remuneration paid to such individual  
701 by the crew leader (either on his own behalf or on behalf of such  
702 other person) for the service in agricultural labor performed for  
703 such other person.

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

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

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

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

714                   (7) The term "employment" shall include domestic  
715 service in a private home, local college club or local chapter of  
716 a college fraternity or sorority performed for an employing unit  
717 which paid cash remuneration of One Thousand Dollars (\$1,000.00)  
718 or more in any calendar quarter in the current or the preceding  
719 calendar year to individuals employed in such domestic service.  
720 For the purpose of this subsection, the term "employment" does not  
721 apply to service performed as a "sitter" at a hospital in the  
722 employ of an individual.

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

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

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

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

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

735                   (9) Services not covered under paragraph (8) of this  
736 subsection and performed entirely without this state, with respect  
737 to no part of which contributions are required and paid under an  
738 unemployment compensation law of any other state or of the federal  
739 government, shall be deemed to be employment subject to this  
740 chapter if the individual performing such services is a resident  
741 of this state and the department approves the election of the  
742 employing unit for whom such services are performed that the  
743 entire service of such individual shall be deemed to be employment  
744 subject to this chapter.

745                   (10) Service shall be deemed to be localized within a  
746 state if:

747                   (a) The service is performed entirely within such  
748 state; or

749                   (b) The service is performed both within and  
750 without such state, but the service performed without such state  
751 is incidental to the individual's service within the state; for  
752 example, is temporary or transitory in nature or consists of  
753 isolated transactions.

754                   (11) The services of an individual who is a citizen of  
755 the United States, performed outside the United States (except in  
756 Canada), in the employ of an American employer (other than service  
757 which is deemed "employment" under the provisions of paragraph  
758 (8), (9) or (10) of this subsection or the parallel provisions of  
759 another state's law), if:

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

762                   (b) The employer has no place of business in the  
763 United States, but

764 (i) The employer is an individual who is a  
765 resident of this state; or  
766 (ii) The employer is a corporation which is  
767 organized under the laws of this state; or  
768 (iii) The employer is a partnership or a  
769 trust and the number of the partners or trustees who are residents  
770 of this state is greater than the number who are residents of any  
771 one (1) other state; or

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

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

779 (i) An individual who is a resident of the  
780 United States; or

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

783 (iii) A trust, if all of the trustees are  
784 residents of the United States; or

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

787 (12) All services performed by an officer or member of  
788 the crew of an American vessel on or in connection with such  
789 vessel, if the operating office from which the operations of such  
790 vessel operating on navigable waters within, or within and  
791 without, the United States are ordinarily and regularly  
792 supervised, managed, directed and controlled is within this state;  
793 notwithstanding the provisions of subsection I(8).

794 (13) Service with respect to which a tax is required to  
795 be paid under any federal law imposing a tax against which credit  
796 may be taken for contributions required to be paid into a state



797 unemployment fund, or which as a condition for full tax credit  
798 against the tax imposed by the Federal Unemployment Tax Act, 26  
799 USCS Section 3301 et seq., is required to be covered under this  
800 chapter, notwithstanding any other provisions of this subsection.

801           (14) Services performed by an individual for wages  
802 shall be deemed to be employment subject to this chapter unless  
803 and until it is shown to the satisfaction of the department that  
804 such individual has been and will continue to be free from control  
805 and direction over the performance of such services both under his  
806 contract of service and in fact; and the relationship of employer  
807 and employee shall be determined in accordance with the principles  
808 of the common law governing the relation of master and servant.

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

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

813                           (i) On a farm or in a forest in the employ of  
814 any employing unit in connection with cultivating the soil, in  
815 connection with cutting, planting, deadening, marking or otherwise  
816 improving timber, or in connection with raising or harvesting any  
817 agricultural or horticultural commodity, including the raising,  
818 shearing, feeding, caring for, training, and management of  
819 livestock, bees, poultry, fur-bearing animals and wildlife;

820                           (ii) In the employ of the owner or tenant or  
821 other operator of a farm, in connection with the operation,  
822 management, conservation, improvement or maintenance of such farm  
823 and its tools and equipment, or in salvaging timber or clearing  
824 land of brush and other debris left by a hurricane, if the major  
825 part of such service is performed on a farm;

826                           (iii) In connection with the production or  
827 harvesting of naval stores products or any commodity defined in  
828 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),  
829 or in connection with the raising or harvesting of mushrooms, or

830 in connection with the ginning of cotton, or in connection with  
831 the operation or maintenance of ditches, canals, reservoirs, or  
832 waterways not owned or operated for profit, used exclusively for  
833 supplying and storing water for farming purposes;

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

841 (B) In the employ of a group of  
842 operators of farms (or a cooperative organization of which such  
843 operators are members) in the performance of service described in  
844 subparagraph (A), but only if such operators produced more than  
845 one-half (1/2) of the commodity with respect to which such service  
846 is performed;

847 (C) The provisions of subparagraphs (A)  
848 and (B) shall not be deemed to be applicable with respect to  
849 service performed in connection with commercial canning or  
850 commercial freezing or in connection with any agricultural or  
851 horticultural commodity after its delivery to a terminal market  
852 for distribution for consumption;

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

855 (vi) As used in paragraph (15)(a) of this  
856 subsection, the term "farm" includes stock, dairy, poultry, fruit,  
857 fur-bearing animals, and truck farms, plantations, ranches,  
858 nurseries, ranges, greenhouses, or other similar structures used  
859 primarily for the raising of agricultural or horticultural  
860 commodities, and orchards.

861 (b) Domestic service in a private home, local  
862 college club, or local chapter of a college fraternity or

863 sorority, except as provided in subsection I(7) of this section,  
864 or service performed as a "sitter" at a hospital in the employ of  
865 an individual.

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

868 (d) Service performed by an individual in the  
869 employ of his son, daughter, or spouse, and service performed by a  
870 child under the age of twenty-one (21) in the employ of his father  
871 or mother.

872 (e) Service performed in the employ of the United  
873 States government or of an instrumentality wholly owned by the  
874 United States; except that if the Congress of the United States  
875 shall permit states to require any instrumentalities of the United  
876 States to make payments into an unemployment fund under a state  
877 unemployment compensation act, then to the extent permitted by  
878 Congress and from and after the date as of which such permission  
879 becomes effective, all of the provisions of this chapter shall be  
880 applicable to such instrumentalities and to services performed by  
881 employees for such instrumentalities in the same manner, to the  
882 same extent, and on the same terms as to all other employers and  
883 employing units. If this state should not be certified under the  
884 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any  
885 year, then the payment required by such instrumentality with  
886 respect to such year shall be deemed to have been erroneously  
887 collected and shall be refunded by the department from the fund in  
888 accordance with the provisions of Section 71-5-383.

889 (f) Service performed in the employ of an  
890 "employer" as defined by the Railroad Unemployment Insurance Act,  
891 45 USCS Section 351(a), or as an "employee representative" as  
892 defined by the Railroad Unemployment Insurance Act, 45 USCS  
893 Section 351(f), and service with respect to which unemployment  
894 compensation is payable under an unemployment compensation system  
895 for maritime employees, or under any other unemployment

896 compensation system established by an act of Congress; however,  
897 the department is \* \* \* authorized and directed to enter into  
898 agreements with the proper agencies under such act or acts of  
899 Congress, which agreements shall become effective ten (10) days  
900 after publication thereof in the manner provided in Section  
901 71-5-117 for general rules, to provide reciprocal treatment to  
902 individuals who have, after acquiring potential rights to benefits  
903 under this chapter, acquired rights to unemployment compensation  
904 under such act or acts of Congress or who have, after acquiring  
905 potential rights to unemployment compensation under such act or  
906 acts of Congress, acquired rights to benefits under this chapter.

907 (g) Service performed in any calendar quarter in  
908 the employ of any organization exempt from income tax under the  
909 Internal Revenue Code, 26 USCS Section 501(a) (other than an  
910 organization described in 26 USCS Section 401(a)), or exempt from  
911 income tax under 26 USCS Section 521 if the remuneration for such  
912 service is less than Fifty Dollars (\$50.00).

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

915 (i) By a student who is enrolled and is  
916 regularly attending classes at such school, college or university,  
917 or

918 (ii) By the spouse of such a student if such  
919 spouse is advised, at the time such spouse commences to perform  
920 such service, that

921 (A) The employment of such spouse to  
922 perform such service is provided under a program to provide  
923 financial assistance to such student by such school, college, or  
924 university, and

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

927 (i) Service performed by an individual under the  
928 age of twenty-two (22) who is enrolled at a nonprofit or public

929 educational institution which normally maintains a regular faculty  
930 and curriculum and normally has a regularly organized body of  
931 students in attendance at the place where its educational  
932 activities are carried on, as a student in a full-time program  
933 taken for credit at such institution, which combines academic  
934 instruction with work experience, if such service is an integral  
935 part of such program and such institution has so certified to the  
936 employer, except that this subparagraph shall not apply to service  
937 performed in a program established for or on behalf of an employer  
938 or group of employers.

939           (j) Service performed in the employ of a hospital,  
940 if such service is performed by a patient of the hospital, as  
941 defined in subsection L of this section.

942           (k) Service performed as a student nurse in the  
943 employ of a hospital or a nurses' training school by an individual  
944 who is enrolled and is regularly attending classes in a nurses'  
945 training school chartered or approved pursuant to state law; and  
946 services performed as an intern in the employ of a hospital by an  
947 individual who has completed a four-year course in a medical  
948 school chartered or approved pursuant to state law.

949           (l) Service performed by an individual as an  
950 insurance agent or as an insurance solicitor, if all such service  
951 performed by such individual is performed for remuneration solely  
952 by way of commission.

953           (m) Service performed by an individual under the  
954 age of eighteen (18) in the delivery or distribution of newspapers  
955 or shopping news, not including delivery or distribution to any  
956 point for subsequent delivery or distribution.

957           (n) If the services performed during one-half  
958 (1/2) or more of any pay period by an employee for the employing  
959 unit employing him constitute employment, all the services of such  
960 employee for such period shall be deemed to be employment; but if  
961 the services performed during more than one-half (1/2) of any such

962 pay period by an employee for the employing unit employing him do  
963 not constitute employment, then none of the services of such  
964 employee for such period shall be deemed to be employment. As  
965 used in this subsection the term "pay period" means a period (of  
966 not more than thirty-one (31) consecutive days) for which a  
967 payment of remuneration is ordinarily made to the employee by the  
968 employing unit employing him.

969 \* \* \*

970 (o) Service performed by a barber or beautician  
971 whose work station is leased to him or her by the owner of the  
972 shop in which he or she works and who is compensated directly by  
973 the patrons he or she serves and who is free from direction and  
974 control by the lessor.

975 K. "Employment office" means a free public employment office  
976 or branch thereof, operated by this state or maintained as a part  
977 of the state controlled system of public employment offices.

978 L. "Public employment service" means the operation of a  
979 program that offers free placement and referral services to  
980 applicants and employers, including job development.

981 M. "Fund" means the Unemployment Compensation Fund  
982 established by this chapter, to which all contributions required  
983 and from which all benefits provided under this chapter shall be  
984 paid.

985 N. "Hospital" means an institution which has been licensed,  
986 certified, or approved by the State Department of Health as a  
987 hospital.

988 O. "Institution of higher learning," for the purposes of  
989 this section, means an educational institution which:

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

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

995           (3) Provides an educational program for which it awards  
996 a bachelor's or higher degree, or provides a program which is  
997 acceptable for full credit toward such a degree, a program of  
998 postgraduate or postdoctoral studies, or a program of training to  
999 prepare students for gainful employment in a recognized  
1000 occupation;

1001           (4) Is a public or other nonprofit institution;

1002           (5) Notwithstanding any of the foregoing provisions of  
1003 this subsection, all colleges and universities in this state are  
1004 institutions of higher learning for purposes of this section.

1005       P. (1) "State" includes, in addition to the states of the  
1006 United States of America, the District of Columbia, Commonwealth  
1007 of Puerto Rico and the Virgin Islands.

1008           (2) The term "United States" when used in a  
1009 geographical sense includes the states, the District of Columbia,  
1010 Commonwealth of Puerto Rico and the Virgin Islands.

1011           (3) The provisions of subsections (1) and (2) of  
1012 paragraph N, as including the Virgin Islands, shall become  
1013 effective on the day after the day on which the United States  
1014 Secretary of Labor approves for the first time under Section  
1015 3304(a) of the Internal Revenue Code of 1954 an unemployment  
1016 compensation law submitted to the secretary by the Virgin Islands  
1017 for such approval.

1018       Q. "Unemployment."

1019           (1) An individual shall be deemed "unemployed" in any  
1020 week during which he performs no services and with respect to  
1021 which no wages are payable to him, or in any week of less than  
1022 full-time work if the wages payable to him with respect to such  
1023 week are less than his weekly benefit amount as computed and  
1024 adjusted in Section 71-5-505. The department shall prescribe  
1025 regulations applicable to unemployed individuals, making such  
1026 distinctions in the procedure as to total unemployment, part-total  
1027 unemployment, partial unemployment of individuals attached to

1028 their regular jobs, and other forms of short-time work, as the  
1029 department deems necessary.

1030 (2) An individual's week of total unemployment shall be  
1031 deemed to commence only after his registration at an employment  
1032 office, except as the department may by regulation otherwise  
1033 prescribe.

1034 R. (1) "Wages" means all remuneration for personal  
1035 services, including commissions and bonuses and the cash value of  
1036 all remuneration in any medium other than cash, except that  
1037 "wages," for purposes of determining employer's coverage and  
1038 payment of contributions for agricultural and domestic service  
1039 means cash remuneration only. The reasonable cash value of  
1040 remuneration in any medium other than cash shall be estimated and  
1041 determined in accordance with rules prescribed by the department;  
1042 however, that the term "wages" shall not include:

1043 (a) The amount of any payment made to, or on  
1044 behalf of, an employee under a plan or system established by an  
1045 employer which makes provision for his employees generally or for  
1046 a class or classes of his employees (including any amount paid by  
1047 an employer for insurance or annuities, or into a fund, to provide  
1048 for any such payment), on account of:

1049 (i) Retirement, or  
1050 (ii) Sickness or accident disability, or  
1051 (iii) Medical or hospitalization expenses in  
1052 connection with sickness or actual disability, or

1053 (iv) Death, provided the employee:

1054 (A) Has not the option to receive,  
1055 instead of provision for such death benefit, any part of such  
1056 payment or, if such death benefit is insured, any part of the  
1057 premiums (or contributions to premiums) paid by his employer, and

1058 (B) Has not the right, under the  
1059 provisions of the plan or system or policy of insurance providing  
1060 for such death benefit, to assign such benefit or to receive a



1061 cash consideration in lieu of such benefit, either upon his  
1062 withdrawal from the plan or system providing for such benefit or  
1063 upon termination of such plan or system or policy of insurance or  
1064 of his employment with such employer;

1065 (b) Dismissal payments which the employer is not  
1066 legally required to make;

1067 (c) Payment by an employer (without deduction from  
1068 the remuneration of an employee) of the tax imposed by the  
1069 Internal Revenue Code, 26 USCS Section 3101;

1070 (d) From and after January 1, 1992, the amount of  
1071 any payment made to or on behalf of an employee for a "cafeteria"  
1072 plan, which meets the following requirements:

1073 (i) Qualifies under Section 125 of the  
1074 Internal Revenue Code;

1075 (ii) Covers only employees;

1076 (iii) Covers only noncash benefits;

1077 (iv) Does not include deferred compensation  
1078 plans.

1079 (2) [Not enacted].

1080 S. "Week" means calendar week or such period of seven (7)  
1081 consecutive days as the department may by regulation prescribe.  
1082 The department may by regulation prescribe that a week shall be  
1083 deemed to be in, within, or during any benefit year which includes  
1084 any part of such week.

1085 T. "Insured work" means "employment" for "employers."

1086 U. The term "includes" and "including," when used in a  
1087 definition contained in this chapter, shall not be deemed to  
1088 exclude other things otherwise within the meaning of the term  
1089 defined.

1090 V. "Employee leasing arrangement" means any agreement  
1091 between an employee leasing firm and a client, whereby specified  
1092 client responsibilities such as payment of wages, reporting of  
1093 wages for unemployment insurance purposes, payment of unemployment

1094 insurance contributions and other such administrative duties are  
1095 to be performed by an employee leasing firm, on an ongoing basis.

1096 W. "Employee leasing firm" means any entity which provides  
1097 specified duties for a client company such as payment of wages,  
1098 reporting of wages for unemployment insurance purposes, payment of  
1099 unemployment insurance contributions and other administrative  
1100 duties, in connection with the client's employees, that are  
1101 directed and controlled by the client and that are providing  
1102 ongoing services for the client.

1103 X. "Temporary help firm" means an entity which hires its own  
1104 employees and provides those employees to other individuals or  
1105 organizations to perform some service, to support or supplement  
1106 the existing work force in special situations such as employee  
1107 absences, temporary skill shortages, seasonal workloads and  
1108 special assignments and projects, with the expectation that the  
1109 worker's position will be terminated upon the completion of the  
1110 specified task or function.

1111 **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is  
1112 amended as follows:

1113 71-5-19. (1) Whoever makes a false statement or  
1114 representation knowing it to be false, or knowingly fails to  
1115 disclose a material fact, to obtain or increase any benefit or  
1116 other payment under this chapter or under an employment security  
1117 law of any other state, of the federal government or of a foreign  
1118 government, either for himself or for any other person, shall be  
1119 punished by a fine of not less than One Hundred Dollars (\$100.00)  
1120 nor more than Five Hundred Dollars (\$500.00), or by imprisonment  
1121 for not longer than thirty (30) days, or by both such fine and  
1122 imprisonment; and each such false statement or representation or  
1123 failure to disclose a material fact shall constitute a separate  
1124 offense.

1125 (2) Any employing unit, any officer or agent of an employing  
1126 unit or any other person who makes a false statement or

1127 representation knowing it to be false, or who knowingly fails to  
1128 disclose a material fact, to prevent or reduce the payment of  
1129 benefits to any individual entitled thereto, or to avoid becoming  
1130 or remaining subject hereto, or to avoid or reduce any  
1131 contribution or other payment required from any employing unit  
1132 under this chapter, or who willfully fails or refuses to make any  
1133 such contribution or other payment, or to furnish any reports  
1134 required hereunder or to produce or permit the inspection or  
1135 copying of records as required hereunder, shall be punished by a  
1136 fine of not less than One Hundred Dollars (\$100.00) nor more than  
1137 One Thousand Dollars (\$1,000.00), or by imprisonment for not  
1138 longer than sixty (60) days, or by both such fine and  
1139 imprisonment; and each such false statement, or representation, or  
1140 failure to disclose a material fact, and each day of such failure  
1141 or refusal shall constitute a separate offense. In lieu of such  
1142 fine and imprisonment, the employing unit or representative, or  
1143 both employing unit and representative, if such representative is  
1144 an employing unit in this state and is found to be a party to such  
1145 violation, shall not be eligible for a contributions rate of less  
1146 than five and four-tenths percent (5.4%) for the tax year in which  
1147 such violation is discovered by the department and for the next  
1148 two (2) succeeding tax years.

1149 (3) Any person who shall willfully violate any provision of  
1150 this chapter or any other rule or regulation thereunder, the  
1151 violation of which is made unlawful or the observance of which is  
1152 required under the terms of this chapter and for which a penalty  
1153 is neither prescribed herein nor provided by any other applicable  
1154 statute, shall be punished by a fine of not less than One Hundred  
1155 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),  
1156 or by imprisonment for not longer than sixty (60) days, or by both  
1157 such fine and imprisonment; and each day such violation continues  
1158 shall be deemed to be a separate offense. In lieu of such fine  
1159 and imprisonment, the employing unit or representative, or both

1160 employing unit and representative, if such representative is an  
1161 employing unit in this state and is found to be a party to such  
1162 violation, shall not be eligible for a contributions rate of less  
1163 than five and four-tenths percent (5.4%) for the tax year in which  
1164 the violation is discovered by the department and for the next two  
1165 (2) succeeding tax years.

1166 (4) Any person who, by reason of the nondisclosure or  
1167 misrepresentation by him or by another of a material fact,  
1168 irrespective of whether such nondisclosure or misrepresentation  
1169 was known or fraudulent, or who, for any other reason has received  
1170 any such benefits under this chapter, while any conditions for the  
1171 receipt of benefits imposed by this chapter were not fulfilled in  
1172 his case, or while he was disqualified from receiving benefits,  
1173 shall, in the discretion of the department, either be liable to  
1174 have such sum deducted from any future benefits payable to him  
1175 under this chapter or shall be liable to repay to the department  
1176 for the unemployment compensation fund a sum equal to the amount  
1177 so received by him; and such sum shall be collectible in the  
1178 manner provided in Sections 71-5-363 through 71-5-383 for the  
1179 collection of past-due contributions. \* \* \* However, \* \* \* no such  
1180 deduction shall be made, nor shall any action be taken for the  
1181 collection of any such overpayments, after five (5) years have  
1182 elapsed from the date of the receipt of the benefits at issue; and  
1183 any such judgment against such person for collection of such  
1184 overpayments shall not be a lien upon the property of the person  
1185 for a longer period than five (5) years from the date of the  
1186 filing of the lien, and any such notice of lien shall not be  
1187 refiled by the department.

1188 (5) The department, by agreement with another state or the  
1189 United States, as provided under Section 303(g) of the Social  
1190 Security Act, may recover any overpayment of benefits paid to any  
1191 individual under the laws of this state or of another state or  
1192 under an unemployment benefit program of the United States. Any

1193 overpayments subject to this subsection may be deducted from any  
1194 future benefits payable to the individual under the laws of this  
1195 state or of another state or under an unemployment program of the  
1196 United States.

1197       **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is  
1198 amended as follows:

1199       71-5-101. There is established the Mississippi Department of  
1200 Employment Security, Office of the Governor. The Department of  
1201 Employment Security shall be the Mississippi Employment Security  
1202 Commission and shall retain all powers and duties as granted to  
1203 the Mississippi Employment Security Commission. Wherever the term  
1204 "Employment Security Commission" appears in any law, the same  
1205 shall mean the Mississippi Department of Employment Security,  
1206 Office of the Governor. The Executive Director of the Department  
1207 of Employment Security may assign to the appropriate offices such  
1208 powers and duties deemed appropriate to carry out the lawful  
1209 functions of the department.

1210       **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is  
1211 amended as follows:

1212       71-5-107. The department shall administer this chapter  
1213 through a full-time salaried executive director, to be appointed  
1214 by the Governor, with the advice and consent of the Senate.  
1215 He \* \* \* shall be responsible for the administration of this  
1216 chapter under authority delegated to him by the Governor.

1217       **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is  
1218 amended as follows:

1219       71-5-109. There is \* \* \* created a board of review  
1220 consisting of three (3) members to be appointed by the executive  
1221 director. The executive director shall designate one (1) member  
1222 of the board of review as chairman. Each member shall be paid a  
1223 salary or per diem at a rate to be determined by the executive  
1224 director, and such expenses as may be allowed by the executive  
1225 director. All salaries, per diem and expenses of the Board of

1226 Review shall be paid from the Employment Security Administration  
1227 Fund.

1228         **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is  
1229 amended as follows:

1230         71-5-111. There is \* \* \* created in the State Treasury a  
1231 special fund to be known as the Employment Security Administration  
1232 Fund. All monies which are deposited or paid into this fund  
1233 are \* \* \* appropriated and made available to the department. All  
1234 monies in this fund shall be expended solely for the purpose of  
1235 defraying the cost of administration of this chapter, and for no  
1236 other purpose whatsoever. The fund shall consist of all monies  
1237 appropriated by this state and all monies received from the United  
1238 States of America, or any agency thereof, or from any other source  
1239 for such purpose. Notwithstanding any provision of this section,  
1240 all monies requisitioned and deposited in this fund pursuant to  
1241 Section 71-5-457 shall remain part of the Employment Security  
1242 Administration Fund and shall be used only in accordance with the  
1243 conditions specified in that section. All monies in this fund  
1244 shall be deposited, administered and disbursed in the same manner  
1245 and under the same conditions and requirements as is provided by  
1246 law for other special funds in the State Treasury. The State  
1247 Treasurer shall be liable on his official bond for the faithful  
1248 performance of his duties in connection with the Employment  
1249 Security Administration Fund under this chapter.

1250         **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is  
1251 amended as follows:

1252         71-5-112. All funds received by the Mississippi Employment  
1253 Security Commission shall clear through the State Treasury as  
1254 provided and required by Sections 71-5-111 and 71-5-453. All  
1255 expenditures from the administration fund of the department  
1256 authorized by Section 71-5-111 shall be expended only pursuant to  
1257 appropriation approved by the Legislature and as provided by law.

1258           **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is  
1259 amended as follows:

1260           71-5-113. All monies received from the Social Security Board  
1261 or its successors for the administration of this chapter shall be  
1262 expended solely for the purposes and in the amounts found  
1263 necessary by the Social Security Board or its successors for the  
1264 proper and efficient administration of this chapter.

1265           It shall be the duty of the department to take appropriate  
1266 action with respect to the replacement, within a reasonable time,  
1267 of any monies received from the Social Security Board, or its  
1268 successors, for the administration of this chapter, and monies  
1269 used to match grants pursuant to the provisions of the  
1270 Wagner-Peyser Act, which the board, or its successors, find,  
1271 because of any action or contingency, have been lost or have been  
1272 expended for purposes other than, or in amounts in excess of those  
1273 found necessary by the Social Security Board, or its successors,  
1274 for the proper administration of this chapter. Funds which have  
1275 been expended by the department or its agents in accordance with  
1276 the budget approved by the Social Security Board, or its  
1277 successors, or in accordance with the general standards and  
1278 limitations promulgated by the Social Security Board, or its  
1279 successors, prior to such expenditure (where proposed expenditures  
1280 have not been specifically disapproved by the Social Security  
1281 Board, or its successors), shall not be deemed to require  
1282 replacement. To effectuate the purposes of this paragraph, it  
1283 shall be the duty of the department to take such action to  
1284 safeguard the expenditure of the funds referred to herein as it  
1285 deems necessary. In the event of a loss of such funds or an  
1286 improper expenditure thereof as herein defined, it shall be the  
1287 duty of the department to notify the Governor of any such loss or  
1288 improper expenditure and submit to him a request for an  
1289 appropriation in the amount thereof. The Governor shall transmit  
1290 to the next regular session of the Legislature following such

1291 notification, the department's request for an appropriation in an  
1292 amount necessary to replace funds which have been lost or  
1293 improperly expended as defined above. Such request of the  
1294 department for an appropriation shall not be subject to the  
1295 provisions of Sections 27-103-101 through 27-103-139. The  
1296 Legislature recognizes its obligation to replace such funds as may  
1297 be necessary and shall make necessary appropriations in accordance  
1298 with such requests.

1299 **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is  
1300 amended as follows:

1301 71-5-114. There is \* \* \* created in the State Treasury a  
1302 special fund, to be known as the "Special Employment Security  
1303 Administration Fund," into which shall be deposited or transferred  
1304 all interest, penalties and damages collected on and after July 1,  
1305 1982, pursuant to Sections 71-5-363 through 71-5-379. Interest,  
1306 penalties and damages collected on delinquent payments deposited  
1307 during any calendar quarter in the clearing account in the  
1308 Unemployment Compensation Fund shall, as soon as practicable after  
1309 the close of such calendar quarter, be transferred to the Special  
1310 Employment Security Administration Fund. All monies in this fund  
1311 shall be deposited, administered and disbursed in the same manner  
1312 and under the same conditions and requirements as is provided by  
1313 law for other special funds in the State Treasury. The State  
1314 Treasurer shall be liable on his official bond for the faithful  
1315 performance of his duties in connection with the Special  
1316 Employment Security Administration Fund under this chapter. Those  
1317 monies shall not be expended or made available for expenditure in  
1318 any manner which would permit their substitution for (or permit a  
1319 corresponding reduction in) federal funds which would, in the  
1320 absence of those monies, be available to finance expenditures for  
1321 the administration of the state unemployment compensation and  
1322 employment service laws. Nothing in this section shall prevent  
1323 those monies in this fund from being used as a revolving fund to



1324 cover expenditures necessary and proper under the law for which  
1325 federal funds have been duly requested but not yet received,  
1326 subject to the charging of such expenditures against such funds  
1327 when necessary. The monies in this fund may be used by the  
1328 department for the payment of costs of administration of the  
1329 employment security laws of this state which are found not to be  
1330 or not to have been properly and validly chargeable against funds  
1331 obtained from federal sources. All monies in this Special  
1332 Employment Security Administration Fund shall be continuously  
1333 available to the department for expenditure in accordance with the  
1334 provisions of this chapter, and shall not lapse at any time. The  
1335 monies in this fund are \* \* \* specifically made available to  
1336 replace, as contemplated by Section 71-5-113, expenditures from  
1337 the Employment Security Administration Fund established by Section  
1338 71-5-111, which have been found, because of any action or  
1339 contingency, to have been lost or improperly expended.

1340       The department, whenever it is of the opinion that the money  
1341 in the Special Employment Security Administration Fund is more  
1342 than ample to pay for all foreseeable needs for which such special  
1343 fund is set up, may, by written order, order the transfer  
1344 therefrom to the Unemployment Compensation Fund of such amount of  
1345 money in the \* \* \* Special Employment Security Administration Fund  
1346 as it deems proper, and the same shall thereupon be immediately  
1347 transferred to the Unemployment Compensation Fund.

1348       **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is  
1349 amended as follows:

1350       71-5-115. It shall be the duty of the executive director to  
1351 administer this chapter; and the executive director shall have the  
1352 power and authority to adopt, amend or rescind such rules and  
1353 regulations, to employ such persons, make such expenditures,  
1354 require such reports, make such investigations, and take such  
1355 other action as he deems necessary or suitable to that end. Such  
1356 rules and regulations shall be effective upon publication in the

1357 manner, not inconsistent with the provisions of this chapter,  
1358 which the executive director shall prescribe. The executive  
1359 director shall determine the department's own organization and  
1360 methods of procedure in accordance with the provisions of this  
1361 chapter, and shall have an official seal which shall be judicially  
1362 noticed. Not later than the first day of February in each year,  
1363 the executive director shall submit to the Governor a report  
1364 covering the administration and operation of this chapter during  
1365 the preceding fiscal year and shall make such recommendations for  
1366 amendments to this chapter as the executive director deems proper.  
1367 Whenever the executive director believes that a change in  
1368 contribution or benefit rates will become necessary to protect the  
1369 solvency of the fund, he shall promptly so inform the Governor and  
1370 the Legislature, and make recommendations with respect thereto.

1371 **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is  
1372 amended as follows:

1373 71-5-117. General rules may be adopted, amended or rescinded  
1374 by the executive director only after public hearing or opportunity  
1375 to be heard thereon, of which proper notice has been given.  
1376 General rules shall become effective ten (10) days after filing  
1377 with the Secretary of State and publication in one or more  
1378 newspapers of general circulation in this state. Regulations may  
1379 be adopted, amended or rescinded by the executive director and  
1380 shall become effective in the manner and at the time prescribed by  
1381 the executive director.

1382 **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is  
1383 amended as follows:

1384 71-5-119. The department shall cause to be printed for  
1385 distribution to the public the text of this chapter, its  
1386 regulations and general rules, its reports to the Governor, and  
1387 any other material it deems relevant and suitable, and shall  
1388 furnish the same to any person upon application therefor.

1389           **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is  
1390 amended as follows:

1391           71-5-121. Subject to other provisions of this chapter, the  
1392 executive director is authorized to appoint, fix the compensation,  
1393 and prescribe the duties and powers of such officers, accountants,  
1394 attorneys, experts and other persons as may be necessary in the  
1395 performance of department duties; however, all personnel who were  
1396 former members of the Armed Forces of the United States of America  
1397 shall be given credit regardless of rate, rank or commission. All  
1398 positions shall be filled by persons selected and appointed on a  
1399 nonpartisan merit basis, in accordance with Section 25-9-101 et  
1400 seq., that provides for a state service personnel system. The  
1401 executive director shall not employ any person who is an officer  
1402 or committee member of any political party organization. The  
1403 executive director may delegate to any such person so appointed  
1404 such power and authority as he deems reasonable and proper for the  
1405 effective administration of this chapter, and may in his  
1406 discretion bond any person handling monies or signing checks  
1407 hereunder. The veteran status of an individual shall be  
1408 considered and preference given in accordance with the provisions  
1409 of the State Personnel Board.

1410           The department and its employees are exempt from Sections  
1411 25-15-101 and 25-15-103.

1412           The department may use federal granted funds to provide such  
1413 group health, life, accident and hospitalization insurance for its  
1414 employees as may be agreed upon by the department and the federal  
1415 granting authorities.

1416           The department shall adopt a "layoff formula" to be used  
1417 wherever it is determined that, because of reduced workload,  
1418 budget reductions or in order to effect a more economical  
1419 operation, a reduction in force shall occur in any group.

1420           In establishing this formula, the department shall give  
1421 effect to the principle of seniority and shall provide that

1422 seniority points may be added for disabled veterans and veterans,  
1423 with due regard to the efficiency of the service. Any such layoff  
1424 formula shall be implemented according to the policies, rules and  
1425 regulations of the State Personnel Board.

1426         **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is  
1427 amended as follows:

1428         71-5-123. The executive director shall retain all powers and  
1429 duties as granted to the state advisory council appointed by the  
1430 former Employment Security Commission. The executive director may  
1431 appoint local advisory councils, composed in each case of an equal  
1432 number of employer representatives and employee representatives  
1433 who may fairly be regarded as representative because of their  
1434 vocation, employment or affiliations, and of such members  
1435 representing the general public as the executive director may  
1436 designate. Such councils shall aid the department in formulating  
1437 policies and discussing problems related to the administration of  
1438 this chapter and in assuring impartiality and freedom from  
1439 political influence in the solution of such problems. Members of  
1440 the advisory councils shall receive a per diem in accordance with  
1441 Section 25-3-69 for attendance upon meetings of the council, and  
1442 shall be reimbursed for actual and necessary traveling expenses.  
1443 The per diem and expenses herein authorized shall be paid from the  
1444 Employment Security Administration Fund.

1445         **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is  
1446 amended as follows:

1447         71-5-125. The department shall take all appropriate steps to  
1448 reduce and prevent unemployment; to encourage and assist in the  
1449 adoption of practical methods of vocational training, retraining  
1450 and vocational guidance; to investigate, recommend, advise and  
1451 assist in the establishment and operation, by municipalities,  
1452 counties, school districts and the state, of reserves for public  
1453 works to be used in times of business depression and unemployment;  
1454 to promote the reemployment of unemployed workers throughout the

1455 state in every other way that may be feasible; and to these ends  
1456 to carry on and publish the results of investigation and research  
1457 studies.

1458         **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is  
1459 amended as follows:

1460         71-5-127. Each employing unit shall keep true and accurate  
1461 work records, containing such information as the department may  
1462 prescribe. Such records shall be open to inspection and be  
1463 subject to being copied by the department or its authorized  
1464 representatives at any reasonable time and as often as may be  
1465 necessary. The department, board of review and any referee may  
1466 require from any employing unit any sworn or unsworn reports with  
1467 respect to persons employed by it which they or any of them deem  
1468 necessary for the effective administration of this chapter.  
1469 Information thus obtained or obtained from any individual pursuant  
1470 to the administration of this chapter shall, except to the extent  
1471 necessary for the proper administration of this chapter, be held  
1472 confidential and shall not be published or be opened to public  
1473 inspection (other than to public employees in the performance of  
1474 their public duties) in any manner revealing the individual's or  
1475 employing unit's identity, but any claimant (or his legal  
1476 representative) at a hearing before an appeal tribunal or the  
1477 board of review shall be supplied with information from such  
1478 records to the extent necessary for the proper presentation of his  
1479 claim. Any employee or member of the board of review or any  
1480 employee of the department who violates any provisions of this  
1481 section shall be fined not less than Twenty Dollars (\$20.00) nor  
1482 more than Two Hundred Dollars (\$200.00), or imprisoned for not  
1483 longer than ninety (90) days, or both. The department may make  
1484 the state's records relating to the administration of this chapter  
1485 available to the Railroad Retirement Board, and may furnish the  
1486 Railroad Retirement Board, at the expense of such board, such  
1487 copies thereof as the Railroad Retirement Board deems necessary

1488 for its purposes. The department may afford reasonable  
1489 cooperation with every agency of the United States charged with  
1490 the administration of any unemployment insurance law.

1491 **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is  
1492 amended as follows:

1493 71-5-129. Records hereinafter designated, which are found by  
1494 the department to be useless, may be disposed of in accordance  
1495 with approved records control schedules.

1496 (a) Records which have been preserved by it for not  
1497 less than three (3) years:

- 1498 (1) Initial claims for benefits,
- 1499 (2) Continued claims for benefits,
- 1500 (3) Correspondence and master index cards in  
1501 connection with such claims for benefits, and
- 1502 (4) Individual wage slips filed by employers  
1503 subject to the provisions of the Unemployment Compensation Law.

1504 (b) Records which have been preserved by it for not  
1505 less than six (6) months after becoming inactive:

- 1506 (1) Work applications,
- 1507 (2) Cross-index cards for work applications,
- 1508 (3) Test records,
- 1509 (4) Employer records,
- 1510 (5) Work orders,
- 1511 (6) Clearance records,
- 1512 (7) Counseling records,
- 1513 (8) Farm placement records, and
- 1514 (9) Correspondence relating to all such records.

1515 Nothing herein contained shall be construed as authorizing  
1516 the destruction or disposal of basic fiscal records reflecting the  
1517 financial operations of the department and no records may be  
1518 destroyed without the approval of the Director of the Department  
1519 of Archives and History.

1520           **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is  
1521 amended as follows:

1522           71-5-131. All letters, reports, communications, or any other  
1523 matters, either oral or written, from the employer or employee to  
1524 each other or to the department or any of its agents,  
1525 representatives or employees, which shall have been written, sent,  
1526 delivered or made in connection with the requirements and  
1527 administration of this chapter shall be absolutely privileged and  
1528 shall not be made the subject matter or basis of any suit for  
1529 slander or libel in any court of the State of Mississippi unless  
1530 the same be false in fact and maliciously written, sent, delivered  
1531 or made for the purpose of causing a denial of benefits under this  
1532 chapter.

1533           **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is  
1534 amended as follows:

1535           71-5-133. In any case where an employing unit or any  
1536 officer, member or agent thereof, or any other person having  
1537 possession of the records thereof, shall fail or refuse upon  
1538 demand by the department or its duly appointed agents to produce  
1539 or permit the examination or copying of any book, paper, account,  
1540 record or other data pertaining to payrolls or employment or  
1541 ownership of interests or stock in any employing unit, or bearing  
1542 upon the correctness of any report, or for the purpose of making a  
1543 report as required by this chapter where none has been made, then  
1544 and in that event the department or its duly authorized agents  
1545 may, by the issuance of a subpoena, require the attendance of such  
1546 employing unit or any officer, member or agent thereof, or any  
1547 other person having possession of the records thereof, and take  
1548 testimony with respect to any such matter and may require any such  
1549 person to produce any books or records specified in such subpoena.  
1550 The department or its authorized agents at any such hearing shall  
1551 have power to administer oaths to any such person or persons.  
1552 When any person called as a witness by a subpoena signed by the

1553 department or its agents and served upon him by the sheriff of a  
1554 county of which such person is a resident, or wherein is located  
1555 the principal office of such employing unit or wherein such  
1556 records are located or kept, shall fail to obey such subpoena to  
1557 appear before the department or its authorized agent, or shall  
1558 refuse to testify or to answer any questions or to produce any  
1559 book, record, paper or other data when required to do so, such  
1560 failure or refusal shall be reported to the Attorney General, who  
1561 shall thereupon institute proceedings by the filing of a petition  
1562 in the name of the State of Mississippi, on the relation of the  
1563 department, in the circuit court or other court of competent  
1564 jurisdiction of the county where such witness resides, or wherein  
1565 such records are located or kept, to compel the obedience of such  
1566 witness. Such petition shall set forth the facts and  
1567 circumstances of the demand for and refusal or failure to permit  
1568 the examination or copying of such records, or the failure or  
1569 refusal of such witness to testify in answer to such subpoena or  
1570 to produce the records so required by such subpoena. Such court,  
1571 upon the filing and docketing of such petition, shall thereupon  
1572 promptly issue an order to the defendants named in the petition to  
1573 produce forthwith in such court, or at a place in such county  
1574 designated in such order for the examination or copying by the  
1575 department or its duly appointed agents, the records, books or  
1576 documents so described, and to testify concerning matters  
1577 described in such petition. Unless such defendants to such  
1578 petition shall appear in the court upon a day specified in such  
1579 order, which \* \* \* day shall be not more than ten (10) days after  
1580 the date of issuance of such order, and offer, under oath, good  
1581 and sufficient reasons why such examination or copying should not  
1582 be permitted, or why such subpoena should not be obeyed, such  
1583 court shall thereupon deliver to the department or its agents, for  
1584 examination or copying, the records, books and documents so  
1585 described in the petition and so produced in such court, and shall



1586 order the defendants to appear in answer to the subpoena of the  
1587 department or its agents, and to testify concerning matters  
1588 inquired about by the department. Any employing unit or any  
1589 officer, member or agent thereof, or any other person having  
1590 possession of the records thereof, who shall willfully disobey  
1591 such order of the court after the same shall have been served upon  
1592 him shall be guilty of indirect contempt of such court from which  
1593 such order shall have issued, and may be adjudged in contempt of  
1594 the court and punished therefor as provided by law.

1595 **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is  
1596 amended as follows:

1597 71-5-135. If any employing unit fails to make any report  
1598 required by this chapter, the department or its authorized agents  
1599 shall give written notice by mail to such employing unit to make  
1600 and file such report within fifteen (15) days from the date of  
1601 such notice. If such employing unit, by its proper members,  
1602 officers or agents, shall fail or refuse to make and file such  
1603 reports within such time, then and in that event such report shall  
1604 be made by the department or its authorized agents from the best  
1605 information available, and the amount of contributions due shall  
1606 be computed thereon; and such report shall be prima facie correct  
1607 for the purposes of this chapter.

1608 **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is  
1609 amended as follows:

1610 71-5-137. In the discharge of the duties imposed by this  
1611 chapter, the department, any referee, the members of the Board of  
1612 Review, and any duly authorized representative of any of them  
1613 shall have power to administer oaths and affirmations, to take  
1614 depositions, certify to official acts, and issue subpoenas to  
1615 compel the attendance of witnesses and the production of books,  
1616 papers, correspondence, memoranda and other records deemed  
1617 necessary as evidence in connection with a disputed claim or the  
1618 administration of this chapter.

1619           **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is  
1620 amended as follows:

1621           71-5-139. In case of contumacy or refusal to obey a subpoena  
1622 issued to any person, any court in this state within the  
1623 jurisdiction of which the inquiry is carried on, or within the  
1624 jurisdiction of which the person guilty of contumacy or refusal to  
1625 obey is found or resides or transacts business, upon application  
1626 by the department, the Board of Review, any referee, or any duly  
1627 authorized representative of any of them, shall have jurisdiction  
1628 to issue to such person an order requiring such person to appear  
1629 before the department, the Board of Review, any referee, or any  
1630 duly authorized representative of any of them, there to produce  
1631 evidence if so ordered or there to give testimony touching the  
1632 matter under investigation or in question. Any failure to obey  
1633 such order of the court may be punished by the court as a contempt  
1634 thereof. Any person who shall, without just cause, fail or refuse  
1635 to attend and testify or to answer any lawful inquiry or to  
1636 produce books, papers, correspondence, memoranda and other records  
1637 if it is in his power so to do, in obedience to a subpoena of the  
1638 department, the Board of Review, any referee, or any duly  
1639 authorized representative of any of them, shall be punished by a  
1640 fine of not more than Two Hundred Dollars (\$200.00), or by  
1641 imprisonment for not longer than sixty (60) days, or by both such  
1642 fine and imprisonment; and each day such violation continues shall  
1643 be deemed to be a separate offense.

1644           **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is  
1645 amended as follows:

1646           71-5-141. No person shall be excused from attending and  
1647 testifying or from producing books, papers, correspondence,  
1648 memoranda and other records before the department, the Board of  
1649 Review, any referee, or any duly authorized representative of any  
1650 of them, or in obedience to the subpoena of any of them in any  
1651 cause or proceeding before the department, the Board of Review or

1652 an appeal tribunal, on the ground that the testimony or evidence,  
1653 documentary or otherwise, required of him may tend to incriminate  
1654 him or subject him to a penalty or forfeiture; but no individual  
1655 shall be prosecuted or subjected to any penalty or forfeiture for  
1656 or on account of any transaction, matter or thing concerning which  
1657 he is compelled, after having claimed his privilege against  
1658 self-incrimination, to testify or produce evidence, documentary or  
1659 otherwise, except that such individual so testifying shall not be  
1660 exempt from prosecution and punishment for perjury committed in so  
1661 testifying.

1662       **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is  
1663 amended as follows:

1664       71-5-143. In the administration of this chapter, the  
1665 department shall cooperate, to the fullest extent consistent with  
1666 the provisions of this chapter, with the Social Security Board  
1667 created by the Social Security Act, approved August 14, 1935, as  
1668 amended; shall make such reports in such form and containing such  
1669 information as the Social Security Board may from time to time  
1670 require, and shall comply with such provisions as the Social  
1671 Security Board may from time to time find necessary to assure the  
1672 correctness and verification of such reports; and shall comply  
1673 with the reasonable, valid and lawful regulations prescribed by  
1674 the Social Security Board pursuant to and under the authority of  
1675 the Social Security Act, governing the expenditures of such sums  
1676 as may be allotted and paid to this state under Title III of the  
1677 Social Security Act, as amended, for the purpose of assisting in  
1678 the administration of this chapter.

1679       Upon request therefor, the department shall furnish to any  
1680 agency of the United States charged with the administration of  
1681 public works, or assistance through public employment, the name,  
1682 address, ordinary occupation and employment status of each  
1683 recipient of benefits, and such recipient's rights to further  
1684 benefits under this chapter.

1685           **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is  
1686 amended as follows:

1687           71-5-201. The Mississippi State Employment Service is \* \* \*  
1688 established in the Mississippi Department of Employment Security,  
1689 Office of the Governor. The department, in the conduct of such  
1690 service, shall establish and maintain free public employment  
1691 offices in such number and in such places as may be necessary for  
1692 the proper administration of this article and for the purpose of  
1693 performing such functions as are within the purview of the act of  
1694 Congress entitled "An act to provide for the establishment of a  
1695 national employment system and for cooperation with the states in  
1696 the promotion of such system, and for other purposes" (29 USCS  
1697 Section 49 et seq.). Any existing free public employment offices  
1698 maintained by the state but not heretofore under the jurisdiction  
1699 of the department shall be transferred to the jurisdiction of the  
1700 department, and upon such transfer all duties and powers conferred  
1701 upon any other department, agency or officers of this state  
1702 relating to the establishment, maintenance and operation of free  
1703 public employment offices shall be vested in the department.  
1704 The \* \* \* Mississippi State Employment Service shall be  
1705 administered by the department, which is charged with the duty to  
1706 cooperate with any official or agency of the United States having  
1707 powers or duties under the provisions of the act of Congress, as  
1708 amended, and to do and perform all things necessary to secure to  
1709 this state the benefits of that act of Congress, as amended, in  
1710 the promotion and maintenance of a system of public employment  
1711 offices. The provisions of that act of Congress, as amended,  
1712 are \* \* \* accepted by this state, in conformity with 29 USCS  
1713 Section 49c, and this state will observe and comply with the  
1714 requirements thereof. The department is \* \* \* designated and  
1715 constituted the agency of this state for the purposes of that act.  
1716 The department may cooperate with or enter into agreements with  
1717 the Railroad Retirement Board or veteran's organization with

1718 respect to the establishment, maintenance and use of free  
1719 employment service facilities.

1720         **SECTION 34.** Section 71-5-357, Mississippi Code of 1972, is  
1721 amended as follows:

1722         71-5-357. Benefits paid to employees of nonprofit  
1723 organizations shall be financed in accordance with the provisions  
1724 of this section. For the purpose of this section, a nonprofit  
1725 organization is an organization (or group of organizations)  
1726 described in Section 501(c)(3) of the Internal Revenue Code of  
1727 1954 which is exempt from income tax under Section 501(a) of such  
1728 code (26 USCS Section 501).

1729             (a) Any nonprofit organization which, under Section  
1730 71-5-11, subsection I(3), is or becomes subject to this chapter  
1731 shall pay contributions under the provisions of Sections 71-5-351  
1732 through 71-5-355 unless it elects, in accordance with this  
1733 paragraph, to pay to the department for the unemployment fund an  
1734 amount equal to the amount of regular benefits and one-half (1/2)  
1735 of the extended benefits paid, that is attributable to service in  
1736 the employ of such nonprofit organization, to individuals for  
1737 weeks of unemployment which begin during the effective period of  
1738 such election.

1739             (i) Any nonprofit organization which becomes  
1740 subject to this chapter may elect to become liable for payments in  
1741 lieu of contributions for a period of not less than twelve (12)  
1742 months, beginning with the date on which such subjectivity begins,  
1743 by filing a written notice of its election with the department not  
1744 later than thirty (30) days immediately following the date of the  
1745 determination of such subjectivity.

1746             (ii) Any nonprofit organization which makes an  
1747 election in accordance with subparagraph (i) of this paragraph  
1748 will continue to be liable for payments in lieu of contributions  
1749 unless it files with the department a written termination notice

1750 not later than thirty (30) days prior to the beginning of the tax  
1751 year for which such termination shall first be effective.

1752 (iii) Any nonprofit organization which has been  
1753 paying contributions under this chapter may change to a  
1754 reimbursable basis by filing with the department, not later than  
1755 thirty (30) days prior to the beginning of any tax year, a written  
1756 notice of election to become liable for payments in lieu of  
1757 contributions. Such election shall not be terminable by the  
1758 organization for that and the next tax year.

1759 (iv) The department may for good cause extend the  
1760 period within which a notice of election or a notice of  
1761 termination must be filed, and may permit an election to be  
1762 retroactive.

1763 (v) The department, in accordance with such  
1764 regulations as it may prescribe, shall notify each nonprofit  
1765 organization of any determination which it may make of its status  
1766 as an employer, of the effective date of any election which it  
1767 makes and of any termination of such election. Such  
1768 determinations shall be subject to reconsideration, appeal and  
1769 review in accordance with the provisions of Sections 71-5-351  
1770 through 71-5-355.

1771 (b) Payments in lieu of contributions shall be made in  
1772 accordance with the provisions of subparagraph (i) of this  
1773 paragraph.

1774 (i) At the end of each calendar quarter, or at the  
1775 end of any other period as determined by the department, the  
1776 department shall bill each nonprofit organization (or group of  
1777 such organizations) which has elected to make payments in lieu of  
1778 contributions, for an amount equal to the full amount of regular  
1779 benefits plus one-half (1/2) of the amount of extended benefits  
1780 paid during such quarter or other prescribed period that is  
1781 attributable to service in the employ of such organization.

1782                   (ii) Payment of any bill rendered under  
1783 subparagraph (i) of this paragraph shall be made not later than  
1784 forty-five (45) days after such bill was mailed to the last known  
1785 address of the nonprofit organization or was otherwise delivered  
1786 to it, unless there has been an application for review and  
1787 redetermination in accordance with subparagraph (v) of this  
1788 paragraph.

1789                   1. All of the enforcement procedures for the  
1790 collection of delinquent contributions contained in Sections  
1791 71-5-363 through 71-5-383 shall be applicable in all respects for  
1792 the collection of delinquent payments due by nonprofit  
1793 organizations who have elected to become liable for payments in  
1794 lieu of contributions.

1795                   2. If any nonprofit organization is  
1796 delinquent in making payments in lieu of contributions, the  
1797 department may terminate such organization's election to make  
1798 payments in lieu of contributions as of the beginning of the next  
1799 tax year, and such termination shall be effective for the balance  
1800 of such tax year.

1801                   (iii) Payments made by any nonprofit organization  
1802 under the provisions of this paragraph shall not be deducted or  
1803 deductible, in whole or in part, from the remuneration of  
1804 individuals in the employ of the organization.

1805                   (iv) Payments due by employers who elect to  
1806 reimburse the fund in lieu of contributions as provided in this  
1807 paragraph may not be noncharged under any condition. The  
1808 reimbursement must be on a dollar-for-dollar basis (One Dollar  
1809 (\$1.00) reimbursement for each dollar paid in benefits) in every  
1810 case, so that the trust fund shall be reimbursed in full, such  
1811 reimbursement to include, but not be limited to, benefits or  
1812 payments erroneously or incorrectly paid, or paid as a result of a  
1813 determination of eligibility which is subsequently reversed, or  
1814 paid as a result of claimant fraud. However, political

1815 subdivisions who are reimbursing employers may elect to pay to the  
1816 fund an amount equal to five-tenths percent (.5%) of the taxable  
1817 wages paid during the calendar year with respect to employment,  
1818 and those employers who so elect shall be relieved of liability  
1819 for reimbursement of benefits paid under the same conditions that  
1820 benefits are not charged to the experience rating record of a  
1821 contributing employer as provided in Section 71-5-355(2)(b)(ii)  
1822 other than Clause 5 thereof. Benefits paid in such circumstances  
1823 for which reimbursing employers are relieved of liability for  
1824 reimbursement shall not be considered attributable to service in  
1825 the employment of such reimbursing employer.

1826                   (v) The amount due specified in any bill from the  
1827 department shall be conclusive on the organization unless, not  
1828 later than fifteen (15) days after the bill was mailed to its last  
1829 known address or otherwise delivered to it, the organization files  
1830 an application for redetermination by the department, setting  
1831 forth the grounds for such application or appeal. The department  
1832 shall promptly review and reconsider the amount due specified in  
1833 the bill and shall thereafter issue a redetermination in any case  
1834 in which such application for redetermination has been filed. Any  
1835 such redetermination shall be conclusive on the organization  
1836 unless, not later than fifteen (15) days after the redetermination  
1837 was mailed to its last known address or otherwise delivered to it,  
1838 the organization files an appeal to the Circuit Court of the First  
1839 Judicial District of Hinds County, Mississippi, in accordance with  
1840 the provisions of law with respect to review of civil causes by  
1841 certiorari.

1842                   (vi) Past due payments of amounts in lieu of  
1843 contributions shall be subject to the same interest and penalties  
1844 that, pursuant to Section 71-5-363, apply to past due  
1845 contributions.

1846                   (c) Each employer that is liable for payments in lieu  
1847 of contributions shall pay to the department for the fund the



1848 amount of regular benefits plus the amount of one-half (1/2) of  
1849 extended benefits paid are attributable to service in the employ  
1850 of such employer. If benefits paid to an individual are based on  
1851 wages paid by more than one (1) employer and one or more of such  
1852 employers are liable for payments in lieu of contributions, the  
1853 amount payable to the fund by each employer that is liable for  
1854 such payments shall be determined in accordance with the  
1855 provisions of subparagraph (i) or subparagraph (ii) of this  
1856 paragraph.

1857 (i) If benefits paid to an individual are based on  
1858 wages paid by one or more employers that are liable for payment in  
1859 lieu of contributions and on wages paid by one or more employers  
1860 who are liable for contributions, the amount of benefits payable  
1861 by each employer that is liable for payments in lieu of  
1862 contributions shall be an amount which bears the same ratio to the  
1863 total benefits paid to the individual as the total base-period  
1864 wages paid to the individual by such employer bear to the total  
1865 base-period wages paid to the individual by all of his base-period  
1866 employers.

1867 (ii) If benefits paid to an individual are based  
1868 on wages paid by two (2) or more employers that are liable for  
1869 payments in lieu of contributions, the amount of benefits payable  
1870 by each such employer shall be an amount which bears the same  
1871 ratio to the total benefits paid to the individual as the total  
1872 base-period wages paid to the individual by such employer bear to  
1873 the total base-period wages paid to the individual by all of his  
1874 base-period employers.

1875 (d) In the discretion of the department, any nonprofit  
1876 organization that elects to become liable for payments in lieu of  
1877 contributions shall be required, within thirty (30) days after the  
1878 effective date of its election, to execute and file with the  
1879 department a surety bond approved by the department, or it may  
1880 elect instead to deposit with the department money or securities.

1881 The amount of such bond or deposit shall be determined in  
1882 accordance with the provisions of this paragraph.

1883 (i) The amount of the bond or deposit required by  
1884 paragraph (d) shall be equal to two and seven-tenths percent  
1885 (2.7%) of the organization's taxable wages paid for employment as  
1886 defined in Section 71-5-11, subsection J(4), for the four (4)  
1887 calendar quarters immediately preceding the effective date of the  
1888 election, the renewal date in the case of a bond, or the biennial  
1889 anniversary of the effective date of election in the case of a  
1890 deposit of money or securities, whichever date shall be most  
1891 recent and applicable. If the nonprofit organization did not pay  
1892 wages in each of such four (4) calendar quarters, the amount of  
1893 the bond or deposit shall be as determined by the department.

1894 (ii) Any bond deposited under paragraph (d) shall  
1895 be in force for a period of not less than two (2) tax years and  
1896 shall be renewed with the approval of the department at such times  
1897 as the department may prescribe, but not less frequently than at  
1898 intervals of two (2) years as long as the organization continues  
1899 to be liable for payments in lieu of contributions. The  
1900 department shall require adjustments to be made in a previously  
1901 filed bond as it deems appropriate. If the bond is to be  
1902 increased, the adjusted bond shall be filed by the organization  
1903 within thirty (30) days of the date notice of the required  
1904 adjustment was mailed or otherwise delivered to it. Failure by  
1905 any organization covered by such bond to pay the full amount of  
1906 payments in lieu of contributions when due, together with any  
1907 applicable interest and penalties provided in paragraph (b)(v) of  
1908 this section, shall render the surety liable on the bond to the  
1909 extent of the bond, as though the surety was such organization.

1910 (iii) Any deposit of money or securities in  
1911 accordance with paragraph (d) shall be retained by the department  
1912 in an escrow account until liability under the election is  
1913 terminated, at which time it shall be returned to the

1914 organization, less any deductions as hereinafter provided. The  
1915 department may deduct from the money deposited under paragraph (d)  
1916 by a nonprofit organization, or sell the securities it has so  
1917 deposited, to the extent necessary to satisfy any due and unpaid  
1918 payments in lieu of contributions and any applicable interest and  
1919 penalties provided for in paragraph (b)(v) of this section. The  
1920 department shall require the organization, within thirty (30) days  
1921 following any deduction from a money deposit or sale of deposited  
1922 securities under the provisions hereof, to deposit sufficient  
1923 additional money or securities to make whole the organization's  
1924 deposit at the prior level. Any cash remaining from the sale of  
1925 such securities shall be a part of the organization's escrow  
1926 account. The department may, at any time, review the adequacy of  
1927 the deposit made by any organization. If, as a result of such  
1928 review, it determines that an adjustment is necessary, it shall  
1929 require the organization to make additional deposit within thirty  
1930 (30) days of written notice of its determination or shall return  
1931 to it such portion of the deposit as it no longer considers  
1932 necessary, whichever action is appropriate. Disposition of income  
1933 from securities held in escrow shall be governed by the applicable  
1934 provisions of the state law.

1935 (iv) If any nonprofit organization fails to file a  
1936 bond or make a deposit, or to file a bond in an increased amount,  
1937 or to increase or make whole the amount of a previously made  
1938 deposit as provided under this subparagraph, the department may  
1939 terminate such organization's election to make payments in lieu of  
1940 contributions, and such termination shall continue for not less  
1941 than the four (4) consecutive calendar-quarter periods beginning  
1942 with the quarter in which such termination becomes effective;  
1943 however, the department may extend for good cause the applicable  
1944 filing, deposit or adjustment period by not more than thirty (30)  
1945 days.

1946 (v) Group account shall be established according  
1947 to regulations prescribed by the department.

1948 (e) Any employer which elects to make payments in lieu  
1949 of contributions into the Unemployment Compensation Fund as  
1950 provided in this paragraph shall not be liable to make such  
1951 payments with respect to the benefits paid to any individual whose  
1952 base-period wages include wages for previously uncovered services  
1953 as defined in Section 71-5-511(e) to the extent that the  
1954 Unemployment Compensation Fund is reimbursed for such benefits  
1955 pursuant to Section 121 of Public Law 94-566.

1956 **SECTION 35.** Section 71-5-359, Mississippi Code of 1972, is  
1957 amended as follows:

1958 71-5-359. (1) (a) Before January 1, 1978, each state board  
1959 or other instrumentality of this state or one or more other states  
1960 covered under Section 71-5-11, subsection I(3), shall pay  
1961 contributions under the provisions of Sections 71-5-351 through  
1962 71-5-355 for all of the hospitals or institutions of higher  
1963 learning under its jurisdiction unless it elects, in the same  
1964 manner and under the same conditions as provided for nonprofit  
1965 organizations in subsections (a), (b) and (c) of Section 71-5-357,  
1966 to pay to the department for the unemployment fund an amount equal  
1967 to the regular benefits and one-half (1/2) of the extended  
1968 benefits paid that are attributable to service in the employ of  
1969 such hospitals or institutions. When an election is made, the  
1970 amounts required to be paid in lieu of contributions shall be  
1971 billed and payment made as provided in Section 71-5-357 with  
1972 respect to similar payments by nonprofit organizations. A state  
1973 board having jurisdiction over two (2) or more state-owned  
1974 hospitals or state-owned institutions of higher learning shall be  
1975 treated as a single employer for the employment in all of those  
1976 hospitals or institutions of higher learning for purposes of  
1977 computing contribution rates and payment of contributions, or for  
1978 purposes of reimbursing the fund, unless it elects, in accordance

1979 with this section, to have one or more of those hospitals or  
1980 institutions of higher learning treated as a separate employer.

1981 (b) A state board may elect to have one or more  
1982 state-owned hospitals or one or more state-owned institutions of  
1983 higher learning under its jurisdiction treated as a separate  
1984 employer for the purposes of this section, provided it files with  
1985 the department, not later than thirty (30) days prior to the  
1986 beginning of any tax year, a written notice of such election. Any  
1987 such election shall be effective throughout such tax year, and  
1988 shall continue in effect unless the state board files with the  
1989 department a written notice of termination of such election not  
1990 less than thirty (30) days prior to the beginning of the tax year  
1991 for which such termination is to be effective.

1992 (2) (a) From January 1, 1978, through December 31, 1978,  
1993 the Commission of Budget and Accounting shall, in the manner  
1994 provided in subsection (2)(c) of this section, pay, upon warrant  
1995 issued by the State Auditor of Public Accounts, to the department  
1996 for the unemployment compensation fund an amount equal to the  
1997 regular benefits and one-half (1/2) of the extended benefits paid  
1998 that are attributable to service in the employ of a state agency.  
1999 The amount required to be reimbursed by a certain agency shall be  
2000 billed to the Commission of Budget and Accounting and shall be  
2001 paid from the Employment Compensation Revolving Fund pursuant to  
2002 subsection (2)(c) of this section not later than thirty (30) days  
2003 after such bill was mailed, unless there has been an application  
2004 for review and redetermination in accordance with Section  
2005 71-5-357(b)(v).

2006 (b) The Department of Finance and Administration shall,  
2007 in the manner provided in subsection (2)(c) of this section, pay,  
2008 upon warrant issued by the State Auditor, or the successor to  
2009 these duties, to the department for the Unemployment Compensation  
2010 Fund an amount equal to the regular benefits and the extended  
2011 benefits paid that are attributable to service in the employ of a

2012 state agency. The amount required to be reimbursed by a certain  
2013 agency shall be billed to the Department of Finance and  
2014 Administration and shall be paid from the Employment Compensation  
2015 Revolving Fund pursuant to subsection (2)(c) of this section not  
2016 later than thirty (30) days after such bill was mailed, unless  
2017 there has been an application for review and redetermination in  
2018 accordance with Section 71-5-357(b)(v).

2019 (c) Each agency of state government shall deposit  
2020 monthly for a period of twenty-four (24) months an amount equal to  
2021 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand  
2022 Dollars (\$6,000.00) paid to each employee thereof during the next  
2023 preceding year into the Employment Compensation Revolving Fund  
2024 that is created in the State Treasury. The Department of Finance  
2025 and Administration shall determine the percentage to be applied to  
2026 the amount of covered wages paid in order to maintain a balance in  
2027 the revolving fund of not less than two percent (2%) of the  
2028 covered wages paid during the next preceding year. The State  
2029 Treasurer shall invest all funds in the Employment Compensation  
2030 Revolving Fund and all interest earned shall be credited to the  
2031 Employment Compensation Revolving Fund.

2032 The reimbursement of benefits paid by the Mississippi  
2033 Employment Security Commission shall be paid by the Department of  
2034 Finance and Administration from the Employment Compensation  
2035 Revolving Fund upon warrants issued by the State Auditor of Public  
2036 Accounts, or the successor to these duties; and the \* \* \* auditor  
2037 shall issue his warrants upon requisitions signed by the  
2038 Department of Finance and Administration. \* \* \* However, \* \* \* the  
2039 Department of Finance and Administration may, if it so elects,  
2040 contract for the performance of the duties prescribed by  
2041 subsections (2)(b) and (c), and other duties necessarily related  
2042 thereto.

2043 (d) From January 1, 1978, through December 31, 1978,  
2044 any political subdivision of this state shall pay to the

2045 department for the unemployment fund an amount equal to the  
2046 regular benefits and one-half (1/2) of the extended benefits paid  
2047 that are attributable to service in the employ of such political  
2048 subdivision unless it elects to make contributions to the  
2049 unemployment fund as provided in subsection (2)(j) of this  
2050 section. The amount required to be reimbursed shall be billed and  
2051 shall be paid as provided in Section 71-5-357, with respect to  
2052 similar payments for nonprofit organizations.

2053 (e) On and after January 1, 1979, any political  
2054 subdivision of this state shall pay to the department for the  
2055 unemployment fund an amount equal to the regular benefits and the  
2056 extended benefits paid that are attributable to service in the  
2057 employ of such political subdivision unless it elects to make  
2058 contributions to the unemployment fund as provided in subsection  
2059 (2)(j) of this section. The amount required to be reimbursed  
2060 shall be billed and shall be paid as provided in Section 71-5-357,  
2061 with respect to similar payments for nonprofit organizations.

2062 (f) Each political subdivision unless it elects to make  
2063 contributions to the unemployment fund as provided in subsection  
2064 (2)(j) of this section, shall establish a revolving fund and  
2065 deposit therein monthly for a period of twenty-four (24) months an  
2066 amount equal to one-twelfth of one percent (1/12 of 1%) of the  
2067 first Six Thousand Dollars (\$6,000.00) paid to each employee  
2068 thereof during the next preceding year plus an amount each month  
2069 equal to one-third (1/3) of any reimbursement paid to the  
2070 department for the next preceding quarter. After January 1, 1980,  
2071 the balance in the revolving fund shall be maintained at an amount  
2072 not less than two percent (2%) of the covered wages paid during  
2073 the next preceding year. \* \* \* However, \* \* \* the department shall  
2074 by regulation establish a procedure to allow reimbursing political  
2075 subdivisions to elect to maintain the balance in the revolving  
2076 fund as required under this paragraph or to annually execute a  
2077 surety bond to be approved by the department in an amount not less

2078 than two percent (2%) of the covered wages paid during the next  
2079 preceding year.

2080 (g) In the event any political subdivision becomes  
2081 delinquent in payments due under this chapter, upon due notice,  
2082 and upon certification of the delinquency by the department to the  
2083 Department of Finance and Administration, the State Tax  
2084 Commission, the Department of Environmental Quality and the  
2085 Department of Insurance, or any of them, such agencies shall  
2086 direct the issuance of warrants which in the aggregate shall be  
2087 the amount of such delinquency payable to the department and drawn  
2088 upon any funds in the State Treasury which may be available to  
2089 such political subdivision in satisfaction of any such  
2090 delinquency. This remedy shall be in addition to any other  
2091 collection remedies in this chapter or otherwise provided by law.

2092 (h) Payments made by any political subdivision under  
2093 the provisions of this section shall not be deducted or  
2094 deductible, in whole or in part, from the remuneration of  
2095 individuals in the employ of the organization.

2096 (i) Any governmental entity shall not be liable to make  
2097 payments to the unemployment fund with respect to the benefits  
2098 paid to any individual whose base-period wages include wages for  
2099 previously uncovered services as defined in Section 71-5-511,  
2100 subsection (e), to the extent that the unemployment compensation  
2101 fund is reimbursed for such benefits pursuant to Section 121 of  
2102 Public Law 94-566.

2103 (j) Any political subdivision of this state may elect  
2104 to make contributions to the unemployment fund instead of making  
2105 reimbursement for benefits paid as provided in subsections (2)(d),  
2106 (e) and (f) of this section. A political subdivision which makes  
2107 this election shall so notify the department, not later than July  
2108 1, 1978; and shall be subject to the provisions of Section  
2109 71-5-351, with regard to the payment of contributions. A  
2110 political subdivision which makes this election shall pay



2111 contributions equal to two percent (2%) of wages paid by it during  
2112 each calendar quarter it is subject to this chapter. The  
2113 department shall by regulation establish a procedure to allow  
2114 political subdivisions the option periodically to elect either the  
2115 reimbursement or the contribution method of financing unemployment  
2116 compensation coverage.

2117 **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is  
2118 amended as follows:

2119 71-5-451. There is \* \* \* established as a special fund,  
2120 separate and apart from all public monies or funds of this state,  
2121 an Unemployment Compensation Fund, which shall be administered by  
2122 the department exclusively for:

- 2123 (a) All contributions collected under this chapter;
- 2124 (b) Interest earned upon any monies in the fund;
- 2125 (c) Any property or securities acquired through the use  
2126 of monies belonging to the fund;
- 2127 (d) All earnings of such property or securities;
- 2128 (e) All monies credited to this state's account in the  
2129 Unemployment Trust Fund pursuant to the Social Security Act, 42  
2130 USCS, Section 1104; and
- 2131 (f) By way of reimbursement in accordance with Section  
2132 204 of the Federal-State Extended Unemployment Compensation Act of  
2133 1970 (84 Stat. 711). All monies in the fund shall be mingled and  
2134 undivided.

2135 **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is  
2136 amended as follows:

2137 71-5-457. (1) Except as otherwise provided in subsection  
2138 (5), money credited to the account of this state in the  
2139 Unemployment Trust Fund by the Secretary of the Treasury of the  
2140 United States of America pursuant to the Social Security Act, 42  
2141 USCS Section 1103, may be requisitioned and used for the payment  
2142 of expenses incurred for the administration of this law pursuant  
2143 to a specific appropriation by the Legislature, provided that the

2144 expenses are incurred and the money is requisitioned after the  
2145 enactment of an appropriation law which:

2146 (a) Specifies the purposes for which such money is  
2147 appropriated and the amounts appropriated therefor;

2148 (b) Limits the period within which such money may be  
2149 obligated to a period ending not more than two (2) years after the  
2150 date of the enactment of the appropriation law; and

2151 (c) Limits the amount which may be obligated during a  
2152 twelve-month period beginning on July 1 and ending on the next  
2153 June 30 to an amount which does not exceed the amount by which:

2154 (i) The aggregate of the amounts credited to the  
2155 account of this state pursuant to the Social Security Act, 42 USCS  
2156 Section 1103, during the same twelve-month period and the  
2157 thirty-four (34) preceding twelve-month periods exceeds.

2158 (ii) The aggregate of the amounts obligated  
2159 pursuant to this section and charged against the amounts credited  
2160 to the account of this state during such thirty-five (35)  
2161 twelve-month periods.

2162 For the purposes of this section, amounts obligated during  
2163 any such twelve-month period shall be charged against equivalent  
2164 amounts which were first credited and which are not already so  
2165 charged; except that no amount obligated for administration during  
2166 any such twelve-month period may be charged against any amount  
2167 credited during such a twelve-month period earlier than the  
2168 thirty-fourth preceding such period.

2169 (2) Money credited to the account of this state pursuant to  
2170 the Social Security Act, 42 USCS Section 1103, may not be  
2171 withdrawn or used except for the payment of benefits and for the  
2172 payment of expenses for the administration of this law and of  
2173 public employment offices pursuant to this section.

2174 (3) Money appropriated as provided herein for the payment of  
2175 expenses of administration shall be requisitioned as needed for  
2176 the payment of obligations incurred under such appropriation and,

2177 upon requisition, shall be deposited in the Employment Security  
2178 Administration Fund, from which such payments shall be made.  
2179 Money so deposited shall, until expended, remain a part of the  
2180 Unemployment Compensation Fund and, if it will not be expended,  
2181 shall be returned promptly to the account of this state in the  
2182 Unemployment Trust Fund.

2183 (4) The thirty-five-year limitation provided in this section  
2184 is no longer in force, effective October 1, 1991.

2185 (5) Notwithstanding subsection (1), monies credited with  
2186 respect to federal fiscal years 1999, 2000 and 2001 shall be used  
2187 by the department solely for the administration of the  
2188 unemployment compensation program.

2189 **SECTION 38.** Section 71-5-511, Mississippi Code of 1972, is  
2190 amended as follows:

2191 71-5-511. An unemployed individual shall be eligible to  
2192 receive benefits with respect to any week only if the department  
2193 finds that:

2194 (a) (i) He has registered for work at and thereafter  
2195 has continued to report to an employment office in accordance with  
2196 such regulations as the department may prescribe; except that the  
2197 department may, by regulation, waive or alter either or both of  
2198 the requirements of this subparagraph as to such types of cases or  
2199 situations with respect to which it finds that compliance with  
2200 such requirements would be oppressive or would be inconsistent  
2201 with the purposes of this chapter; and

2202 (ii) He participates in reemployment services,  
2203 such as job search assistance services, if, in accordance with a  
2204 profiling system established by the department, it has been  
2205 determined that he is likely to exhaust regular benefits and needs  
2206 reemployment services, unless the department determines that:

2207 1. The individual has completed such  
2208 services; or

2209                               2. There is justifiable cause for the  
2210 claimant's failure to participate in such services.

2211                               (b) He has made a claim for benefits in accordance with  
2212 the provisions of Section 71-5-515 and in accordance with such  
2213 regulations as the department may prescribe thereunder.

2214                               (c) He is able to work and is available for work.

2215                               (d) He has been unemployed for a waiting period of one  
2216 (1) week. No week shall be counted as a week of unemployment for  
2217 the purposes of this subsection:

2218                               (i) Unless it occurs within the benefit year which  
2219 includes the week with respect to which he claims payment of  
2220 benefits;

2221                               (ii) If benefits have been paid with respect  
2222 thereto;

2223                               (iii) Unless the individual was eligible for  
2224 benefits with respect thereto, as provided in Sections 71-5-511  
2225 and 71-5-513, except for the requirements of this subsection.

2226                               (e) For weeks beginning on or before July 1, 1982, he  
2227 has, during his base period, been paid wages for insured work  
2228 equal to not less than thirty-six (36) times his weekly benefit  
2229 amount; he has been paid wages for insured work during at least  
2230 two (2) quarters of his base period; and he has, during that  
2231 quarter of his base period in which his total wages were highest,  
2232 been paid wages for insured work equal to not less than sixteen  
2233 (16) times the minimum weekly benefit amount. For benefit years  
2234 beginning after July 1, 1982, he has, during his base period, been  
2235 paid wages for insured work equal to not less than forty (40)  
2236 times his weekly benefit amount; he has been paid wages for  
2237 insured work during at least two (2) quarters of his base period,  
2238 and he has, during that quarter of his base period in which his  
2239 total wages were highest, been paid wages for insured work equal  
2240 to not less than twenty-six (26) times the minimum weekly benefit  
2241 amount. For purposes of this subsection, wages shall be counted

2242 as "wages for insured work" for benefit purposes with respect to  
2243 any benefit year only if such benefit year begins subsequent to  
2244 the date on which the employing unit by which such wages were paid  
2245 has satisfied the conditions of Section 71-5-11, subsection I, or  
2246 Section 71-5-361, subsection (3), with respect to becoming an  
2247 employer.

2248 (f) No individual may receive benefits in a benefit  
2249 year unless, subsequent to the beginning of the next preceding  
2250 benefit year during which he received benefits, he performed  
2251 service in "employment" as defined in Section 71-5-11, subsection  
2252 J, and earned remuneration for such service in an amount equal to  
2253 not less than eight (8) times his weekly benefit amount applicable  
2254 to his \* \* \* next preceding benefit year.

2255 (g) Benefits based on service in employment defined in  
2256 Section 71-5-11, subsection J(3) and J(4), and Section 71-5-361,  
2257 subsection (4) shall be payable in the same amount, on the same  
2258 terms, and subject to the same conditions as compensation payable  
2259 on the basis of other service subject to this chapter, except that  
2260 benefits based on service in an instructional, research or  
2261 principal administrative capacity in an institution of higher  
2262 learning (as defined in Section 71-5-11, subsection O) with  
2263 respect to service performed prior to January 1, 1978, shall not  
2264 be paid to an individual for any week of unemployment which begins  
2265 during the period between two (2) successive academic years, or  
2266 during a similar period between two (2) regular terms, whether or  
2267 not successive, or during a period of paid sabbatical leave  
2268 provided for in the individual's contract, if the individual has a  
2269 contract or contracts to perform services in any such capacity for  
2270 any institution or institutions of higher learning for both such  
2271 academic years or both such terms.

2272 (h) Benefits based on service in employment defined in  
2273 Section 71-5-11, subsection J(3) and J(4), shall be payable in the  
2274 same amount, on the same terms and subject to the same conditions

2275 as compensation payable on the basis of other service subject to  
2276 this chapter; except that:

2277           (i) With respect to service performed in an  
2278 instructional, research or principal administrative capacity for  
2279 an educational institution, benefits shall not be paid based on  
2280 such services for any week of unemployment commencing during the  
2281 period between two (2) successive academic years, or during a  
2282 similar period between two (2) regular but not successive terms,  
2283 or during a period of paid sabbatical leave provided for in the  
2284 individual's contract, to any individual, if such individual  
2285 performs such services in the first of such academic years or  
2286 terms and if there is a contract or a reasonable assurance that  
2287 such individual will perform services in any such capacity for any  
2288 educational institution in the second of such academic years or  
2289 terms, and provided that Section 71-5-511, subsection (g), shall  
2290 apply with respect to such services prior to January 1, 1978. In  
2291 no event shall benefits be paid unless the individual employee was  
2292 terminated by the employer.

2293           (ii) With respect to services performed in any  
2294 other capacity for an educational institution, benefits shall not  
2295 be paid on the basis of such services to any individual for any  
2296 week which commences during a period between two (2) successive  
2297 academic years or terms, if such individual performs such services  
2298 in the first of such academic years or terms and there is a  
2299 reasonable assurance that such individual will perform such  
2300 services in the second of such academic years or terms, except  
2301 that if compensation is denied to any individual under this  
2302 subparagraph and such individual was not offered an opportunity to  
2303 perform such services for the educational institution for the  
2304 second of such academic years or terms, such individual shall be  
2305 entitled to a retroactive payment of compensation for each week  
2306 for which the individual filed a timely claim for compensation and  
2307 for which compensation was denied solely by reason of this clause.

2308 In no event shall benefits be paid unless the individual employee  
2309 was terminated by the employer.

2310 (iii) With respect to services described in  
2311 subsection (h)(i) and (ii), benefits shall not be payable on the  
2312 basis of services in any such capacities to any individual for any  
2313 week which commences during an established and customary vacation  
2314 period or holiday recess if such individual performs such services  
2315 in the first of such academic years or terms, or in the period  
2316 immediately before such vacation period or holiday recess, and  
2317 there is a reasonable assurance that such individual will perform  
2318 such services in the period immediately following such vacation  
2319 period or holiday recess.

2320 (iv) With respect to any services described in  
2321 subsection (h)(i) and (ii), benefits shall not be payable on the  
2322 basis of services in any such capacities as specified in  
2323 subsection (h)(i), (ii) and (iii) to any individual who performed  
2324 such services in an educational institution while in the employ of  
2325 an educational service agency. For purposes of this subsection,  
2326 the term "educational service agency" means a governmental agency  
2327 or governmental entity which is established and operated  
2328 exclusively for the purpose of providing such services to one or  
2329 more educational institutions.

2330 (v) With respect to services to which Sections  
2331 71-5-357 and 71-5-359 apply, if such services are provided to or  
2332 on behalf of an educational institution, benefits shall not be  
2333 payable under the same circumstances and subject to the same terms  
2334 and conditions as described in subsection (h)(i), (ii), (iii) and  
2335 (iv).

2336 (i) Subsequent to December 31, 1977, benefits shall not  
2337 be paid to any individual on the basis of any services  
2338 substantially all of which consist of participating in sports or  
2339 athletic events or training or preparing to so participate, for  
2340 any week which commences during the period between two (2)

2341 successive sports seasons (or similar periods) if such individual  
2342 performs such services in the first of such seasons (or similar  
2343 periods) and there is a reasonable assurance that such individual  
2344 will perform such services in the later of such seasons (or  
2345 similar periods).

2346 (j) (i) Subsequent to December 31, 1977, benefits  
2347 shall not be payable on the basis of services performed by an  
2348 alien, unless such alien is an individual who was lawfully  
2349 admitted for permanent residence at the time such services were  
2350 performed, was lawfully present for purposes of performing such  
2351 services, or was permanently residing in the United States under  
2352 color of law at the time such services were performed (including  
2353 an alien who was lawfully present in the United States as a result  
2354 of the application of the provisions of Section 203(a)(7) or  
2355 Section 212(d)(5) of the Immigration and Nationality Act).

2356 (ii) Any data or information required of  
2357 individuals applying for benefits to determine whether benefits  
2358 are not payable to them because of their alien status shall be  
2359 uniformly required from all applicants for benefits.

2360 (iii) In the case of an individual whose  
2361 application for benefits would otherwise be approved, no  
2362 determination that benefits to such individual are not payable  
2363 because of his alien status shall be made, except upon a  
2364 preponderance of the evidence.

2365 (k) An individual shall be deemed prima facie  
2366 unavailable for work, and therefore ineligible to receive  
2367 benefits, during any period which, with respect to his employment  
2368 status, is found by the department to be a holiday or vacation  
2369 period.

2370 **SECTION 39.** Section 71-5-513, Mississippi Code of 1972, is  
2371 amended as follows:

2372 71-5-513. A. An individual shall be disqualified for  
2373 benefits:



2374           (1) (a) For the week, or fraction thereof, which  
2375 immediately follows the day on which he left work voluntarily  
2376 without good cause, if so found by the department, and for each  
2377 week thereafter until he has earned remuneration for personal  
2378 services performed for an employer, as in this chapter defined,  
2379 equal to not less than eight (8) times his weekly benefit amount,  
2380 as determined in each case; however, marital, filial and domestic  
2381 circumstances and obligations shall not be deemed good cause  
2382 within the meaning of this subsection. Pregnancy shall not be  
2383 deemed to be a marital, filial or domestic circumstance for the  
2384 purpose of this subsection.

2385           (b) For the week, or fraction thereof, which  
2386 immediately follows the day on which he was discharged for  
2387 misconduct connected with his work, if so found by the department,  
2388 and for each week thereafter until he has earned remuneration for  
2389 personal services performed for an employer, as in this chapter  
2390 defined, equal to not less than eight (8) times his weekly benefit  
2391 amount, as determined in each case.

2392           (c) The burden of proof of good cause for leaving  
2393 work shall be on the claimant, and the burden of proof of  
2394 misconduct shall be on the employer.

2395           (2) For the week, or fraction thereof, with respect to  
2396 which he willfully makes a false statement, a false representation  
2397 of fact, or willfully fails to disclose a material fact for the  
2398 purpose of obtaining or increasing benefits under the provisions  
2399 of this law, if so found by the department, and such individual's  
2400 maximum benefit allowance shall be reduced by the amount of  
2401 benefits so paid to him during any such week of disqualification;  
2402 and additional disqualification shall be imposed for a period not  
2403 exceeding fifty-two (52) weeks, the length of such period of  
2404 disqualification and the time when such period begins to be  
2405 determined by the department, in its discretion, according to the  
2406 circumstances in each case.

2407           (3) If the department finds that he has failed, without  
2408 good cause, either to apply for available suitable work when so  
2409 directed by the employment office or the department, to accept  
2410 suitable work when offered him, or to return to his customary  
2411 self-employment (if any) when so directed by the department, such  
2412 disqualification shall continue for the week in which such failure  
2413 occurred and for not more than the twelve (12) weeks which  
2414 immediately follow such week, as determined by the department  
2415 according to the circumstances in each case.

2416           (a) In determining whether or not any work is  
2417 suitable for an individual, the department shall consider among  
2418 other factors the degree of risk involved to his health, safety  
2419 and morals, his physical fitness and prior training, his  
2420 experience and prior earnings, his length of unemployment and  
2421 prospects for securing local work in his customary occupation, and  
2422 the distance of the available work from his residence; \* \* \*  
2423 however, \* \* \* offered employment paying the minimum wage or  
2424 higher, if such minimum or higher wage is that prevailing for his  
2425 customary occupation or similar work in the locality, shall be  
2426 deemed to be suitable employment after benefits have been paid to  
2427 the individual for a period of eight (8) weeks.

2428           (b) Notwithstanding any other provisions of this  
2429 chapter, no work shall be deemed suitable and benefits shall not  
2430 be denied under this chapter to any otherwise eligible individual  
2431 for refusing to accept new work under any of the following  
2432 conditions:

2433                   (i) If the position offered is vacant due  
2434 directly to a strike, lockout or other labor dispute;

2435                   (ii) If the wages, hours or other conditions  
2436 of the work offered are substantially less favorable to the  
2437 individual than those prevailing for similar work in the locality;

2438 (iii) If as a condition of being employed the  
2439 individual would be required to join a company union or to resign  
2440 from or refrain from joining any bona fide labor organization.

2441 (4) For any week with respect to which the department  
2442 finds that his total unemployment is due to a stoppage of work  
2443 which exists because of a labor dispute at a factory,  
2444 establishment or other premises at which he is or was last  
2445 employed; however, this subsection shall not apply if it is shown  
2446 to the satisfaction of the department:

2447 (a) He is unemployed due to a stoppage of work  
2448 occasioned by an unjustified lockout, if such lockout was not  
2449 occasioned or brought about by such individual acting alone or  
2450 with other workers in concert; or

2451 (b) He is not participating in or directly  
2452 interested in the labor dispute which caused the stoppage of work;  
2453 and

2454 (c) He does not belong to a grade or class of  
2455 workers of which, immediately before the commencement of stoppage,  
2456 there were members employed at the premises at which the stoppage  
2457 occurs, any of whom are participating in or directly interested in  
2458 the dispute.

2459 \* \* \* If in any case separate branches of work which are  
2460 commonly conducted as separate businesses in separate premises are  
2461 conducted in separate departments of the same premises, each such  
2462 department shall, for the purposes of this subsection, be deemed  
2463 to be a separate factory, establishment or other premises.

2464 (5) For any week with respect to which he has received  
2465 or is seeking unemployment compensation under an unemployment  
2466 compensation law of another state or of the United States.

2467 However, if the appropriate agency of such other state or of the  
2468 United States finally determines that he is not entitled to such  
2469 unemployment compensation benefits, this disqualification shall  
2470 not apply. Nothing in this subsection contained shall be

2471 construed to include within its terms any law of the United States  
2472 providing unemployment compensation or allowances for honorably  
2473 discharged members of the Armed Forces.

2474           (6) For any week with respect to which he is receiving  
2475 or has received remuneration in the form of payments under any  
2476 governmental or private retirement or pension plan, system or  
2477 policy which a base-period employer is maintaining or contributing  
2478 to or has maintained or contributed to on behalf of the  
2479 individual; however, if the amount payable with respect to any  
2480 week is less than the benefits which would otherwise be due under  
2481 Section 71-5-501, he shall be entitled to receive for such week,  
2482 if otherwise eligible, benefits reduced by the amount of such  
2483 remuneration. However, on or after the first Sunday immediately  
2484 following July 1, 2001, no social security payments, to which the  
2485 employee has made contributions, shall be deducted from  
2486 unemployment benefits paid for any period of unemployment  
2487 beginning on or after the first Sunday following July 1, 2001.  
2488 This one hundred percent (100%) exclusion shall not apply to any  
2489 other governmental or private retirement or pension plan, system  
2490 or policy. If benefits payable under this section, after being  
2491 reduced by the amount of such remuneration, are not a multiple of  
2492 One Dollar (\$1.00), they shall be adjusted to the next lower  
2493 multiple of One Dollar (\$1.00).

2494           (7) For any week with respect to which he is receiving  
2495 or has received remuneration in the form of a back pay award, or  
2496 other compensation allocable to any week, whether by settlement or  
2497 otherwise. Any benefits previously paid for weeks of unemployment  
2498 with respect to which back pay awards, or other such compensation,  
2499 are made shall constitute an overpayment and such amounts shall be  
2500 deducted from the award by the employer prior to payment to the  
2501 employee, and shall be transmitted promptly to the department by  
2502 the employer for application against the overpayment and credit to  
2503 the claimant's maximum benefit amount and prompt deposit into the

2504 fund; \* \* \* however, the removal of any charges made against the  
2505 employer as a result of such previously paid benefits shall be  
2506 applied to the calendar year and the calendar quarter in which the  
2507 overpayment is transmitted to the department, and no attempt shall  
2508 be made to relate such a credit to the period to which the award  
2509 applies. Any amount of overpayment so deducted by the employer  
2510 and not transmitted to the department shall be subject to the same  
2511 procedures for collection as is provided for contributions by  
2512 Sections 71-5-363 through 71-5-381. Any amount of overpayment not  
2513 deducted by the employer shall be established as an overpayment  
2514 against the claimant and collected as provided above. It is the  
2515 purpose of this paragraph to assure equity in the situations to  
2516 which it applies, and it shall be construed accordingly.

2517 B. Notwithstanding any other provision in this chapter, no  
2518 otherwise eligible individual shall be denied benefits for any  
2519 week because he is in training with the approval of the  
2520 department; nor shall such individual be denied benefits with  
2521 respect to any week in which he is in training with the approval  
2522 of the department by reason of the application of provisions in  
2523 Section 71-5-511, subsection (c), relating to availability for  
2524 work, or the provisions of subsection A(3) of this section,  
2525 relating to failure to apply for, or a refusal to accept, suitable  
2526 work.

2527 C. Notwithstanding any other provisions of this chapter, no  
2528 otherwise eligible individual shall be denied benefits for any  
2529 week because he or she is in training approved under Section  
2530 236(a)(1) of the Trade Act of 1974, nor shall such individual be  
2531 denied benefits by reason of leaving work to enter such training,  
2532 provided the work left is not suitable employment, or because of  
2533 the application to any such week in training of provisions in this  
2534 law (or any applicable federal unemployment compensation law),  
2535 relating to availability for work, active search for work or  
2536 refusal to accept work.

2537 For purposes of this section, the term "suitable employment"  
2538 means with respect to an individual, work of a substantially equal  
2539 or higher skill level than the individual's past adversely  
2540 affected employment (as defined for purposes of the Trade Act of  
2541 1974), and wages for such work at not less than eighty percent  
2542 (80%) of the individual's average weekly wage as determined for  
2543 the purposes of the Trade Act of 1974.

2544 **SECTION 40.** Section 71-5-517, Mississippi Code of 1972, is  
2545 amended as follows:

2546 71-5-517. An examiner designated by the department shall  
2547 take the claim. An initial determination thereon shall be made  
2548 promptly and shall include a determination with respect to whether  
2549 or not benefits are payable, the week with respect to which  
2550 benefits shall commence, the weekly benefit amount payable and the  
2551 maximum duration of benefits. In any case in which the payment or  
2552 denial of benefits will be determined by the provisions of  
2553 subsection A(4) of Section 71-5-513, the examiner shall promptly  
2554 transmit all the evidence with respect to that subsection to the  
2555 department, which, on the basis of evidence so submitted and such  
2556 additional evidence as it may require, shall make an initial  
2557 determination with respect thereto. An initial determination may  
2558 for good cause be reconsidered. The claimant, his most recent  
2559 employing unit and all employers whose experience-rating record  
2560 would be charged with benefits pursuant to such determination  
2561 shall be promptly notified of such initial determination or any  
2562 amended initial determination and the reason therefor. Benefits  
2563 shall be denied or, if the claimant is otherwise eligible,  
2564 promptly paid in accordance with the initial determination or  
2565 amended initial determination. The jurisdiction of the department  
2566 over benefit claims which have not been appealed shall be  
2567 continuous. The claimant or any party to the initial  
2568 determination or amended initial determination may file an appeal  
2569 from such initial determination or amended initial determination

2570 within fourteen (14) days after notification thereof, or after the  
2571 date such notification was mailed to his last known address.

2572 Notwithstanding any other provision of this section, benefits  
2573 shall be paid promptly in accordance with a determination or  
2574 redetermination, or the decision of an appeal tribunal, the board  
2575 of review or a reviewing court upon the issuance of such  
2576 determination, redetermination or decision in favor of the  
2577 claimant (regardless of the pendency of the period to apply for  
2578 reconsideration, file an appeal, or petition for judicial review,  
2579 as the case may be, or the pendency of any such application,  
2580 filing or petition), unless and until such determination,  
2581 redetermination or decision has been modified or reversed by a  
2582 subsequent redetermination or decision, in which event benefits  
2583 shall be paid or denied in accordance with such modifying or  
2584 reversing redetermination or decision. Any benefits finally  
2585 determined to have been erroneously paid shall be set up as an  
2586 overpayment to the claimant and must be liquidated before any  
2587 future benefits can be paid to the claimant. If, subsequent to  
2588 such initial determination or amended initial determination,  
2589 benefits with respect to any week for which a claim has been filed  
2590 are denied for reasons other than matters included in the initial  
2591 determination or amended initial determination, the claimant shall  
2592 be promptly notified of the denial and the reason therefor and may  
2593 appeal therefrom in accordance with the procedure herein described  
2594 for appeals from initial determination or amended initial  
2595 determination.

2596 **SECTION 41.** Section 71-5-519, Mississippi Code of 1972, is  
2597 amended as follows:

2598 71-5-519. Unless such appeal is withdrawn, an appeal  
2599 tribunal appointed by the executive director, after affording the  
2600 parties reasonable opportunity for fair hearing, shall affirm,  
2601 modify or reverse the findings of fact and initial determination  
2602 or amended initial determination. The parties shall be duly

2603 notified of such tribunal's decision, together with its reasons  
2604 therefor, which shall be deemed to be the final decision of the  
2605 executive director unless, within fourteen (14) days after the  
2606 date of notification or mailing of such decision, further appeal  
2607 is initiated pursuant to Section 71-5-523.

2608         **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is  
2609 amended as follows:

2610         71-5-523. The executive director may on his own motion  
2611 affirm, modify or set aside any decision of an appeal tribunal on  
2612 the basis of the evidence previously submitted in such case, or  
2613 direct the taking of additional evidence, or may permit any of the  
2614 parties to such decision to initiate further appeals before it.  
2615 The executive director shall permit such further appeal by any of  
2616 the parties to a decision of an appeal tribunal which is not  
2617 unanimous, and by the examiner whose decision has been overruled  
2618 or modified by an appeal tribunal. The executive director may  
2619 remove to himself or transfer to another appeal tribunal the  
2620 proceedings on any claim pending before an appeal tribunal. Any  
2621 proceedings so removed to the executive director shall be  
2622 heard \* \* \* in accordance with the requirements of Section  
2623 71-5-519 and within fifteen (15) days after notice of appeal has  
2624 been received by the executive director. No notice of appeal  
2625 shall be deemed to be received by the said executive director,  
2626 within the meaning of this section, until all prior appeals  
2627 pending before the Board of Review have been heard. The executive  
2628 director shall, within four (4) days after his decision, so notify  
2629 the parties to any proceeding of his findings and decision. \* \* \*

2630         **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is  
2631 amended as follows:

2632         71-5-525. The manner in which appealed claims shall be  
2633 presented and the conduct of hearings and appeals shall be in  
2634 accordance with regulations prescribed by the executive director  
2635 for determining the rights of the parties, whether or not such



2636 regulations conform to common law or statutory rules of evidence  
2637 and other technical rules of procedure. A full and complete  
2638 record shall be kept of all proceedings in connection with an  
2639 appealed claim. The department's entire file relative to the  
2640 appealed claim shall be a part of such record and shall be  
2641 considered as evidence. All testimony at any hearing upon an  
2642 appealed claim shall be recorded, but need not be transcribed  
2643 unless the claim is further appealed.

2644 **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is  
2645 amended as follows:

2646 71-5-529. Any decision of the executive director, in the  
2647 absence of an appeal therefrom as herein provided, shall become  
2648 final ten (10) days after the date of notification or mailing  
2649 thereof; and judicial review thereof shall be permitted only after  
2650 any party claiming to be aggrieved thereby has exhausted his  
2651 administrative remedies as provided by this chapter. The  
2652 department shall be deemed to be a party to any judicial action  
2653 involving any such decision, and may be represented in any such  
2654 judicial action by any qualified attorney employed by the  
2655 department and designated by it for that purpose or, at the  
2656 department's request, by the Attorney General.

2657 **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is  
2658 amended as follows:

2659 71-5-531. Within ten (10) days after the decision of the  
2660 executive director has become final, any party aggrieved thereby  
2661 may secure judicial review thereof by commencing an action, in the  
2662 circuit court of the county in which the plaintiff resides,  
2663 against the department for the review of such decision, in which  
2664 action any other party to the proceeding before the executive  
2665 director shall be made a defendant. In cases wherein the  
2666 plaintiff is not a resident of the State of Mississippi, such  
2667 action may be filed in the circuit court of the county in which  
2668 the employer resides, the county in which the cause of action

2669 arose, or in the county of employment. In such action, a petition  
2670 which need not be verified, but which shall state the grounds upon  
2671 which a review is sought, shall be served upon the department or  
2672 upon such person as the department may designate, and such service  
2673 shall be deemed completed service on all parties; but there shall  
2674 be left with the party so served as many copies of the petition as  
2675 there are defendants, and the department shall forthwith mail one  
2676 (1) such copy to each such defendant. With its answer, the  
2677 department shall certify and file with the court all documents and  
2678 papers and a transcript of all testimony taken in the matter,  
2679 together with the executive director's findings of fact and  
2680 decision therein. The department may also, in its discretion,  
2681 certify to such court questions of law involved in any decision.  
2682 In any judicial proceedings under this section, the findings of  
2683 the executive director as to the facts, if supported by evidence  
2684 and in the absence of fraud, shall be conclusive, and the  
2685 jurisdiction of the court shall be confined to questions of law.  
2686 Such actions, and the questions so certified, shall be heard in a  
2687 summary manner and shall be given precedence over all other civil  
2688 cases. An appeal may be taken from the decision of the circuit  
2689 court of the county in which the plaintiff resides to the Supreme  
2690 Court of Mississippi, in the same manner, but not inconsistent  
2691 with the provisions of this chapter, as is provided in civil  
2692 cases. It shall not be necessary, in any judicial proceeding  
2693 under this section, to enter exceptions to the rulings of the  
2694 Board of Review, and no bond shall be required for entering such  
2695 appeal. Upon the final determination of such judicial proceeding,  
2696 the executive director shall enter an order in accordance with  
2697 such determination. A petition for judicial review shall not act  
2698 as a supersedeas or stay unless the executive director shall so  
2699 order.

2700       **SECTION 46.** Section 71-5-541, Mississippi Code of 1972, is  
2701 amended as follows:

2702           71-5-541. A. (1) In the administration of this chapter,  
2703 the department shall cooperate with the Department of Labor to the  
2704 fullest extent consistent with the provisions of this chapter and  
2705 shall take such action, through the adoption of appropriate rules,  
2706 regulations, administrative methods and standards, as may be  
2707 necessary to secure to this state and its citizens all advantages  
2708 available under the provisions of the Social Security Act that  
2709 relate to unemployment compensation, the Federal Unemployment Tax  
2710 Act, the Wagner-Peyser Act and the Federal-State Extended  
2711 Unemployment Compensation Act of 1970, all as amended.

2712           (2) In the administration of the provisions of this  
2713 section, which are enacted to conform with the requirements of the  
2714 Federal-State Extended Unemployment Compensation Act of 1970, as  
2715 amended, the department shall take such actions as may be  
2716 necessary:

2717                   (a) To ensure that the provisions are so  
2718 interpreted and applied as to meet the requirements of such  
2719 federal act as interpreted by the U.S. Department of Labor; and

2720                   (b) To secure to this state the full reimbursement  
2721 of the federal share of extended benefits paid under this chapter  
2722 that are reimbursable under the federal act; and also

2723                   (c) To limit the amount of extended benefits paid  
2724 as may be necessary so that the reimbursement of the federal share  
2725 of extended benefits paid shall remain at one-half (1/2) of the  
2726 total extended benefits paid.

2727           B. As used in this section, unless the context clearly  
2728 requires otherwise:

2729                   (1) "Extended benefit period" means a period which:

2730                           (a) Begins with the third week after a week for  
2731 which there is a state "on" indicator; and

2732                           (b) Ends with either of the following weeks,  
2733 whichever occurs later:

2734 (i) The third week after the first week for  
2735 which there is a state "off" indicator; or

2736 (ii) The thirteenth consecutive week of such  
2737 period.

2738 No extended benefit period may begin by reason of a state  
2739 "on" indicator before the fourteenth week following the end of a  
2740 prior extended benefit period which was in effect with respect to  
2741 this state.

2742 (2) For weeks beginning after September 25, 1982, there  
2743 is a "state 'on' indicator" for a week if the rate of insured  
2744 unemployment under this chapter for the period consisting of such  
2745 week and the immediately preceding twelve (12) weeks:

2746 (a) Equaled or exceeded one hundred twenty percent  
2747 (120%) of the average of such rates for the corresponding period  
2748 of thirteen (13) weeks ending in each of the preceding two (2)  
2749 calendar years; and

2750 (b) Equaled or exceeded five percent (5%).

2751 \* \* \* The determination of whether there has been a state  
2752 "on" or "off" indicator beginning or ending any extended benefit  
2753 period shall be made under this subsection as if (i) paragraph (2)  
2754 did not contain subparagraph (a) thereof, and (ii) the figure "5"  
2755 contained in subparagraph (b) thereof were "6"; except that,  
2756 notwithstanding any such provision of this subsection, any week  
2757 for which there would otherwise be a "state 'on' indicator" shall  
2758 continue to be such week and shall not be determined to be a week  
2759 for which there is a "state 'off' indicator."

2760 (3) There is a "state 'off' indicator" for a week if,  
2761 for the period consisting of such week and the immediately  
2762 preceding twelve (12) weeks, either subparagraph (a) or (b) of  
2763 paragraph (2) was not satisfied.

2764 (4) "Rate of insured unemployment," for purposes of  
2765 paragraphs (2) and (3) of this subsection, means the percentage  
2766 derived by dividing:

2767                   (a) The average number of continued weeks claimed  
2768 for regular state compensation in this state for weeks of  
2769 unemployment with respect to the most recent period of thirteen  
2770 (13) consecutive weeks, as determined by the department on the  
2771 basis of its reports to the U.S. Secretary of Labor; by

2772                   (b) The average monthly employment covered under  
2773 this chapter for the first four (4) of the most recent six (6)  
2774 completed calendar quarters ending before the end of such period  
2775 of thirteen (13) weeks.

2776                   (5) "Regular benefits" means benefits payable to an  
2777 individual under this chapter or under any other state law  
2778 (including benefits payable to federal civilian employees and to  
2779 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than  
2780 extended benefits.

2781                   (6) "Extended benefits" means benefits (including  
2782 benefits payable to federal civilian employees and to  
2783 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an  
2784 individual under the provisions of this section for weeks of  
2785 unemployment in his eligibility period.

2786                   (7) "Eligibility period" of an individual means the  
2787 period consisting of the weeks in his benefit year which begin in  
2788 an extended benefit period and, if his benefit year ends within  
2789 such extended benefit period, any weeks thereafter which begin in  
2790 such period.

2791                   (8) "Exhaustee" means an individual who, with respect  
2792 to any week of unemployment in his eligibility period:

2793                   (a) Has received, prior to such week, all of the  
2794 regular benefits that were available to him under this chapter or  
2795 any other state law (including dependents' allowances and benefits  
2796 payable to federal civilian employees and ex-servicemen under 5  
2797 USCS Section 8501-8525) in his current benefit year that includes  
2798 such week;

2799 For the purposes of this subparagraph, an individual shall be  
2800 deemed to have received all of the regular benefits that were  
2801 available to him although, as a result of a pending appeal with  
2802 respect to wages that were not considered in the original monetary  
2803 determination in his benefit year, he may subsequently be  
2804 determined to be entitled to added regular benefits; or

2805 (b) Has no, or insufficient, wages on the basis of  
2806 which he could establish a new benefit year that would include  
2807 such week, his benefit year having expired prior to such week; and

2808 (c) (i) Has no right to unemployment benefits or  
2809 allowances, as the case may be, under the Railroad Unemployment  
2810 Insurance Act, the Trade Expansion Act of 1962, the Automotive  
2811 Products Trade Act of 1965, and such other federal laws as are  
2812 specified in regulations issued by the U.S. Secretary of Labor;  
2813 and

2814 (ii) Has not received and is not seeking  
2815 unemployment benefits under the Unemployment Compensation Law of  
2816 the Virgin Islands or of Canada; but if he is seeking such  
2817 benefits and the appropriate agency finally determines that he is  
2818 not entitled to benefits under such law, he is considered an  
2819 exhaustee; however, the reference in this subsection to the Virgin  
2820 Islands shall be inapplicable effective on the day on which the  
2821 United States Secretary of Labor approves under Section 3304(a) of  
2822 the Internal Revenue Code of 1954, an unemployment compensation  
2823 law submitted to the Secretary by the Virgin Islands for approval.

2824 (9) "State law" means the unemployment insurance law of  
2825 any state, approved by the United States Secretary of Labor under  
2826 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section  
2827 3304). C. Except when the result would be inconsistent with  
2828 the other provisions of this section, as provided in the  
2829 regulations of the department, the provisions of this chapter  
2830 which apply to claims for, or the payment of, regular benefits  
2831 shall apply to claims for, and the payment of, extended benefits.

2832 D. An individual shall be eligible to receive extended  
2833 benefits with respect to any week of unemployment in his  
2834 eligibility period only if the department finds that with respect  
2835 to such week:

2836 (1) He is an "exhaustee" as defined in subsection B(8)  
2837 of this section.

2838 (2) He has satisfied the requirements of this chapter  
2839 for the receipt of regular benefits that are applicable to  
2840 individuals claiming extended benefits, including not being  
2841 subject to a disqualification for the receipt of benefits.

2842 (3) For a week beginning after September 25, 1982, he  
2843 has, during his base period, been paid wages for insured work  
2844 equal to not less than forty (40) times his weekly benefit amount;  
2845 he has been paid wages for insured work during at least two (2)  
2846 quarters of his base period, and he has, during that quarter of  
2847 his base period in which his total wages were highest, been paid  
2848 wages for insured work equal to not less than twenty-six (26)  
2849 times the minimum weekly benefit amount.

2850 E. The weekly extended benefit amount payable to an  
2851 individual for a week of total unemployment in his eligibility  
2852 period shall be an amount equal to the weekly benefit amount  
2853 payable to him during his applicable benefit year; \* \* \*  
2854 however, \* \* \* benefits paid to individuals during eligibility  
2855 periods beginning before October 1, 1983, shall be computed to the  
2856 next higher multiple of One Dollar (\$1.00), if not a multiple of  
2857 One Dollar (\$1.00); and benefits paid to individuals during  
2858 eligibility periods beginning on or after October 1, 1983, shall  
2859 be computed to the next lower multiple of One Dollar (\$1.00), if  
2860 not a multiple of One Dollar (\$1.00). \* \* \* In no event shall the  
2861 weekly extended benefit amount payable to an individual be more  
2862 than two (2) times the amount of the reimbursement of the federal  
2863 share of extended benefits paid.

2864 F. (1) The total extended benefit amount payable to any  
2865 eligible individual with respect to his applicable benefit year  
2866 shall be the least of the following amounts:

2867 (a) Fifty percent (50%) of the total amount of  
2868 regular benefits which were payable to him under this chapter in  
2869 his applicable benefit year; \* \* \* however, \* \* \* benefits paid to  
2870 individuals during eligibility periods beginning before October 1,  
2871 1983, shall be computed to the next higher multiple of One Dollar  
2872 (\$1.00), if not a multiple of One Dollar (\$1.00), and benefits  
2873 paid to individuals during eligibility periods beginning on or  
2874 after October 1, 1983, shall be computed to the next lower  
2875 multiple of One Dollar (\$1.00), if not a multiple of One Dollar  
2876 (\$1.00); or

2877 (b) Thirteen (13) times his weekly benefit amount  
2878 which was payable to him under this chapter for a week of total  
2879 unemployment in the applicable benefit year.

2880 (2) The total extended benefits otherwise payable to an  
2881 individual who is filing an interstate claim under the interstate  
2882 benefit payment plan shall not exceed two (2) weeks whenever an  
2883 extended benefit period is not in effect for such week in the  
2884 state where the claim is filed.

2885 (3) \* \* \* In no event shall the total extended benefit  
2886 amount payable to any eligible individual with respect to his  
2887 applicable benefit year be more than two (2) times the amount of  
2888 the reimbursement of the federal share of extended benefits paid.

2889 G. (1) Whenever an extended benefit period is to become  
2890 effective in this state as a result of a state "on" indicator, or  
2891 an extended benefit period is to be terminated in this state as a  
2892 result of state "off" indicators, the department shall make an  
2893 appropriate public announcement.

2894 (2) Computations required by the provisions of  
2895 subsection B(4) shall be made by the department, in accordance



2896 with regulations prescribed by the United States Secretary of  
2897 Labor.

2898 H. Extended benefits paid under the provisions of this  
2899 section which are not reimbursable from federal funds shall be  
2900 charged to the experience-rating record of base period employers.

2901 I. (1) Notwithstanding the provisions of subsections C and  
2902 D of this section, an individual shall be disqualified for receipt  
2903 of extended benefits if the department finds that during any week  
2904 of his eligibility period:

2905 (a) He has failed either to apply for or to accept  
2906 an offer of suitable work (as defined under paragraph (3)) to  
2907 which he was referred by the department; or

2908 (b) He has failed to furnish tangible evidence  
2909 that he has actively engaged in a systematic and sustained effort  
2910 to find work, unless such individual is not actively engaged in  
2911 seeking work because such individual is:

2912 (i) Before any court of the United States or  
2913 any state pursuant to a lawfully issued summons to appear for jury  
2914 duty;

2915 (ii) Hospitalized for treatment of an  
2916 emergency or a life-threatening condition.

2917 The entitlement to benefits of any individual who is  
2918 determined not to be actively engaged in seeking work in any week  
2919 for the foregoing reasons shall be decided pursuant to the able  
2920 and available requirements in Section 71-5-511 without regard to  
2921 the disqualification provisions otherwise applicable under Section  
2922 71-5-541. The conditions prescribed in clauses (i) and (ii) of  
2923 this subparagraph (b) must be applied in the same manner to  
2924 individuals filing claims for regular benefits.

2925 (2) Such disqualification shall begin with the week in  
2926 which such failure occurred and shall continue until he has been  
2927 employed in each of eight (8) subsequent weeks (whether or not  
2928 consecutive) and has earned remuneration for personal services

2929 performed for an employer, as in this chapter defined, equal to  
2930 not less than eight (8) times his weekly extended benefit amount.

2931 (3) For the purpose of subparagraph (a) of paragraph  
2932 (1) the term "suitable work" means any work which is within the  
2933 individual's capabilities to perform, if:

2934 (a) The gross average weekly remuneration payable  
2935 for the work exceeds the sum of the individual's weekly extended  
2936 benefit amount plus the amount, if any, of supplemental  
2937 unemployment benefits (as defined in Section 501(c)(17)(D) of the  
2938 Internal Revenue Code of 1954) payable to such individual for such  
2939 week;

2940 (b) The wages payable for the work equal the  
2941 higher of the minimum wages provided by Section 6(a)(1) of the  
2942 Fair Labor Standards Act of 1938 (without regard to any  
2943 exemption), or the state or local minimum wage; and

2944 (c) The position was offered to the individual in  
2945 writing or was listed with the state employment service; and

2946 (d) Such work otherwise meets the definition of  
2947 "suitable work" for regular benefits contained in Section  
2948 71-5-513A(4) to the extent that such criteria of suitability are  
2949 not inconsistent with the provisions of this paragraph (3); and

2950 (e) The individual cannot furnish satisfactory  
2951 evidence to the department that his prospects for obtaining work  
2952 in his customary occupation within a reasonably short period are  
2953 good. If such evidence is deemed satisfactory for this purpose,  
2954 the determination of whether any work is suitable with respect to  
2955 such individual shall be made in accordance with the definition of  
2956 suitable work contained in Section 71-5-513A(4) without regard to  
2957 the definition specified by this paragraph (3).

2958 (4) Notwithstanding any provisions of subsection I to  
2959 the contrary, no work shall be deemed to be suitable work for an  
2960 individual which does not accord with the labor standard  
2961 provisions set forth herein under Section 71-5-513A(4).

2962           (5) The employment service shall refer any claimant  
2963 entitled to extended benefits under this section to any suitable  
2964 work which meets the criteria prescribed in paragraph (3).

2965           (6) An individual shall be disqualified for extended  
2966 benefits for the week, or fraction thereof, which immediately  
2967 follows the day on which he left work voluntarily without good  
2968 cause (as defined in Section 71-5-513A(1)), was discharged for  
2969 misconduct connected with his work, or refused suitable work  
2970 (except as provided in subsection I of this section), and for each  
2971 week thereafter until he has earned remuneration for personal  
2972 services performed for an employer, as in this chapter defined,  
2973 equal to not less than eight (8) times his weekly benefit amount,  
2974 as determined in each case.

2975           (7) The provisions of paragraphs I(1) through (6) of  
2976 this section shall not apply to claims for weeks of unemployment  
2977 beginning after March 6, 1993, and before January 1, 1995, and  
2978 during that period the provisions of this chapter applicable to  
2979 claims for regular compensation shall apply.

2980           J. Notwithstanding any other provisions of this chapter, if  
2981 the benefit year of any individual ends within an extended benefit  
2982 period, the remaining balance of extended benefits that such  
2983 individual would, but for this section, be entitled to receive in  
2984 that extended benefit period, with respect to weeks of  
2985 unemployment beginning after the end of the benefit year, shall be  
2986 reduced (but not below zero) by the product of the number of weeks  
2987 for which the individual received any amounts as trade  
2988 readjustment allowances within that benefit year, multiplied by  
2989 the individual's weekly benefit amount for extended benefits.

2990           **SECTION 47.** Section 73-30-25, Mississippi Code of 1972, is  
2991 amended as follows:

2992           73-30-25. It is not the intent of this chapter to regulate  
2993 against members of other duly regulated professions in this state

2994 who do counseling in the normal course of the practice of their  
2995 own profession. This chapter does not apply to:

2996 (a) Any person registered, certified or licensed by the  
2997 state to practice any other occupation or profession while  
2998 rendering counseling services in the performance of the occupation  
2999 or profession for which he is registered, certified or licensed;

3000 (b) Certified school counselors when they are  
3001 practicing counseling within the scope of their employment;

3002 (c) Certified vocational counselors when they are  
3003 practicing vocational counseling within the scope of their  
3004 employment;

3005 (d) Counselors in post-secondary institutions when they  
3006 are practicing within the scope of their employment;

3007 (e) Student interns or trainees in counseling pursuing  
3008 a course of study in counseling in a regionally or nationally  
3009 accredited institution of higher learning or training institution  
3010 if activities and services constitute a part of the supervised  
3011 course of study, provided that such persons be designated a  
3012 counselor intern;

3013 (f) Professionals employed by regionally or nationally  
3014 accredited post-secondary institutions as counselor educators when  
3015 they are practicing counseling within the scope of their  
3016 employment;

3017 (g) Professionals registered, certified or licensed by  
3018 a recognized state or national professional association that has a  
3019 published code of ethics and requires adherence to same;

3020 (h) Duly ordained ministers or clergy while functioning  
3021 in their ministerial capacity and duly accredited Christian  
3022 Science practitioners;

3023 (i) Professional employees of regional mental health  
3024 centers, state mental hospitals, vocational rehabilitation  
3025 institutions, youth court counselors and employees of the  
3026 Mississippi Department of Employment Security or other

3027 governmental agency so long as they practice within the scope of  
3028 their employment;

3029 (j) Professional employees of alcohol or drug abuse  
3030 centers or treatment facilities, whether privately or publicly  
3031 funded, so long as they practice within the scope of their  
3032 employment;

3033 (k) Private employment counselors;

3034 (l) Any nonresident temporarily employed in this state  
3035 to render counseling services for not more than thirty (30) days  
3036 in any year, if in the opinion of the board the person would  
3037 qualify for a license under this chapter and if the person holds  
3038 any license required for counselors in his home state or country;  
3039 and

3040 (m) Any social workers holding a master's degree in  
3041 social work from a school accredited by the Council on Social Work  
3042 Education and who do counseling in the normal course of the  
3043 practice of their own profession.

3044 **SECTION 48.** Section 43-1-30, Mississippi Code of 1972, is  
3045 amended as follows:

3046 43-1-30. (1) There is \* \* \* created the Mississippi TANF  
3047 Implementation Council. It shall serve as the independent, single  
3048 state advisory and review council for assuring Mississippi's  
3049 compliance with the federal Personal Responsibility and Work  
3050 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as  
3051 amended. The council shall further cooperation between  
3052 government, education and the private sector in meeting the needs  
3053 of the TANF program. It shall also further cooperation between  
3054 the business and labor communities, education and training  
3055 delivery systems, and between businesses in developing highly  
3056 skilled workers for high skill, high paying jobs in Mississippi.

3057 (2) The council shall be comprised of thirteen (13) public  
3058 members and certain ex officio nonvoting members. All public

3059 members of the council shall be appointed as follows by the  
3060 Governor:

3061 Ten (10) members shall be representatives from business and  
3062 industry, provided that no fewer than five (5) members are from  
3063 the manufacturing and industry sector who are also serving as  
3064 members of private industry councils established within the state,  
3065 and one (1) member may be a representative of a nonprofit  
3066 organization. Three (3) members shall be recipients or former  
3067 recipients of TANF assistance appointed from the state at large.

3068 The ex officio nonvoting members of the council shall consist  
3069 of the following, or their designees:

3070 (a) The Executive Director of the Mississippi  
3071 Department of Human Services;

3072 (b) The Executive Director of the Mississippi  
3073 Department of Employment Security;

3074 (c) The Executive Director of the Mississippi  
3075 Development Authority;

3076 (d) The State Superintendent of Public Education;

3077 (e) The Director of the State Board for Community and  
3078 Junior Colleges;

3079 (f) The Executive Director of the Division of Medicaid;

3080 (g) The Commissioner of the Mississippi Department of  
3081 Corrections; and

3082 (h) The Director of the Mississippi Cooperative  
3083 Extension Service.

3084 (3) The Governor shall designate one (1) public member to  
3085 serve as chairman of the council for a term of two (2) years and  
3086 until a successor as chairman is appointed and qualified.

3087 (4) The term of office for public members appointed by the  
3088 Governor shall be four (4) years and until their successors are  
3089 appointed and qualified.

3090 (5) Any vacancy shall be filled for the unexpired term by  
3091 the Governor in the manner of the original appointment, unless  
3092 otherwise specified in this section.

3093 (6) Public members shall receive a per diem as authorized in  
3094 Section 25-3-69, for each day actually engaged in meetings of the  
3095 council, and shall be reimbursed for mileage and necessary  
3096 expenses incurred in the performance of their duties, as provided  
3097 in Section 25-3-41.

3098 (7) The council shall:

3099 (a) Annually review and recommend policies and programs  
3100 to the Governor and the Legislature that will implement and meet  
3101 federal requirements under the TANF program.

3102 (b) Annually review and recommend policies and programs  
3103 to the Governor and to the Legislature that will enable citizens  
3104 of Mississippi to acquire the skills necessary to maximize their  
3105 economic self-sufficiency.

3106 (c) Review the provision of services and the use of  
3107 funds and resources under the TANF program, and under all  
3108 state-financed job training and job retraining programs, and  
3109 advise the Governor and the Legislature on methods of coordinating  
3110 such provision of services and use of funds and resources  
3111 consistent with the laws and regulations governing such programs.

3112 (d) Assist in developing outcome and output measures to  
3113 measure the success of the Department of Human Services' efforts  
3114 in implementing the TANF program. These recommendations shall be  
3115 made to the Department of Human Services at such times as required  
3116 in the event that the department implements new programs to comply  
3117 with the TANF program requirements.

3118 (e) Collaborate with the Mississippi Development  
3119 Authority, local planning and development districts and local  
3120 industrial development boards, and shall develop an economic  
3121 development plan for the creation of manufacturing jobs in each of  
3122 the counties in the state that has an unemployment rate of ten

3123 percent (10%) or more, which shall include, but not be limited to,  
3124 procedures for business development, entrepreneurship and  
3125 financial and technical assistance.

3126 (8) A majority of the members of the council shall  
3127 constitute a quorum for the conduct of meetings and all actions of  
3128 the council shall be by a majority of the members present at a  
3129 meeting.

3130 (9) The council shall adopt rules and regulations as it  
3131 deems necessary to carry out its responsibilities under this  
3132 section and under applicable federal human resources programs.

3133 (10) The council may make and enter into contracts and  
3134 interagency agreements as may be necessary and proper.

3135 (11) The council is authorized to commit and expend monies  
3136 appropriated to it by the Legislature for its authorized purposes.  
3137 The council is authorized to solicit, accept and expend public and  
3138 private gifts, grants, awards and contributions related to  
3139 furtherance of its statutory duties.

3140 (12) Funds for the operations of the council shall be  
3141 derived from federal funds for the operation of state councils  
3142 pursuant to applicable federal human resources programs and from  
3143 such other monies appropriated to it by the Legislature.

3144 **SECTION 49.** Section 43-17-5, Mississippi Code of 1972, is  
3145 amended as follows:

3146 43-17-5. (1) The amount of Temporary Assistance for Needy  
3147 Families (TANF) benefits which may be granted for any dependent  
3148 child and a needy caretaker relative shall be determined by the  
3149 county department with due regard to the resources and necessary  
3150 expenditures of the family and the conditions existing in each  
3151 case, and in accordance with the rules and regulations made by the  
3152 Department of Human Services which shall not be less than the  
3153 Standard of Need in effect for 1988, and shall be sufficient when  
3154 added to all other income (except that any income specified in the  
3155 federal Social Security Act, as amended, may be disregarded) and



3156 support available to the child to provide such child with a  
3157 reasonable subsistence compatible with decency and health. The  
3158 first family member in the dependent child's budget may receive an  
3159 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;  
3160 the second family member in the dependent child's budget may  
3161 receive an amount not to exceed Thirty-six Dollars (\$36.00) per  
3162 month; and each additional family member in the dependent child's  
3163 budget an amount not to exceed Twenty-four Dollars (\$24.00) per  
3164 month. The maximum for any individual family member in the  
3165 dependent child's budget may be exceeded for foster or medical  
3166 care or in cases of mentally retarded or physically handicapped  
3167 children. TANF benefits granted shall be specifically limited  
3168 only (a) to children existing or conceived at the time the  
3169 caretaker relative initially applies and qualifies for such  
3170 assistance, unless this limitation is specifically waived by the  
3171 department, or (b) to a child born following a twelve (12)  
3172 consecutive month period of discontinued benefits by the caretaker  
3173 relative.

3174 (2) TANF cash benefits in Mississippi shall be provided by  
3175 monthly checks mailed to the recipient family until such time as  
3176 an on-line electronic benefits transfer system for TANF benefit  
3177 payments is implemented pursuant to Section 43-1-28.

3178 (3) The Department of Human Services shall deny TANF  
3179 benefits to the following categories of individuals, except for  
3180 individuals and families specifically exempt or excluded for good  
3181 cause as allowed by federal statute or regulation:

3182 (a) Families without a minor child residing with the  
3183 custodial parent or other adult caretaker relative of the child;

3184 (b) Families which include an adult who has received  
3185 TANF assistance for sixty (60) months after the commencement of  
3186 the Mississippi TANF program, whether or not such period of time  
3187 is consecutive;

3188           (c) Families not assigning to the state any rights a  
3189 family member may have, on behalf of the family member or of any  
3190 other person for whom the family member has applied for or is  
3191 receiving such assistance, to support from any other person, as  
3192 required by law;

3193           (d) Families who fail to cooperate in establishing  
3194 paternity or obtaining child support, as required by law;

3195           (e) Any individual who has not attained eighteen (18)  
3196 years of age, is not married to the head of household, has a minor  
3197 child at least twelve (12) weeks of age in his or her care, and  
3198 has not successfully completed a high school education or its  
3199 equivalent, if such individual does not participate in educational  
3200 activities directed toward the attainment of a high school diploma  
3201 or its equivalent, or an alternative educational or training  
3202 program approved by the department;

3203           (f) Any individual who has not attained eighteen (18)  
3204 years of age, is not married, has a minor child in his or her  
3205 care, and does not reside in a place or residence maintained by a  
3206 parent, legal guardian or other adult relative or the individual  
3207 as such parent's, guardian's or adult relative's own home;

3208           (g) Any minor child who has been, or is expected by a  
3209 parent or other caretaker relative of the child to be, absent from  
3210 the home for a period of more than thirty (30) days;

3211           (h) Any individual who is a parent or other caretaker  
3212 relative of a minor child who fails to notify the department of  
3213 the absence of the minor child from the home for the thirty-day  
3214 period specified in paragraph (g), by the end of the five-day  
3215 period that begins with the date that it becomes clear to the  
3216 individual that the minor child will be absent for the thirty-day  
3217 period;

3218           (i) Any individual who fails to comply with the  
3219 provisions of the Employability Development Plan signed by the  
3220 individual which prescribe those activities designed to help the

3221 individual become and remain employed, or to participate  
3222 satisfactorily in the assigned work activity, as authorized under  
3223 subsections (6)(c) and (d);

3224 (j) A parent or caretaker relative who has not engaged  
3225 in an allowable work activity once the department determines the  
3226 parent or caretaker relative is ready to engage in work, or once  
3227 the parent or caretaker relative has received TANF assistance  
3228 under the program for twenty-four (24) months, whether or not  
3229 consecutive, whichever is earlier;

3230 (k) Any individual who is fleeing to avoid prosecution,  
3231 or custody or confinement after conviction, under the laws of the  
3232 jurisdiction from which the individual flees, for a crime, or an  
3233 attempt to commit a crime, which is a felony under the laws of the  
3234 place from which the individual flees, or who is violating a  
3235 condition of probation or parole imposed under federal or state  
3236 law;

3237 (l) Aliens who are not qualified under federal law;

3238 (m) For a period of ten (10) years following  
3239 conviction, individuals convicted in federal or state court of  
3240 having made a fraudulent statement or representation with respect  
3241 to the individual's place of residence in order to receive TANF,  
3242 food stamps or Supplemental Security Income (SSI) assistance under  
3243 Title XVI or Title XIX simultaneously from two (2) or more states;  
3244 and

3245 (n) Individuals who are recipients of federal  
3246 Supplemental Security Income (SSI) assistance.

3247 (4) (a) Any person who is otherwise eligible for TANF  
3248 benefits, including custodial and noncustodial parents, shall be  
3249 required to attend school and meet the monthly attendance  
3250 requirement as provided in this subsection if all of the following  
3251 apply:

3252 (i) The person is under age twenty (20);

3253                   (ii) The person has not graduated from a public or  
3254 private high school or obtained a GED equivalent;

3255                   (iii) The person is physically able to attend  
3256 school and is not excused from attending school; and

3257                   (iv) If the person is a parent or caretaker  
3258 relative with whom a dependent child is living, child care is  
3259 available for the child.

3260           The monthly attendance requirement under this subsection  
3261 shall be attendance at the school in which the person is enrolled  
3262 for each day during a month that the school conducts classes in  
3263 which the person is enrolled, with not more than two (2) absences  
3264 during the month for reasons other than the reasons listed in  
3265 paragraph (e)(iv) of this subsection. Persons who fail to meet  
3266 participation requirements in this subsection shall be subject to  
3267 sanctions as provided in paragraph (f) of this subsection.

3268           (b) As used in this subsection, "school" means any one  
3269 (1) of the following:

3270                   (i) A school as defined in Section 37-13-91(2);

3271                   (ii) A vocational, technical and adult education  
3272 program; or

3273                   (iii) A course of study meeting the standards  
3274 established by the State Department of Education for the granting  
3275 of a declaration of equivalency of high school graduation.

3276           (c) If any compulsory-school-age child, as defined in  
3277 Section 37-13-91(2), to which TANF eligibility requirements apply  
3278 is not in compliance with the compulsory school attendance  
3279 requirements of Section 37-13-91(6), the superintendent of schools  
3280 of the school district in which the child is enrolled or eligible  
3281 to attend shall notify the county department of human services of  
3282 the child's noncompliance. The Department of Human Services shall  
3283 review school attendance information as provided under this  
3284 paragraph at all initial eligibility determinations and upon  
3285 subsequent report of unsatisfactory attendance.

3286           (d) The signature of a person on an application for  
3287 TANF benefits constitutes permission for the release of school  
3288 attendance records for that person or for any child residing with  
3289 that person. The department shall request information from the  
3290 child's school district about the child's attendance in the school  
3291 district's most recently completed semester of attendance. If  
3292 information about the child's previous school attendance is not  
3293 available or cannot be verified, the department shall require the  
3294 child to meet the monthly attendance requirement for one (1)  
3295 semester or until the information is obtained. The department  
3296 shall use the attendance information provided by a school district  
3297 to verify attendance for a child. The department shall review  
3298 with the parent or caretaker relative a child's claim that he or  
3299 she has a good cause for not attending school.

3300           A school district shall provide information to the department  
3301 about the attendance of a child who is enrolled in a public school  
3302 in the district within five (5) working days of the receipt of a  
3303 written request for such information from the department. The  
3304 school district shall define how many hours of attendance count as  
3305 a full day and shall provide that information, upon request, to  
3306 the department. In reporting attendance, the school district may  
3307 add partial days' absence together to constitute a full day's  
3308 absence.

3309           (e) A child who is required to attend school to meet  
3310 the requirements under this subsection shall comply except when  
3311 there is good cause, which shall be demonstrated by any of the  
3312 following circumstances:

3313                   (i) The minor parent is the caretaker of a child  
3314 less than twelve (12) weeks old; or

3315                   (ii) The department determines that child care  
3316 services are necessary for the minor parent to attend school and  
3317 there is no child care available; or

3318 (iii) The child is prohibited by the school  
3319 district from attending school and an expulsion is pending. This  
3320 exemption no longer applies once the teenager has been expelled;  
3321 however, a teenager who has been expelled and is making  
3322 satisfactory progress towards obtaining a GED equivalent shall be  
3323 eligible for TANF benefits; or

3324 (iv) The child failed to attend school for one or  
3325 more of the following reasons:

- 3326 1. Illness, injury or incapacity of the child  
3327 or the minor parent's child;
- 3328 2. Court-required appearances or temporary  
3329 incarceration;
- 3330 3. Medical or dental appointments for the  
3331 child or minor parent's child;
- 3332 4. Death of a close relative;
- 3333 5. Observance of a religious holiday;
- 3334 6. Family emergency;
- 3335 7. Breakdown in transportation;
- 3336 8. Suspension; or
- 3337 9. Any other circumstance beyond the control  
3338 of the child, as defined in regulations of the department.

3339 (f) Upon determination that a child has failed without  
3340 good cause to attend school as required, the department shall  
3341 provide written notice to the parent or caretaker relative  
3342 (whoever is the primary recipient of the TANF benefits) that  
3343 specifies:

3344 (i) That the family will be sanctioned in the next  
3345 possible payment month because the child who is required to attend  
3346 school has failed to meet the attendance requirement of this  
3347 subsection;

3348 (ii) The beginning date of the sanction, and the  
3349 child to whom the sanction applies;

3350 (iii) The right of the child's parents or  
3351 caretaker relative (whoever is the primary recipient of the TANF  
3352 benefits) to request a fair hearing under this subsection.

3353 The child's parent or caretaker relative (whoever is the  
3354 primary recipient of the TANF benefits) may request a fair hearing  
3355 on the department's determination that the child has not been  
3356 attending school. If the child's parents or caretaker relative  
3357 does not request a fair hearing under this subsection, or if,  
3358 after a fair hearing has been held, the hearing officer finds that  
3359 the child without good cause has failed to meet the monthly  
3360 attendance requirement, the department shall discontinue or deny  
3361 TANF benefits to the child thirteen (13) years old, or older, in  
3362 the next possible payment month. The department shall discontinue  
3363 or deny twenty-five percent (25%) of the family grant when a child  
3364 six (6) through twelve (12) years of age without good cause has  
3365 failed to meet the monthly attendance requirement. Both the child  
3366 and family sanction may apply when children in both age groups  
3367 fail to meet the attendance requirement without good cause. A  
3368 sanction applied under this subsection shall be effective for one  
3369 (1) month for each month that the child failed to meet the monthly  
3370 attendance requirement. In the case of a dropout, the sanction  
3371 shall remain in force until the parent or caretaker relative  
3372 provides written proof from the school district that the child has  
3373 reenrolled and met the monthly attendance requirement for one (1)  
3374 calendar month. Any month in which school is in session for at  
3375 least ten (10) days during the month may be used to meet the  
3376 attendance requirement under this subsection. This includes  
3377 attendance at summer school. The sanction shall be removed the  
3378 next possible payment month.

3379 (5) All parents or caretaker relatives shall have their  
3380 dependent children receive vaccinations and booster vaccinations  
3381 against those diseases specified by the State Health Officer  
3382 pursuant to Section 41-23-37 in accordance with the vaccination

3383 and booster vaccination schedule prescribed by the State Health  
3384 Officer for children of that age, in order for the parents or  
3385 caretaker relatives to be eligible or remain eligible to receive  
3386 TANF benefits. Proof of having received such vaccinations and  
3387 booster vaccinations shall be given by presenting the certificates  
3388 of vaccination issued by any health care provider licensed to  
3389 administer vaccinations, and submitted on forms specified by the  
3390 State Board of Health. If the parents without good cause do not  
3391 have their dependent children receive the vaccinations and booster  
3392 vaccinations as required by this subsection and they fail to  
3393 comply after thirty (30) days' notice, the department shall  
3394 sanction the family's TANF benefits by twenty-five percent (25%)  
3395 for the next payment month and each subsequent payment month until  
3396 the requirements of this subsection are met.

3397 (6) (a) If the parent or caretaker relative applying for  
3398 TANF assistance is an employable person, as determined by the  
3399 Department of Human Services, the person shall be required to  
3400 engage in an allowable work activity once the department  
3401 determines the parent or caretaker relative is ready to engage in  
3402 work, or once the parent or caretaker relative has received TANF  
3403 assistance under the program for twenty-four (24) months, whether  
3404 or not consecutive, whichever is earlier. No TANF benefits shall  
3405 be given to any person to whom this section applies who fails  
3406 without good cause to comply with the Employability Development  
3407 Plan prepared by the department for the person, or who has refused  
3408 to accept a referral or offer of employment, training or education  
3409 in which he or she is able to engage, subject to the penalties  
3410 prescribed in subsection (6)(e). A person shall be deemed to have  
3411 refused to accept a referral or offer of employment, training or  
3412 education if he or she:

3413 (i) Willfully fails to report for an interview  
3414 with respect to employment when requested to do so by the  
3415 department; or



3416 (ii) Willfully fails to report to the department  
3417 the result of a referral to employment; or

3418 (iii) Willfully fails to report for allowable work  
3419 activities as prescribed in subsections (6)(c) and (d).

3420 (b) The Department of Human Services shall operate a  
3421 statewide work program for TANF recipients to provide work  
3422 activities and supportive services to enable families to become  
3423 self-sufficient and improve their competitive position in the work  
3424 force in accordance with the requirements of the federal Personal  
3425 Responsibility and Work Opportunity Reconciliation Act of 1996  
3426 (Public Law 104-193), as amended, and the regulations promulgated  
3427 thereunder. All adults who are not specifically exempt shall be  
3428 referred by the department for allowable work activities. An  
3429 adult may be exempt from the mandatory work activity requirement  
3430 for the following reasons:

3431 (i) Incapacity;

3432 (ii) Temporary illness or injury, verified by  
3433 physician's certificate;

3434 (iii) Is in the third trimester of pregnancy,  
3435 verified by physician's certificate;

3436 (iv) Caretaker of a child under twelve (12)  
3437 months, for not more than twelve (12) months of the sixty-month  
3438 maximum benefit period;

3439 (v) Caretaker of an ill or incapacitated person,  
3440 as verified by physician's certificate;

3441 (vi) Age, if over sixty (60) or under eighteen  
3442 (18) years of age;

3443 (vii) Receiving treatment for substance abuse, if  
3444 the person is in compliance with the substance abuse treatment  
3445 plan;

3446 (viii) In a two-parent family, the caretaker of a  
3447 severely disabled child, as verified by a physician's certificate;

3448 or

3449                   (ix) History of having been a victim of domestic  
3450 violence, which has been reported as required by state law and is  
3451 substantiated by police reports or court records, and being at  
3452 risk of further domestic violence, shall be exempt for a period as  
3453 deemed necessary by the department but not to exceed a total of  
3454 twelve (12) months, which need not be consecutive, in the  
3455 sixty-month maximum benefit period. For the purposes of this  
3456 paragraph (ix), "domestic violence" means that an individual has  
3457 been subjected to:

- 3458                   1. Physical acts that resulted in, or  
3459 threatened to result in, physical injury to the individual;
- 3460                   2. Sexual abuse;
- 3461                   3. Sexual activity involving a dependent  
3462 child;
- 3463                   4. Being forced as the caretaker relative of  
3464 a dependent child to engage in nonconsensual sexual acts or  
3465 activities;
- 3466                   5. Threats of, or attempts at, physical or  
3467 sexual abuse;
- 3468                   6. Mental abuse; or
- 3469                   7. Neglect or deprivation of medical care.

3470                   (c) For all families, all adults who are not  
3471 specifically exempt shall be required to participate in work  
3472 activities for at least the minimum average number of hours per  
3473 week specified by federal law or regulation, not fewer than twenty  
3474 (20) hours per week (thirty-five (35) hours per week for  
3475 two-parent families) of which are attributable to the following  
3476 allowable work activities:

- 3477                   (i) Unsubsidized employment;
- 3478                   (ii) Subsidized private employment;
- 3479                   (iii) Subsidized public employment;

3480 (iv) Work experience (including work associated  
3481 with the refurbishing of publicly assisted housing), if sufficient  
3482 private employment is not available;

3483 (v) On-the-job training;

3484 (vi) Job search and job readiness assistance  
3485 consistent with federal TANF regulations;

3486 (vii) Community service programs;

3487 (viii) Vocational educational training (not to  
3488 exceed twelve (12) months with respect to any individual);

3489 (ix) The provision of child care services to an  
3490 individual who is participating in a community service program;

3491 (x) Satisfactory attendance at high school or in a  
3492 course of study leading to a high school equivalency certificate,  
3493 for heads of household under age twenty (20) who have not  
3494 completed high school or received such certificate;

3495 (xi) Education directly related to employment, for  
3496 heads of household under age twenty (20) who have not completed  
3497 high school or received such equivalency certificate.

3498 (d) The following are allowable work activities which  
3499 may be attributable to hours in excess of the minimum specified in  
3500 subsection (6)(c):

3501 (i) Job skills training directly related to  
3502 employment;

3503 (ii) Education directly related to employment for  
3504 individuals who have not completed high school or received a high  
3505 school equivalency certificate;

3506 (iii) Satisfactory attendance at high school or in  
3507 a course of study leading to a high school equivalency, for  
3508 individuals who have not completed high school or received such  
3509 equivalency certificate;

3510 (iv) Job search and job readiness assistance  
3511 consistent with federal TANF regulations.

3512           (e) If any adult or caretaker relative refuses to  
3513 participate in allowable work activity as required under this  
3514 subsection (6), the following full family TANF benefit penalty  
3515 will apply, subject to due process to include notification,  
3516 conciliation and a hearing if requested by the recipient:

3517                   (i) For the first violation, the department shall  
3518 terminate the TANF assistance otherwise payable to the family for  
3519 a two-month period or until the person has complied with the  
3520 required work activity, whichever is longer;

3521                   (ii) For the second violation, the department  
3522 shall terminate the TANF assistance otherwise payable to the  
3523 family for a six-month period or until the person has complied  
3524 with the required work activity, whichever is longer;

3525                   (iii) For the third violation, the department  
3526 shall terminate the TANF assistance otherwise payable to the  
3527 family for a twelve-month period or until the person has complied  
3528 with the required work activity, whichever is longer;

3529                   (iv) For the fourth violation, the person shall be  
3530 permanently disqualified.

3531           For a two-parent family, unless prohibited by state or  
3532 federal law, Medicaid assistance shall be terminated only for the  
3533 person whose failure to participate in allowable work activity  
3534 caused the family's TANF assistance to be sanctioned under this  
3535 subsection (6)(e), unless an individual is pregnant, but shall not  
3536 be terminated for any other person in the family who is meeting  
3537 that person's applicable work requirement or who is not required  
3538 to work. Minor children shall continue to be eligible for  
3539 Medicaid benefits regardless of the disqualification of their  
3540 parent or caretaker relative for TANF assistance under this  
3541 subsection (6), unless prohibited by state or federal law.

3542           (f) Any person enrolled in a two-year or four-year  
3543 college program who meets the eligibility requirements to receive  
3544 TANF benefits, and who is meeting the applicable work requirements

3545 and all other applicable requirements of the TANF program, shall  
3546 continue to be eligible for TANF benefits while enrolled in the  
3547 college program for as long as the person meets the requirements  
3548 of the TANF program, unless prohibited by federal law.

3549         (g) No adult in a work activity required under this  
3550 subsection (6) shall be employed or assigned (i) when any other  
3551 individual is on layoff from the same or any substantially  
3552 equivalent job within six (6) months before the date of the TANF  
3553 recipient's employment or assignment; or (ii) if the employer has  
3554 terminated the employment of any regular employee or otherwise  
3555 caused an involuntary reduction of its work force in order to fill  
3556 the vacancy so created with an adult receiving TANF assistance.  
3557 The Mississippi Department of Employment Security, established  
3558 under Section 71-5-101, shall appoint one or more impartial  
3559 hearing officers to hear and decide claims by employees of  
3560 violations of this paragraph (f). The hearing officer shall hear  
3561 all the evidence with respect to any claim made hereunder and such  
3562 additional evidence as he may require and shall make a  
3563 determination and the reason therefor. The claimant shall be  
3564 promptly notified of the decision of the hearing officer and the  
3565 reason therefor. Within ten (10) days after the decision of the  
3566 hearing officer has become final, any party aggrieved thereby may  
3567 secure judicial review thereof by commencing an action, in the  
3568 circuit court of the county in which the claimant resides, against  
3569 the department for the review of such decision, in which action  
3570 any other party to the proceeding before the hearing officer shall  
3571 be made a defendant. Any such appeal shall be on the record which  
3572 shall be certified to the court by the department in the manner  
3573 provided in Section 71-5-531, and the jurisdiction of the court  
3574 shall be confined to questions of law which shall render its  
3575 decision as provided in that section.

3576         (7) The Department of Human Services may provide child care  
3577 for eligible participants who require such care so that they may

3578 accept employment or remain employed. The department may also  
3579 provide child care for those participating in the TANF program  
3580 when it is determined that they are satisfactorily involved in  
3581 education, training or other allowable work activities. The  
3582 department may contract with Head Start agencies to provide child  
3583 care services to TANF recipients. The department may also arrange  
3584 for child care by use of contract or vouchers, provide vouchers in  
3585 advance to a caretaker relative, reimburse a child care provider,  
3586 or use any other arrangement deemed appropriate by the department,  
3587 and may establish different reimbursement rates for child care  
3588 services depending on the category of the facility or home. Any  
3589 center-based or group home child care facility under this  
3590 paragraph shall be licensed by the State Department of Health  
3591 pursuant to law. When child care is being provided in the child's  
3592 own home, in the home of a relative of the child, or in any other  
3593 unlicensed setting, the provision of such child care may be  
3594 monitored on a random basis by the Department of Human Services or  
3595 the State Department of Health. Transitional child care  
3596 assistance may be continued if it is necessary for parents to  
3597 maintain employment once support has ended, unless prohibited  
3598 under state or federal law. Transitional child care assistance  
3599 may be provided for up to twenty-four (24) months after the last  
3600 month during which the family was eligible for TANF assistance, if  
3601 federal funds are available for such child care assistance.

3602 (8) The Department of Human Services may provide  
3603 transportation or provide reasonable reimbursement for  
3604 transportation expenses that are necessary for individuals to be  
3605 able to participate in allowable work activity under the TANF  
3606 program.

3607 (9) Medicaid assistance shall be provided to a family of  
3608 TANF program participants for up to twenty-four (24) consecutive  
3609 calendar months following the month in which the participating  
3610 family would be ineligible for TANF benefits because of increased

3611 income, expiration of earned income disregards, or increased hours  
3612 of employment of the caretaker relative; however, Medicaid  
3613 assistance for more than twelve (12) months may be provided only  
3614 if a federal waiver is obtained to provide such assistance for  
3615 more than twelve (12) months and federal and state funds are  
3616 available to provide such assistance.

3617 (10) The department shall require applicants for and  
3618 recipients of public assistance from the department to sign a  
3619 personal responsibility contract that will require the applicant  
3620 or recipient to acknowledge his or her responsibilities to the  
3621 state.

3622 (11) The department shall enter into an agreement with the  
3623 State Personnel Board and other state agencies that will allow  
3624 those TANF participants who qualify for vacant jobs within state  
3625 agencies to be placed in state jobs. State agencies participating  
3626 in the TANF work program shall receive any and all benefits  
3627 received by employers in the private sector for hiring TANF  
3628 recipients. This subsection (11) shall be effective only if the  
3629 state obtains any necessary federal waiver or approval and if  
3630 federal funds are available therefor.

3631 (12) No new TANF program requirement or restriction  
3632 affecting a person's eligibility for TANF assistance, or allowable  
3633 work activity, which is not mandated by federal law or regulation  
3634 may be implemented by the Department of Human Services after the  
3635 effective date of this act, unless such is specifically authorized  
3636 by an amendment to this section by the Legislature.

3637 **SECTION 50.** Section 43-19-45, Mississippi Code of 1972, is  
3638 amended as follows:

3639 43-19-45. (1) The Child Support Unit shall establish a  
3640 state parent locator service for the purpose of locating absent  
3641 and nonsupporting parents and alleged parents, which will utilize  
3642 all appropriate public and private locator sources. In order to  
3643 carry out the responsibilities imposed under Sections 43-19-31

3644 through 43-19-53, the Child Support Unit may secure by  
3645 administrative subpoena from the customer records of public  
3646 utilities and cable television companies the names and addresses  
3647 of individuals and the names and addresses of employers of such  
3648 individuals that would enable the location of parents or alleged  
3649 parents who have a duty to provide support and maintenance for  
3650 their children. The Child Support Unit may also administratively  
3651 subpoena any and all financial information, including account  
3652 numbers, names and social security numbers of record for assets,  
3653 accounts, and account balances from any individual, financial  
3654 institution, business or other entity, public or private, needed  
3655 to establish, modify or enforce a support order. No entity  
3656 complying with an administrative subpoena to supply the requested  
3657 information of whatever nature shall be liable in any civil action  
3658 or proceeding on account of such compliance. Full faith and  
3659 credit shall be given to all uniform administrative subpoenas  
3660 issued by other state child support units. The recipient of an  
3661 administrative subpoena shall supply the Child Support Unit, other  
3662 state and federal IV-D agencies, its attorneys, investigators,  
3663 probation officers, county or district attorneys in this state,  
3664 all information relative to the location, employment, employment  
3665 related benefits including, but not limited to, availability of  
3666 medical insurance, income and property of such parents and alleged  
3667 parents and with all information on hand relative to the location  
3668 and prosecution of any person who has, by means of a false  
3669 statement or misrepresentation or by impersonation or other  
3670 fraudulent device, obtained Temporary Assistance for Needy  
3671 Families (TANF) to which he or she was not entitled,  
3672 notwithstanding any provision of law making such information  
3673 confidential. The Mississippi Department of Information  
3674 Technology Services and any other agency in this state using the  
3675 facilities of the Mississippi Department of Information Technology  
3676 Services are directed to permit the Child Support Unit access to



3677 their files, inclusive of those maintained for other state  
3678 agencies, for the purpose of locating absent and nonsupporting  
3679 parents and alleged parents, except to the extent that any such  
3680 access would violate any valid federal statute or regulation  
3681 issued pursuant thereto. The Child Support Unit, other state and  
3682 federal IV-D agencies, its attorneys, investigators, probation  
3683 officers, or county or district attorneys, shall use such  
3684 information only for the purpose of investigating or enforcing the  
3685 support liability of such absent parents or alleged parents or for  
3686 the prosecution of other persons mentioned herein. Neither the  
3687 Child Support Unit nor those authorities shall use the  
3688 information, or disclose it, for any other purpose. All records  
3689 maintained pursuant to the provisions of Sections 43-19-31 through  
3690 43-19-53 shall be confidential and shall be available only to the  
3691 Child Support Unit, other state and federal IV-D agencies, the  
3692 attorneys, investigators and other staff employed or under  
3693 contract under Sections 43-19-31 through 43-19-53, district or  
3694 county attorneys, probation departments, child support units in  
3695 other states, and courts having jurisdiction in paternity, support  
3696 or abandonment proceedings. The Child Support Unit may release to  
3697 the public the name, photo, last known address, arrearage amount  
3698 and other necessary information of a parent who has a judgment  
3699 against him for child support and is currently in arrears in the  
3700 payment of this support. Such release may be included in a "Most  
3701 Wanted List" or other media in order to solicit assistance.

3702 (2) The Child Support Unit shall have the authority to  
3703 secure information from the records of the Mississippi Department  
3704 of Employment Security that may be necessary to locate absent and  
3705 nonsupporting parents and alleged parents under the provisions of  
3706 Sections 43-19-31 through 43-19-53. Upon request of the Child  
3707 Support Unit, all departments, boards, bureaus and agencies of the  
3708 state shall provide to the Child Support Unit verification of  
3709 employment or payment and the address and social security number

3710 of any person designated as an absent or nonsupporting parent or  
3711 alleged parent. In addition, upon request of the Child Support  
3712 Unit, the Mississippi Department of Employment Security, or any  
3713 private employer or payor of any income to a person designated as  
3714 an absent or nonsupporting parent or alleged parent, shall provide  
3715 to the Child Support Unit verification of employment or payment  
3716 and the address and social security number of the person so  
3717 designated. Full faith and credit shall be given to such notices  
3718 issued by child support units in other states. All such records  
3719 and information shall be confidential and shall not be used for  
3720 any purposes other than those specified by Sections 43-19-31  
3721 through 43-19-53. The violation of the provisions of this  
3722 subsection shall be unlawful and any person convicted of violating  
3723 the provisions of this subsection shall be guilty of a misdemeanor  
3724 and shall pay a fine of not more than Two Hundred Dollars  
3725 (\$200.00).

3726 (3) Federal and state IV-D agencies shall have access to the  
3727 state parent locator service and any system used by the Child  
3728 Support Unit to locate an individual for purposes relating to  
3729 motor vehicles or law enforcement. No employer or other source of  
3730 income who complies with this section shall be liable in any civil  
3731 action or proceeding brought by the obligor or obligee on account  
3732 of such compliance.

3733 **SECTION 51.** Section 43-19-46, Mississippi Code of 1972, is  
3734 amended as follows:

3735 43-19-46. (1) Each employer, as defined in Section  
3736 93-11-101, doing business in Mississippi shall report to the  
3737 Directory of New Hires within the Mississippi Department of Human  
3738 Services:

3739 (a) The hiring of any person who resides or works in  
3740 this state to whom the employer anticipates paying wages; and

3741           (b) The hiring or return to work of any employee who  
3742 was laid off, furloughed, separated, granted leave without pay or  
3743 was terminated from employment.

3744           (2) Employers shall report, by mailing or by other means  
3745 authorized by the Department of Human Services, a copy of the  
3746 employee's W-4 form or its equivalent which will result in timely  
3747 reporting. Each employer shall submit reports within fifteen (15)  
3748 days of the hiring, rehiring or return to work of the employee.  
3749 The report shall contain:

3750           (a) The employee's name, address, social security  
3751 number and the date of birth;

3752           (b) The employer's name, address, and federal and state  
3753 withholding tax identification numbers; and

3754           (c) The date upon which the employee began or resumed  
3755 employment, or is scheduled to begin or otherwise resume  
3756 employment.

3757           (3) The department shall retain the information, which shall  
3758 be forwarded to the federal registry of new hires.

3759           (4) The Department of Human Services may operate the  
3760 program, may enter into a mutual agreement with the Mississippi  
3761 Department of Employment Security or the State Tax Commission, or  
3762 both, for the operation of the Directory of New Hires Program, or  
3763 the Department of Human Services may contract for such service, in  
3764 which case the department shall maintain administrative control of  
3765 the program.

3766           (5) In cases in which an employer fails to report  
3767 information, as required by this section, an administratively  
3768 levied civil penalty in an amount not to exceed Five Hundred  
3769 Dollars (\$500.00) shall apply if the failure is the result of a  
3770 conspiracy between the employer and employee to not supply the  
3771 required report or to supply a false or incomplete report. The  
3772 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).  
3773 Appeal shall be as provided in Section 43-19-58.

3774           **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is  
3775 amended as follows:

3776           57-62-5. As used in this chapter, the following words and  
3777 phrases shall have the meanings ascribed in this section unless  
3778 the context clearly indicates otherwise:

3779           (a) "Qualified business or industry" means any  
3780 corporation, limited liability company, partnership, sole  
3781 proprietorship, business trust or other legal entity and subunits  
3782 or affiliates thereof, pursuant to rules and regulations of the  
3783 MDA, which provides an average annual salary, excluding benefits  
3784 which are not subject to Mississippi income taxes, of at least one  
3785 hundred twenty-five percent (125%) of the most recently published  
3786 state average annual wage or the most recently published average  
3787 annual wage of the county in which the qualified business or  
3788 industry is located as determined by the Mississippi Department of  
3789 Employment Security, whichever is the lesser. An establishment  
3790 shall not be considered to be a qualified business or industry  
3791 unless it offers, or will offer within one hundred eighty (180)  
3792 days of the date it receives the first incentive payment pursuant  
3793 to the provisions of this chapter, a basic health benefits plan to  
3794 the individuals it employs in new direct jobs in this state which  
3795 is approved by the MDA. Qualified business or industry does not  
3796 include retail business or gaming business;

3797           (b) "New direct job" means full-time employment in this  
3798 state in a qualified business or industry that has qualified to  
3799 receive an incentive payment pursuant to this chapter, which  
3800 employment did not exist in this state before the date of approval  
3801 by the MDA of the application of the qualified business or  
3802 industry pursuant to the provisions of this chapter. "New direct  
3803 job" shall include full-time employment in this state of employees  
3804 who are employed by an entity other than the establishment that  
3805 has qualified to receive an incentive payment and who are leased  
3806 to the qualified business or industry, if such employment did not

3807 exist in this state before the date of approval by the MDA of the  
3808 application of the establishment;

3809 (c) "Full-time job" means a job of at least thirty-five  
3810 (35) hours per week;

3811 (d) "Estimated direct state benefits" means the tax  
3812 revenues projected by the MDA to accrue to the state as a result  
3813 of the qualified business or industry;

3814 (e) "Estimated direct state costs" means the costs  
3815 projected by the MDA to accrue to the state as a result of the  
3816 qualified business or industry;

3817 (f) "Estimated net direct state benefits" means the  
3818 estimated direct state benefits less the estimated direct state  
3819 costs;

3820 (g) "Net benefit rate" means the estimated net direct  
3821 state benefits computed as a percentage of gross payroll, provided  
3822 that:

3823 (i) Except as otherwise provided in this paragraph  
3824 (g), the net benefit rate may be variable and shall not exceed  
3825 four percent (4%) of the gross payroll; and shall be set in the  
3826 sole discretion of the MDA;

3827 (ii) In no event shall incentive payments,  
3828 cumulatively, exceed the estimated net direct state benefits;

3829 (h) "Gross payroll" means wages for new direct jobs of  
3830 the qualified business or industry; and

3831 (i) "MDA" means the Mississippi Development Authority.

3832 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is  
3833 amended as follows:

3834 57-62-9. (1) Except as otherwise provided in this section,  
3835 a qualified business or industry that meets the qualifications  
3836 specified in the Mississippi Advantage Jobs Act may receive  
3837 quarterly incentive payments for a period not to exceed ten (10)  
3838 years from the State Tax Commission pursuant to the provisions of  
3839 the Mississippi Advantage Jobs Act in an amount which shall be

3840 equal to the net benefit rate multiplied by the actual gross  
3841 payroll of new direct jobs for a calendar quarter as verified by  
3842 the Mississippi Department of Employment Security, but not to  
3843 exceed the amount of money previously paid into the fund by the  
3844 employer. A qualified business or industry that is a project as  
3845 defined in Section 57-75-5(f)(iv)1 may elect the date upon which  
3846 the ten-year period will begin. Such date may not be later than  
3847 sixty (60) months after the date the business or industry applied  
3848 for incentive payments.

3849 (2) (a) A qualified business or industry that is a project  
3850 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to  
3851 receive incentive payments for an additional period not to exceed  
3852 five (5) years beyond the expiration date of the initial ten-year  
3853 period if:

3854 (i) The qualified business or industry creates at  
3855 least three thousand (3,000) new direct jobs within five (5) years  
3856 after the date the business or industry commences commercial  
3857 production;

3858 (ii) Within five (5) years after the date the  
3859 business or industry commences commercial production, the average  
3860 annual wage of the jobs is at least one hundred fifty percent  
3861 (150%) of the most recently published state average annual wage or  
3862 the most recently published average annual wage of the county in  
3863 which the qualified business or industry is located as determined  
3864 by the Mississippi Department of Employment Security, whichever is  
3865 the lesser. The criteria for the average annual wage requirement  
3866 shall be based upon the state average annual wage or the average  
3867 annual wage of the county whichever is appropriate, at the time of  
3868 creation of the minimum number of jobs, and the threshold  
3869 established at that time will remain constant for the duration of  
3870 the additional period; and

3871 (iii) The qualified business or industry meets and  
3872 maintains the job and wage requirements of subparagraphs (i) and

3873 (ii) of this paragraph (a) for four (4) consecutive calendar  
3874 quarters.

3875 (b) A qualified business or industry that is a project  
3876 as defined in Section 57-75-5(f)(iv)1 and qualified to receive  
3877 incentive payments for the additional period provided in paragraph  
3878 (a) of this subsection (2) may apply to the MDA to receive  
3879 incentive payments for an additional period not to exceed ten (10)  
3880 years beyond the expiration date of the additional period provided  
3881 in paragraph (a) of this subsection (2) if:

3882 (i) The qualified business or industry creates at  
3883 least four thousand (4,000) new direct jobs after qualifying for  
3884 the additional incentive period provided in paragraph (a) of this  
3885 subsection (2) but before the expiration of the additional period.  
3886 For purposes of determining whether the business or industry meets  
3887 the minimum jobs requirement of this subparagraph (i), the number  
3888 of jobs the business or industry created in order to meet the  
3889 minimum jobs requirement of paragraph (a) of this subsection (2)  
3890 shall be subtracted from the minimum jobs requirement of this  
3891 subparagraph (i);

3892 (ii) The average annual wage of the jobs is at  
3893 least one hundred fifty percent (150%) of the most recently  
3894 published state average annual wage or the most recently published  
3895 average annual wage of the county in which the qualified business  
3896 or industry is located as determined by the Mississippi Department  
3897 of Employment Security, whichever is the lesser. The criteria for  
3898 the average annual wage requirement shall be based upon the state  
3899 average annual wage or the average annual wage of the county  
3900 whichever is appropriate, at the time of creation of the minimum  
3901 number of jobs, and the threshold established at that time will  
3902 remain constant for the duration of the additional period; and

3903 (iii) The qualified business or industry meets and  
3904 maintains the job and wage requirements of subparagraphs (i) and

3905 (ii) of this paragraph (b) for four (4) consecutive calendar  
3906 quarters.

3907 (3) In order to receive incentive payments, an establishment  
3908 shall apply to the MDA. The application shall be on a form  
3909 prescribed by the MDA and shall contain such information as may be  
3910 required by the MDA to determine if the applicant is qualified.

3911 (4) In order to qualify to receive such payments, the  
3912 establishment applying shall be required to:

3913 (a) Be engaged in a qualified business or industry;

3914 (b) Provide an average salary, excluding benefits which  
3915 are not subject to Mississippi income taxes, of at least one  
3916 hundred twenty-five percent (125%) of the most recently published  
3917 state average annual wage or the most recently published average  
3918 annual wage of the county in which the qualified business or  
3919 industry is located as determined by the Mississippi Department of  
3920 Employment Security, whichever is the lesser. The criteria for  
3921 this requirement shall be based upon the state average annual wage  
3922 or the average annual wage of the county whichever is appropriate,  
3923 at the time of application, and the threshold established upon  
3924 application will remain constant for the duration of the project;

3925 (c) The business or industry must create and maintain a  
3926 minimum of ten (10) full-time jobs in counties that have an  
3927 average unemployment rate over the previous twelve-month period  
3928 which is at least one hundred fifty percent (150%) of the most  
3929 recently published state unemployment rate, as determined by the  
3930 Mississippi Department of Employment Security or in Tier Three  
3931 counties as determined under Section 57-73-21. In all other  
3932 counties, the business or industry must create and maintain a  
3933 minimum of twenty-five (25) full-time jobs. The criteria for this  
3934 requirement shall be based on the designation of the county at the  
3935 time of the application. The threshold established upon the  
3936 application will remain constant for the duration of the project.  
3937 The business or industry must meet its job creation commitment



3938 within twenty-four (24) months of the application approval.  
3939 However, if the qualified business or industry is applying for  
3940 incentive payments for an additional period under subsection (2)  
3941 of this section, the business or industry must comply with the  
3942 applicable job and wage requirements of subsection (2) of this  
3943 section.

3944 (5) The MDA shall determine if the applicant is qualified to  
3945 receive incentive payments. If the applicant is determined to be  
3946 qualified by the MDA, the MDA shall conduct a cost/benefit  
3947 analysis to determine the estimated net direct state benefits and  
3948 the net benefit rate applicable for a period not to exceed ten  
3949 (10) years and to estimate the amount of gross payroll for the  
3950 period. If the applicant is determined to be qualified to receive  
3951 incentive payments for an additional period under subsection (2)  
3952 of this section, the MDA shall conduct a cost/benefit analysis to  
3953 determine the estimated net direct state benefits and the net  
3954 benefit rate applicable for the appropriate additional period and  
3955 to estimate the amount of gross payroll for the additional period.  
3956 In conducting such cost/benefit analysis, the MDA shall consider  
3957 quantitative factors, such as the anticipated level of new tax  
3958 revenues to the state along with the cost to the state of the  
3959 qualified business or industry, and such other criteria as deemed  
3960 appropriate by the MDA, including the adequacy of retirement  
3961 benefits that the business or industry provides to individuals it  
3962 employs in new direct jobs in this state. In no event shall  
3963 incentive payments, cumulatively, exceed the estimated net direct  
3964 state benefits. Once the qualified business or industry is  
3965 approved by the MDA, an agreement shall be deemed to exist between  
3966 the qualified business or industry and the State of Mississippi,  
3967 requiring the continued incentive payment to be made as long as  
3968 the qualified business or industry retains its eligibility.

3969 (6) Upon approval of such an application, the MDA shall  
3970 notify the State Tax Commission and shall provide it with a copy

3971 of the approved application and the estimated net direct state  
3972 benefits. The State Tax Commission may require the qualified  
3973 business or industry to submit such additional information as may  
3974 be necessary to administer the provisions of this chapter. The  
3975 qualified business or industry shall report to the State Tax  
3976 Commission periodically to show its continued eligibility for  
3977 incentive payments. The qualified business or industry may be  
3978 audited by the State Tax Commission to verify such eligibility.

3979 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is  
3980 amended as follows:

3981 57-75-5. Words and phrases used in this chapter shall have  
3982 meanings as follows, unless the context clearly indicates a  
3983 different meaning:

3984 (a) "Act" means the Mississippi Major Economic Impact  
3985 Act as originally enacted or as hereafter amended.

3986 (b) "Authority" means the Mississippi Major Economic  
3987 Impact Authority created pursuant to the act.

3988 (c) "Bonds" means general obligation bonds, interim  
3989 notes and other evidences of debt of the State of Mississippi  
3990 issued pursuant to this chapter.

3991 (d) "Facility related to the project" means and  
3992 includes any of the following, as the same may pertain to the  
3993 project within the project area: (i) facilities to provide  
3994 potable and industrial water supply systems, sewage and waste  
3995 disposal systems and water, natural gas and electric transmission  
3996 systems to the site of the project; (ii) airports, airfields and  
3997 air terminals; (iii) rail lines; (iv) port facilities; (v)  
3998 highways, streets and other roadways; (vi) public school  
3999 buildings, classrooms and instructional facilities, training  
4000 facilities and equipment, including any functionally related  
4001 facilities; (vii) parks, outdoor recreation facilities and  
4002 athletic facilities; (viii) auditoriums, pavilions, campgrounds,  
4003 art centers, cultural centers, folklore centers and other public

4004 facilities; (ix) health care facilities, public or private; and  
4005 (x) fire protection facilities, equipment and elevated water  
4006 tanks.

4007 (e) "Person" means any natural person, corporation,  
4008 association, partnership, receiver, trustee, guardian, executor,  
4009 administrator, fiduciary, governmental unit, public agency,  
4010 political subdivision, or any other group acting as a unit, and  
4011 the plural as well as the singular.

4012 (f) "Project" means:

4013 (i) Any industrial, commercial, research and  
4014 development, warehousing, distribution, transportation,  
4015 processing, mining, United States government or tourism enterprise  
4016 together with all real property required for construction,  
4017 maintenance and operation of the enterprise with an initial  
4018 capital investment of not less than Three Hundred Million Dollars  
4019 (\$300,000,000.00) from private or United States government sources  
4020 together with all buildings, and other supporting land and  
4021 facilities, structures or improvements of whatever kind required  
4022 or useful for construction, maintenance and operation of the  
4023 enterprise; or with an initial capital investment of not less than  
4024 One Hundred Fifty Million Dollars (\$150,000,000.00) from private  
4025 or United States government sources together with all buildings  
4026 and other supporting land and facilities, structures or  
4027 improvements of whatever kind required or useful for construction,  
4028 maintenance and operation of the enterprise and which creates at  
4029 least one thousand (1,000) net new full-time jobs; or which  
4030 creates at least one thousand (1,000) net new full-time jobs which  
4031 provides an average salary, excluding benefits which are not  
4032 subject to Mississippi income taxation, of at least one hundred  
4033 twenty-five percent (125%) of the most recently published average  
4034 annual wage of the state as determined by the Mississippi  
4035 Employment Security Commission. "Project" shall include any  
4036 addition to or expansion of an existing enterprise if such

4037 addition or expansion has an initial capital investment of not  
4038 less than Three Hundred Million Dollars (\$300,000,000.00) from  
4039 private or United States government sources, or has an initial  
4040 capital investment of not less than One Hundred Fifty Million  
4041 Dollars (\$150,000,000.00) from private or United States government  
4042 sources together with all buildings and other supporting land and  
4043 facilities, structures or improvements of whatever kind required  
4044 or useful for construction, maintenance and operation of the  
4045 enterprise and which creates at least one thousand (1,000) net new  
4046 full-time jobs; or which creates at least one thousand (1,000) net  
4047 new full-time jobs which provides an average salary, excluding  
4048 benefits which are not subject to Mississippi income taxation, of  
4049 at least one hundred twenty-five percent (125%) of the most  
4050 recently published average annual wage of the state as determined  
4051 by the Mississippi Department of Employment Security. "Project"  
4052 shall also include any ancillary development or business resulting  
4053 from the enterprise, of which the authority is notified, within  
4054 three (3) years from the date that the enterprise entered into  
4055 commercial production, that the project area has been selected as  
4056 the site for the ancillary development or business.

4057                   (ii) Any major capital project designed to  
4058 improve, expand or otherwise enhance any active duty United States  
4059 Air Force or Navy training bases or naval stations, their support  
4060 areas or their military operations, upon designation by the  
4061 authority that any such base was or is at risk to be recommended  
4062 for closure or realignment pursuant to the Defense Base Closure  
4063 and Realignment Act of 1990; or any major development project  
4064 determined by the authority to be necessary to acquire base  
4065 properties and to provide employment opportunities through  
4066 construction of projects as defined in Section 57-3-5, which shall  
4067 be located on or provide direct support service or access to such  
4068 military installation property as such property exists on July 1,  
4069 1993, in the event of closure or reduction of military operations

4070 at the installation. From and after July 1, 1997, projects  
4071 described in this subparagraph (ii) shall not be considered to be  
4072 within the meaning of the term "project" for purposes of this  
4073 section, unless such projects are commenced before July 1, 1997,  
4074 and shall not be eligible for any funding provided under the  
4075 Mississippi Major Economic Impact Act.

4076 (iii) Any enterprise to be maintained, improved or  
4077 constructed in Tishomingo County by or for a National Aeronautics  
4078 and Space Administration facility in such county.

4079 (iv) 1. Any major capital project with an initial  
4080 capital investment from private sources of not less than Seven  
4081 Hundred Fifty Million Dollars (\$750,000,000.00) which will create  
4082 at least three thousand (3,000) jobs meeting criteria established  
4083 by the Mississippi Development Authority.

4084 2. "Project" shall also include any ancillary  
4085 development or business resulting from an enterprise operating a  
4086 project as defined in item 1 of this paragraph (f)(iv), of which  
4087 the authority is notified, within three (3) years from the date  
4088 that the enterprise entered into commercial production, that the  
4089 state has been selected as the site for the ancillary development  
4090 or business.

4091 (v) Any manufacturing, processing or industrial  
4092 project determined by the authority, in its sole discretion, to  
4093 contribute uniquely and significantly to the economic growth and  
4094 development of the state, and which meets the following criteria:

4095 1. The project shall create at least two  
4096 thousand (2,000) net new full-time jobs meeting criteria  
4097 established by the authority, which criteria shall include, but  
4098 not be limited to, the requirement that such jobs must be held by  
4099 persons eligible for employment in the United States under  
4100 applicable state and federal law.

4101 2. The project and any facility related to  
4102 the project shall include a total investment from private sources

4103 of not less than Sixty Million Dollars (\$60,000,000.00), or from  
4104 any combination of sources of not less than Eighty Million Dollars  
4105 (\$80,000,000.00).

4106 (vi) Any real property owned or controlled by the  
4107 National Aeronautics and Space Administration, the United States  
4108 government, or any agency thereof, which is legally conveyed to  
4109 the State of Mississippi or to the State of Mississippi for the  
4110 benefit of the Mississippi Major Economic Impact Authority, its  
4111 successors and assigns pursuant to Section 212 of Public Law  
4112 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4113 (vii) Any major capital project related to the  
4114 establishment, improvement, expansion and/or other enhancement of  
4115 any active duty military installation and having a minimum capital  
4116 investment from any source or combination of sources other than  
4117 the State of Mississippi of at least Forty Million Dollars  
4118 (\$40,000,000.00), and which will create at least four hundred  
4119 (400) military installation related full-time jobs, which jobs may  
4120 be military jobs, civilian jobs or a combination of military and  
4121 civilian jobs. The authority shall require that binding  
4122 commitments be entered into requiring that the minimum  
4123 requirements for the project provided for in this subparagraph  
4124 shall be met not later than July 1, 2008.

4125 (viii) Any major capital project with an initial  
4126 capital investment from any source or combination of sources of  
4127 not less than Ten Million Dollars (\$10,000,000.00) which will  
4128 create at least eighty (80) full-time jobs which provide an  
4129 average annual salary, excluding benefits which are not subject to  
4130 Mississippi income taxes, of at least one hundred thirty-five  
4131 percent (135%) of the most recently published average annual wage  
4132 of the state or the most recently published average annual wage of  
4133 the county in which the project is located as determined by the  
4134 Mississippi Employment Security Commission, whichever is the

4135 lesser. The authority shall require that binding commitments be  
4136 entered into requiring that:

4137 1. The minimum requirements for the project  
4138 provided for in this subparagraph shall be met, and

4139 2. That if such commitments are not met, all  
4140 or a portion of the funds provided by the state for the project as  
4141 determined by the authority shall be repaid.

4142 (ix) Any regional retail shopping mall with an  
4143 initial capital investment from private sources in excess of One  
4144 Hundred Fifty Million Dollars (\$150,000,000.00), with a square  
4145 footage in excess of eight hundred thousand (800,000) square feet,  
4146 which will create at least seven hundred (700) full-time jobs with  
4147 an average hourly wage of Eleven Dollars (\$11.00) per hour. The  
4148 authority shall require that binding commitments be entered into  
4149 requiring that:

4150 1. The minimum requirements for the project  
4151 provided for in this subparagraph shall be met, and

4152 2. That if such commitments are not met, all  
4153 or a portion of the funds provided by the state for the project as  
4154 determined by the authority shall be repaid.

4155 (x) Any major capital project with an initial  
4156 capital investment from any source or combination of sources of  
4157 not less than Seventy-five Million Dollars (\$75,000,000.00) which  
4158 will create at least one hundred twenty-five (125) full-time jobs  
4159 which provide an average annual salary, excluding benefits which  
4160 are not subject to Mississippi income taxes, of at least one  
4161 hundred thirty-five percent (135%) of the most recently published  
4162 average annual wage of the state or the most recently published  
4163 average annual wage of the county in which the project is located  
4164 as determined by the Mississippi Department of Employment  
4165 Security, whichever is the greater. The authority shall require  
4166 that binding commitments be entered into requiring that:

4167                   1. The minimum requirements for the project  
4168 provided for in this subparagraph shall be met; and

4169                   2. That if such commitments are not met, all  
4170 or a portion of the funds provided by the state for the project as  
4171 determined by the authority shall be repaid.

4172                   (xi) Any potential major capital project that the  
4173 authority has determined is feasible to recruit.

4174                   (g) "Project area" means the project site, together  
4175 with any area or territory within the state lying within  
4176 sixty-five (65) miles of any portion of the project site whether  
4177 or not such area or territory be contiguous; \* \* \* however, \* \* \*  
4178 for the project defined in paragraph (f)(iv) of this section the  
4179 term "project area" means any area or territory within the state.  
4180 The project area shall also include all territory within a county  
4181 if any portion of such county lies within sixty-five (65) miles of  
4182 any portion of the project site. "Project site" means the real  
4183 property on which the principal facilities of the enterprise will  
4184 operate.

4185                   (h) "Public agency" means:

4186                   (i) Any department, board, commission, institution  
4187 or other agency or instrumentality of the state;

4188                   (ii) Any city, town, county, political  
4189 subdivision, school district or other district created or existing  
4190 under the laws of the state or any public agency of any such city,  
4191 town, county, political subdivision or district or any other  
4192 public entity created or existing under local and private  
4193 legislation;

4194                   (iii) Any department, commission, agency or  
4195 instrumentality of the United States of America; and

4196                   (iv) Any other state of the United States of  
4197 America which may be cooperating with respect to location of the  
4198 project within the state, or any agency thereof.

4199                   (i) "State" means State of Mississippi.



4200 (j) "Fee-in-lieu" means a negotiated fee to be paid by  
4201 the project in lieu of any franchise taxes imposed on the project  
4202 by Chapter 13, Title 27, Mississippi Code of 1972. The  
4203 fee-in-lieu shall not be less than Twenty-five Thousand Dollars  
4204 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an  
4205 enterprise operating an existing project defined in Section  
4206 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated  
4207 for other existing enterprises that fall within the definition of  
4208 the term "project."

4209 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is  
4210 amended as follows:

4211 57-80-7. (1) From and after December 31, 2000, and until  
4212 December 31, 2005, the following counties may apply to the MDA for  
4213 the issuance of a certificate of public convenience and necessity:

4214 (a) Any county of this state which has an annualized  
4215 unemployment rate that is at least two hundred percent (200%) of  
4216 the state's unemployment rate as of December 31 of any year from  
4217 2000 through 2005, as determined by the Mississippi Department of  
4218 Employment Security's most recently published data;

4219 (b) Any county of this state in which thirty percent  
4220 (30%) or more of the population of the county is at or below the  
4221 federal poverty level according to the official data compiled by  
4222 the United States Census Bureau as of August 30, 2000, for  
4223 counties that apply before December 31, 2002, or the most recent  
4224 official data compiled by the United States Census Bureau for  
4225 counties that apply from and after December 31, 2002; or

4226 (c) Any county of this state having an eligible  
4227 supervisors district.

4228 (2) The application, at a minimum, must contain (a) the  
4229 Mississippi Department of Employment Security's most recently  
4230 published figures that reflect the annualized unemployment rate of  
4231 the applying county as of December 31 or the most recent official  
4232 data by the United States Census Bureau required by subsection (1)

4233 of this section, as the case may be, and (b) an order or  
4234 resolution of the county consenting to the designation of the  
4235 county as a growth and prosperity county.

4236 (3) Any municipality of a designated growth and prosperity  
4237 county or within an eligible supervisors district and not more  
4238 than eight (8) miles from the boundary of the county that meets  
4239 the criteria of subsection (1)(b) of this section may by order or  
4240 resolution of the municipality consent to participation in the  
4241 Growth and Prosperity Program.

4242 (4) No incentive or tax exemption shall be given under this  
4243 chapter without the consent of the affected county or  
4244 municipality.

4245 **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is  
4246 amended as follows:

4247 69-2-5. (1) The Mississippi Cooperative Extension Service  
4248 shall act as a clearinghouse for the dissemination of information  
4249 regarding programs and services which may be available to help  
4250 those persons and businesses which have been adversely affected by  
4251 the present emergency in the agricultural community. The  
4252 Cooperative Extension Service shall develop a plan of assistance  
4253 which shall identify all programs and services available within  
4254 the state which can be of assistance to those affected by the  
4255 present emergency. The Department of Agriculture and Commerce,  
4256 the Department of Finance and Administration, Department of Human  
4257 Services, Department of Mental Health, State Department of Health,  
4258 Board of Trustees of State Institutions of Higher Learning, State  
4259 Board for Community and Junior Colleges, Research and Development  
4260 Center, Mississippi Development Authority, Department of  
4261 Employment Security, Office of the Governor, Board of Vocational  
4262 and Technical Education, Mississippi Authority for Educational  
4263 Television, and other agencies of the state which have programs  
4264 and services that can be of assistance to those affected by the  
4265 present emergency, shall provide information regarding their

4266 programs and services to the Cooperative Extension Service for use  
4267 in the clearinghouse. The types of programs and services shall  
4268 include, but not be limited to, financial counseling, farm and  
4269 small business management, employment services, labor market  
4270 information, job re-training, vocational and technical training,  
4271 food stamp programs, personal counseling, health services, and  
4272 free or low cost legal services. The clearinghouse shall provide  
4273 a single contact point to provide program information and referral  
4274 services to individuals interested or needing services from state  
4275 funded assistance programs affecting agriculture, horticulture,  
4276 aquaculture and other agribusinesses or related industries. Such  
4277 assistance information shall identify all monies available under  
4278 the Small Business Financing Act, the Business Investment Act, the  
4279 Emerging Crop Fund legislation and any other sources which may be  
4280 used singularly or combined, to provide a comprehensive financing  
4281 package. The provisions of this section in establishing a single  
4282 contact point for information and referral services shall not be  
4283 construed to authorize the hiring of additional personnel.

4284 (2) The Cooperative Extension Service may accept monetary or  
4285 in-kind contributions, gifts and grants for the establishment or  
4286 operation of the clearinghouse.

4287 (3) The Cooperative Extension Service shall establish a  
4288 method for the dissemination of information to those who can be  
4289 benefited by the existing programs and services of the state.

4290 (4) The Cooperative Extension Service shall file an annual  
4291 report with the Governor, Lieutenant Governor and Speaker of the  
4292 House of Representatives regarding the efforts which have been  
4293 made in the clearinghouse operation. The report shall also  
4294 recommend any additional measures, including legislation, which  
4295 may be needed or desired in providing programs and benefits to  
4296 those affected by the agricultural emergency.

4297 **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is  
4298 amended as follows:

4299           7-1-355. (1) The Mississippi Development Authority,  
4300 is \* \* \* designated as the sole administrator of all programs for  
4301 which the state is the prime sponsor under Title 1(B) of Public  
4302 Law 105-220, Workforce Investment Act of 1998, and the regulations  
4303 promulgated thereunder, and may take all necessary action to  
4304 secure to this state the benefits of that legislation. The  
4305 Mississippi Development Authority may receive and disburse funds  
4306 for those programs that become available to it from any source.

4307           (2) The Mississippi Development Authority shall establish  
4308 guidelines on the amount and/or percentage of indirect and/or  
4309 administrative expenses by the local fiscal agent or the Workforce  
4310 Development Center operator. The Mississippi Development  
4311 Authority shall develop an accountability system and make an  
4312 annual report to the Legislature before December 31 of each year  
4313 on Workforce Investment Act activities. The report shall include,  
4314 but is not limited to, the following:

4315           (a) The total number of individuals served through the  
4316 Workforce Development Centers and the percentage and number of  
4317 individuals for which a quarterly follow up is provided;

4318           (b) The number of individuals who receive core services  
4319 by center;

4320           (c) The number of individuals who receive intensive  
4321 services by each center;

4322           (d) The number of Workforce Investment Act vouchers  
4323 issued by the Workforce Development Centers including:

4324           (i) A list of schools and colleges to which these  
4325 vouchers were issued and the average cost per school of the  
4326 vouchers; and

4327           (ii) A list of the types of programs for which  
4328 these vouchers were issued;

4329           (e) The number of individuals placed in a job through  
4330 Workforce Development Centers;

4331           (f) The monies and the amount retained for  
4332 administrative and other costs received from Workforce Investment  
4333 Act funds for each agency or organization that Workforce  
4334 Investment Act funds flow through as a percentage and actual  
4335 dollar amount of all Workforce Investment Act funds received.

4336           **SECTION 58.** Sections 37-151-69, 37-151-71 and 37-151-73,  
4337 Mississippi Code of 1972, which authorize a Mississippi Workforce  
4338 Development Council, local district councils and workforce  
4339 development centers, are repealed.

4340           **SECTION 59.** Sections 71-5-103 and 71-5-105, Mississippi Code  
4341 of 1972, which provide for the organization and compensation of  
4342 members of the Mississippi Employment Security Commission, are  
4343 repealed.

4344           **SECTION 60.** This act shall take effect and be in force from  
4345 and after July 1, 2004.