

By: Representatives Frierson, Shows,
Barnett, Capps, Davis, Hamilton (109th),
Markham, Miles, Peranich, Read, Vince,
Weathersby, Holland, Eaton

To: Appropriations

HOUSE BILL NO. 973
(As Passed the House)

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;

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

70 (c) "Local workforce investment board" means the board
71 that oversees the workforce training activities of local workforce
72 training areas under the federal Workforce Investment Act.

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

75 37-153-7. (1) There is created the Mississippi Workforce
76 Investment Board. The Mississippi Workforce Investment Board

77 shall be composed of thirty-three (33) voting members, of which a
78 majority shall be representatives of business and industry in
79 accordance with the Federal Workforce Investment Act.

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

82 (i) The Executive Director of the Mississippi
83 Association of Supervisors, or his/her designee;

84 (ii) One (1) elected county supervisor;

85 (iii) One (1) representative of a labor
86 organization, who has been nominated by the organization;

87 (iv) One (1) representative of a youth activities
88 organization, who has been nominated by the organization;

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

91 (vi) One (1) representative from each of the four
92 (4) workforce areas in the state, who has been nominated by the
93 community colleges in each respective area, with the consent of
94 the elected county supervisors within the respective workforce
95 area; and

96 (vii) Seventeen (17) representatives of business
97 owners nominated by business and industry organizations, which may
98 include representatives of the various planning and development
99 districts in Mississippi.

100 (b) The following state officials shall be members of
101 the board:

102 (i) The Executive Director of the Mississippi
103 Department of Employment Security;

104 (ii) The Executive Director of the Department of
105 Rehabilitation Services;

106 (iii) The State Superintendent of Public
107 Education;

108 (iv) The Executive Director of the Mississippi
109 Development Authority;

110 (v) The Executive Director of the Mississippi
111 Department of Human Services;

112 (vi) The Executive Director of the State Board for
113 Community and Junior Colleges;

114 (c) The Governor, or his designee, shall serve as a
115 member.

116 (d) Four (4) legislators, who shall serve in a
117 nonvoting capacity, two (2) of whom shall be appointed by the
118 Lieutenant Governor from the membership of the Mississippi Senate,
119 and two (2) of whom shall be appointed by the Speaker of the House
120 from the membership of the Mississippi House of Representatives.

121 (e) The membership of the board shall reflect the
122 diversity of the State of Mississippi.

123 (f) The Governor shall designate the chairman of the
124 Mississippi Workforce Investment Board from among the voting
125 members of the board, and a quorum of the board shall consist of a
126 majority of the voting members of the board.

127 (g) The voting members of the board who are not state
128 employees shall be entitled to reimbursement of their reasonable
129 expenses incurred in carrying out their duties under this chapter,
130 from any funds available for that purpose.

131 (h) The Mississippi Development Authority shall be
132 responsible for providing necessary administrative, clerical and
133 budget support for the Mississippi Workforce Investment Board.

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

138 (3) The Mississippi Workforce Investment Board shall have
139 the following duties:

140 (a) Develop and submit to the Governor a strategic plan
141 for an integrated state workforce development system that aligns
142 resources and structures the system to more effectively and

143 efficiently meet the demands of Mississippi's employers and job
144 seekers. This plan will comply with the Federal Workforce
145 Investment Act of 1998, as amended.

146 (b) Assist the Governor in the development and
147 continuous improvement of the statewide workforce investment
148 system that shall include:

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

151 (ii) Review local training plans that reflect the
152 use of funds from the Federal Workforce Investment Act,
153 Wagner-Peyser Act and the Mississippi Comprehensive Workforce
154 Training and Education Consolidation Act.

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

167 (d) Assist the Governor in the development of an
168 allocation formula for the distribution of funds for adult
169 employment and training activities and youth activities to local
170 workforce investment areas.

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

174 (f) Assist the Governor in the establishment and
175 management of a one-stop employment and training delivery system

176 conforming to the requirements of the Federal Workforce Investment
177 Act of 1998, as amended, recommending policy for implementing the
178 Governor's approved plan for employment and training activities
179 and services within the state. In developing this one-stop career
180 operating system, the Mississippi Workforce Investment Board, in
181 conjunction with local workforce investment boards, shall:

182 (i) Design broad guidelines for the delivery of
183 workforce development programs;

184 (ii) Identify all existing delivery agencies and
185 other resources;

186 (iii) Define appropriate roles of the various
187 agencies to include an analysis of service providers' strengths
188 and weaknesses;

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

191 (v) Develop a financial plan to support the
192 delivery system that shall, at a minimum, include an
193 accountability system;

194 (g) Assist the Governor in reducing duplication of
195 services by urging the Local Workforce Area Councils to designate
196 the local community/junior college as the operator of the WIN Job
197 Center. The board may utilize Federal Workforce Investment Act
198 funds to award incentive grants of Two Hundred Thousand Dollars
199 (\$200,000.00) to each community and junior college district in the
200 state that is designated as the operator of the WIN Job Center.
201 These grants will be used for the implementation and coordination
202 of this combined approach for specialized training, which may
203 include advance technology centers and advance skilled centers.

204 (h) To provide authority, in accordance with any
205 executive order of the Governor, for developing the necessary
206 collaboration among state agencies at the highest level for
207 accomplishing the purposes of this chapter;

208 (i) To monitor the effectiveness of the workforce
209 development centers and WIN job centers;

210 (j) To advise the Governor and public schools,
211 community/junior colleges and institutions of higher learning on
212 effective school-to-work transition policies and programs that
213 link students moving from high school to higher education and
214 students moving between community colleges and four-year
215 institutions in pursuit of academic and technical skills training;

216 (k) To work with industry to identify barriers that
217 inhibit the delivery of quality work force education and the
218 responsiveness of educational institutions to the needs of
219 industry; * * *

220 (l) To provide periodic assessments on effectiveness
221 and results of the system of workforce development centers and
222 district councils; and

223 (m) To assist the Governor in carrying out any other
224 responsibility required by the federal Workforce Investment Act of
225 1998, as amended.

226 (4) The Mississippi Workforce Investment Board shall
227 coordinate all training programs and funds in the State of
228 Mississippi.

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

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

243 37-153-9. (1) In accordance with the Federal Workforce
244 Investment Act of 1998, there shall be established, for each of
245 the four (4) state workforce areas prescribed in Section 37-153-3
246 (2)(c), a Local Workforce Investment Board to set policy for the
247 portion of the state workforce investment system within the local
248 area, which shall have the following advisory duties:

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

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

253 (ii) Sets short-term and long-term goals for
254 industry-specific training and upgrading and for general
255 development of the workforce; and

256 (iii) Provides for coordination of all training
257 programs, including ABE/GED, Skills Enhancement and Industrial
258 Services, and shall work collaboratively with the State Literacy
259 Resource Center;

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

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

264 (d) To encourage continuous improvement through
265 evaluation and assessment; and

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

268 (2) Each community college district shall have an affiliated
269 District Workforce Development Council. The district council
270 shall be composed of a diverse group of fifteen (15) persons
271 appointed by the board of trustees of the affiliated public
272 community or junior college. The members of each district council
273 shall be selected from persons recommended by the chambers of

274 commerce, employee groups, industrial foundations, community
275 organizations and local governments located in the community
276 college district of the affiliated community college with one (1)
277 appointee being involved in basic literacy training. However, at
278 least eight (8) members of each district council shall be chief
279 executive officers, plant managers that are representatives of
280 employers in that district or service sector executives. The
281 District Workforce Development Council affiliated with each
282 respective community or junior college shall advise the president
283 of the community or junior college on the operation of its
284 workforce development center/one-stop center.

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

287 37-153-11. (1) There are created Workforce Development
288 Centers to provide assessment, training and placement services to
289 individuals needing retraining, training and upgrading for local
290 industry. Each workforce development center shall be affiliated
291 with a separate public community or junior college district.

292 (2) Each workforce development center shall be staffed and
293 organized locally by the affiliated community college. The
294 workforce development center shall serve as staff to the
295 affiliated district council.

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

300 (a) For individuals needing training and retraining:

301 (i) Recruiting, assessing, counseling and
302 referring to training or jobs;

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

305 (iii) Basic literacy skills training and high
306 school equivalency education;

307 (iv) Vocational and technical training, full-time
308 or part-time; and
309 (v) Short-term skills training for educationally
310 and economically disadvantaged adults in cooperation with
311 federally established employment and training programs;
312 (b) For specific industries or firms within the
313 district:
314 (i) Job analysis, testing and curriculum
315 development;
316 (ii) Development of specific long-range training
317 plans;
318 (iii) Industry or firm-related preemployment
319 training;
320 (iv) Workplace basic skills and literacy training;
321 (v) Customized skills training;
322 (vi) Assistance in developing the capacity for
323 Total Quality Management training; and
324 (vii) Technology transfer information and referral
325 services to business of local applications of new research in
326 cooperation with the University Research Center, the state's
327 universities and other laboratories;
328 (c) For public schools within the district technical
329 assistance to secondary schools in curriculum coordination,
330 development of tech prep programs, instructional development and
331 resource coordination; and
332 (d) For economic development, a local forum and
333 resource center for all local industrial development groups to
334 meet and promote regional economic development.
335 (4) Each workforce development center shall compile and make
336 accessible to the Mississippi Workforce Investment Board necessary
337 information for use in evaluating outcomes of its efforts and in
338 improving the quality of programs at each community college, and
339 shall include information on literacy initiatives. Each workforce

340 development center shall, through an interagency management
341 information system, maintain records on placement, length of time
342 on the job after placement and wage rates of those placed in a
343 form containing such information as established by the state
344 council.

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

347 37-153-13. The State Board for Community and Junior Colleges
348 is designated as the primary support agency to the workforce
349 development centers * * *. The State Board for Community and
350 Junior Colleges may exercise the following powers:

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

353 (b) To provide the workforce development centers
354 consistent standards and benchmarks to guide development of the
355 local work force development system and to provide a means by
356 which the outcomes of local services can be measured;

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

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

362 (ii) Establishing rigorous and comprehensive local
363 pre-employment training programs;

364 (iii) Developing local institutional capacity to
365 deliver Total Quality Management training;

366 (iv) Developing local institutional capacity to
367 transfer new technologists into the marketplace;

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

370 (vi) Developing data for strategic planning;

371 (d) To collaborate with the Mississippi Development
372 Authority and other economic development organizations to increase
373 the community college systems' economic development potential;

374 (e) To administer presented and approved certification
375 programs by the community colleges for tax credits and partnership
376 funding for corporate training;

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

382 (g) To develop internal capacity to provide services
383 and to contract for services from universities and other providers
384 directly to local institutions;

385 (h) To develop and administer an incentive
386 certification program; and

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

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

391 71-5-5. The Legislature * * * finds and declares that the
392 existence and continued operation of a federal tax upon employers,
393 against which some portion of the contributions required under
394 this chapter may be credited, will protect Mississippi employers
395 from undue disadvantages in their competition with employers in
396 other states. If at any time, upon a formal complaint to the
397 Governor, he shall find that Title IX of the Social Security Act
398 has been amended or repealed by Congress or has been held
399 unconstitutional by the Supreme Court of the United States, and
400 that, as a result thereof, the provisions of this chapter
401 requiring Mississippi employers to pay contributions will subject
402 them to a serious competitive disadvantage in relation to
403 employers in other states, he shall publish such findings and

404 proclaim that the operation of the provisions of this chapter
405 requiring the payment of contributions and benefits shall be
406 suspended for a period of not more than six (6) months. The
407 Department of Employment Security shall thereupon requisition from
408 the Unemployment Trust Fund all monies therein standing to its
409 credit, and shall direct the State Treasurer to deposit such
410 monies, together with any other monies in the Unemployment
411 Compensation Fund, as a special fund in any banks or public
412 depositories in this state in which general funds of the state may
413 be deposited.

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

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

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

439 71-5-11. As used in this chapter, unless the context clearly
440 requires otherwise:

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

444 B. "Benefits" means the money payments payable to an
445 individual, as provided in this chapter, with respect to his
446 unemployment.

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

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

461 E. "Calendar quarter" means the period of three (3)
462 consecutive calendar months ending on March 31, June 30, September
463 30, or December 31.

464 F. "Department" or "commission" means the Mississippi
465 Department of Employment Security, Office of the Governor.

466 G. "Executive director" means the Executive Director of the
467 Mississippi Department of Employment Security, Office of the
468 Governor, appointed under Section 71-5-107.

469 H. "Employing unit" means this state or another state or any
470 instrumentalities or any political subdivisions thereof or any of
471 their instrumentalities or any instrumentality of more than one
472 (1) of the foregoing or any instrumentality of any of the
473 foregoing and one or more other states or political subdivisions,
474 any Indian tribe as defined in Section 3306(u) of the Federal
475 Unemployment Tax Act (FUTA), which includes any subdivision,
476 subsidiary or business enterprise wholly owned by such Indian
477 tribe, any individual or type of organization, including any
478 partnership, association, trust, estate, joint-stock company,
479 insurance company, or corporation, whether domestic or foreign, or
480 the receiver, trustee in bankruptcy, trustee or successor thereof,
481 or the legal representative of a deceased person, which has or had
482 in its employ one or more individuals performing services for it
483 within this state. All individuals performing services within
484 this state for any employing unit which maintains two (2) or more
485 separate establishments within this state shall be deemed to be
486 employed by a single employing unit for all the purposes of this
487 chapter. Each individual employed to perform or to assist in
488 performing the work of any agent or employee of an employing unit
489 shall be deemed to be employed by such employing unit for all
490 purposes of this chapter, whether such individual was hired or
491 paid directly by such employing unit or by such agent or employee,
492 provided the employing unit had actual or constructive knowledge
493 of the work. All individuals performing services in the employ of
494 an elected fee-paid county official, other than those related by
495 blood or marriage within the third degree computed by the rule of
496 the civil law to such fee-paid county official, shall be deemed to
497 be employed by such county as the employing unit for all the
498 purposes of this chapter. For purposes of defining an "employing
499 unit" which shall pay contributions on remuneration paid to
500 individuals, if two (2) or more related corporations concurrently
501 employ the same individual and compensate such individual through

502 a common paymaster which is one (1) of such corporations, then
503 each such corporation shall be considered to have paid as
504 remuneration to such individual only the amounts actually
505 disbursed by it to such individual and shall not be considered to
506 have paid as remuneration to such individual such amounts actually
507 disbursed to such individual by another of such corporations.

508 I. "Employer" means:

509 (1) Any employing unit which,

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

514 (b) For some portion of a day in each of twenty
515 (20) different calendar weeks, whether or not such weeks were
516 consecutive, in either the current or the preceding calendar year
517 had in employment at least one (1) individual (irrespective of
518 whether the same individual was in employment in each such day),
519 except as provided in paragraph (9) of this subsection;

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

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

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

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

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

534 (6) Any individual or employing unit which acquired its
535 organization, trade, business, or substantially all the assets
536 thereof, from another employing unit, if the employment record of
537 the acquiring individual or employing unit subsequent to such
538 acquisition, together with the employment record of the acquired
539 organization, trade, or business prior to such acquisition, both
540 within the same calendar year, would be sufficient to constitute
541 an employing unit an employer subject to this chapter under
542 paragraph (1) or (3) of this subsection;

543 (7) Any employing unit which, having become an employer
544 under paragraph (1), (3), (5) or (6) of this subsection or under
545 any other provisions of this chapter, has not, under Section
546 71-5-361, ceased to be an employer subject to this chapter;

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

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

555 (b) In determining whether or not an employing
556 unit for which service other than agricultural labor is also
557 performed is an employer under paragraph (1) or (4)(b) of this
558 subsection, the wages earned or the employment of an employee
559 performing services in agricultural labor, shall not be taken into
560 account. If an employing unit is determined an employer of
561 agricultural labor, such employing unit shall be determined an
562 employer for purposes of paragraph (1) of this subsection;

563 (10) All entities utilizing the services of any
564 employee leasing firm shall be considered the employer of the
565 individuals leased from the employee leasing firm. Temporary help
566 firms shall be considered the employer of the individuals they

567 provide to perform services for other individuals or
568 organizations.

569 J. "Employment" means and includes:

570 (1) Any service performed, which was employment as
571 defined in this section and, subject to the other provisions of
572 this subsection, including service in interstate commerce,
573 performed for wages or under any contract of hire, written or
574 oral, express or implied.

575 (2) Services performed for remuneration for a
576 principal:

577 (a) As an agent-driver or commission-driver
578 engaged in distributing meat products, vegetable products, fruit
579 products, bakery products, beverages (other than milk), or laundry
580 or dry cleaning services;

581 (b) As a traveling or city salesman, other than as
582 an agent-driver or commission-driver, engaged upon a full-time
583 basis in the solicitation on behalf of, and the transmission to, a
584 principal (except for sideline sales activities on behalf of some
585 other person) of orders from wholesalers, retailers, contractors,
586 or operator of hotels, restaurants, or other similar
587 establishments for merchandise for resale or supplies for use in
588 their business operations.

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

592 (i) The contract of service contemplates that
593 substantially all of the services are to be performed personally
594 by such individual;

595 (ii) The individual does not have a
596 substantial investment in facilities used in connection with the
597 performance of the services (other than in facilities for
598 transportation); and

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

602 (3) Service performed in the employ of this state or
603 any of its instrumentalities or any political subdivision thereof
604 or any of its instrumentalities or any instrumentality of more
605 than one (1) of the foregoing or any instrumentality of any of the
606 foregoing and one or more other states or political subdivisions
607 or any Indian tribe as defined in Section 3306(u) of the Federal
608 Unemployment Tax Act (FUTA), which includes any subdivision,
609 subsidiary or business enterprise wholly owned by such Indian
610 tribe; however, such service is excluded from "employment" as
611 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)
612 of that act and is not excluded from "employment" under subsection
613 I(5) of this section.

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

618 (b) The organization had four (4) or more
619 individuals in employment for some portion of a day in each of
620 twenty (20) different weeks, whether or not such weeks were
621 consecutive, within the current or preceding calendar year,
622 regardless of whether they were employed at the same moment of
623 time.

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

627 (a) In the employ of:

628 (i) A church or convention or association of
629 churches; or

630 (ii) An organization which is operated
631 primarily for religious purposes and which is operated,

632 supervised, controlled, or principally supported by a church or
633 convention or association of churches; or

634 (b) By a duly ordained, commissioned, or licensed
635 minister of a church in the exercise of his ministry, or by a
636 member of a religious order in the exercise of duties required by
637 such order; or

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

641 (i) As an elected official;

642 (ii) As a member of a legislative body, or a
643 member of the judiciary, of a state or political subdivision or a
644 member of an Indian tribal council;

645 (iii) As a member of the State National Guard
646 or Air National Guard;

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

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

653 1. A major nontenured policy-making or
654 advisory position, or

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

658 (d) In a facility conducted for the purpose of
659 carrying out a program of rehabilitation for individuals whose
660 earning capacity is impaired by age or physical or mental
661 deficiency or injury, or providing remunerative work for
662 individuals who because of their impaired physical or mental
663 capacity cannot be readily absorbed in the competitive labor

664 market, by an individual receiving such rehabilitation or
665 remunerative work; or

666 (e) By an inmate of a custodial or penal
667 institution; or

668 (f) As part of an unemployment work-relief or
669 work-training program assisted or financed in whole or in part by
670 any federal agency or agency of a state or political subdivision
671 thereof or of an Indian tribe, by an individual receiving such
672 work relief or work training, unless coverage of such service is
673 required by federal law or regulation.

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

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

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

681 (ii) For some portion of a day in each of
682 twenty (20) different calendar weeks, whether or not such weeks
683 were consecutive, in either the current or the preceding calendar
684 year, employed in agricultural labor ten (10) or more individuals,
685 regardless of whether they were employed at the same moment of
686 time.

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

691 (i) If such crew leader holds a valid
692 certificate of registration under the Farm Labor Contractor
693 Registration Act of 1963; or substantially all the members of such
694 crew operate or maintain tractors, mechanized harvesting or crop
695 dusting equipment, or any other mechanized equipment, which is
696 provided by such crew leader; and

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

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

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

706 (ii) Such other person shall be treated as
707 having paid cash remuneration to such individual in an amount
708 equal to the amount of cash remuneration paid to such individual
709 by the crew leader (either on his own behalf or on behalf of such
710 other person) for the service in agricultural labor performed for
711 such other person.

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

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

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

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

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

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

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

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

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

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

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

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

753 (10) Service shall be deemed to be localized within a
754 state if:

755 (a) The service is performed entirely within such
756 state; or

757 (b) The service is performed both within and
758 without such state, but the service performed without such state
759 is incidental to the individual's service within the state; for
760 example, is temporary or transitory in nature or consists of
761 isolated transactions.

762 (11) The services of an individual who is a citizen of
763 the United States, performed outside the United States (except in
764 Canada), in the employ of an American employer (other than service
765 which is deemed "employment" under the provisions of paragraph
766 (8), (9) or (10) of this subsection or the parallel provisions of
767 another state's law), if:

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

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

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

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

776 (iii) The employer is a partnership or a
777 trust and the number of the partners or trustees who are residents
778 of this state is greater than the number who are residents of any
779 one (1) other state; or

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

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

787 (i) An individual who is a resident of the
788 United States; or

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

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

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

795 (12) All services performed by an officer or member of
796 the crew of an American vessel on or in connection with such
797 vessel, if the operating office from which the operations of such
798 vessel operating on navigable waters within, or within and
799 without, the United States are ordinarily and regularly
800 supervised, managed, directed and controlled is within this state;
801 notwithstanding the provisions of subsection I(8).

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

809 (14) Services performed by an individual for wages
810 shall be deemed to be employment subject to this chapter unless
811 and until it is shown to the satisfaction of the department that
812 such individual has been and will continue to be free from control
813 and direction over the performance of such services both under his
814 contract of service and in fact; and the relationship of employer
815 and employee shall be determined in accordance with the principles
816 of the common law governing the relation of master and servant.

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

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

821 (i) On a farm or in a forest in the employ of
822 any employing unit in connection with cultivating the soil, in
823 connection with cutting, planting, deadening, marking or otherwise
824 improving timber, or in connection with raising or harvesting any
825 agricultural or horticultural commodity, including the raising,
826 shearing, feeding, caring for, training, and management of
827 livestock, bees, poultry, fur-bearing animals and wildlife;

828 (ii) In the employ of the owner or tenant or
829 other operator of a farm, in connection with the operation,
830 management, conservation, improvement or maintenance of such farm
831 and its tools and equipment, or in salvaging timber or clearing
832 land of brush and other debris left by a hurricane, if the major
833 part of such service is performed on a farm;

834 (iii) In connection with the production or
835 harvesting of naval stores products or any commodity defined in
836 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),
837 or in connection with the raising or harvesting of mushrooms, or
838 in connection with the ginning of cotton, or in connection with
839 the operation or maintenance of ditches, canals, reservoirs, or
840 waterways not owned or operated for profit, used exclusively for
841 supplying and storing water for farming purposes;

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

849 (B) In the employ of a group of
850 operators of farms (or a cooperative organization of which such
851 operators are members) in the performance of service described in
852 subparagraph (A), but only if such operators produced more than
853 one-half (1/2) of the commodity with respect to which such service
854 is performed;

855 (C) The provisions of subparagraphs (A)
856 and (B) shall not be deemed to be applicable with respect to
857 service performed in connection with commercial canning or
858 commercial freezing or in connection with any agricultural or
859 horticultural commodity after its delivery to a terminal market
860 for distribution for consumption;

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

863 (vi) As used in paragraph (15)(a) of this
864 subsection, the term "farm" includes stock, dairy, poultry, fruit,
865 fur-bearing animals, and truck farms, plantations, ranches,
866 nurseries, ranges, greenhouses, or other similar structures used
867 primarily for the raising of agricultural or horticultural
868 commodities, and orchards.

869 (b) Domestic service in a private home, local
870 college club, or local chapter of a college fraternity or
871 sorority, except as provided in subsection I(7) of this section,
872 or service performed as a "sitter" at a hospital in the employ of
873 an individual.

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

876 (d) Service performed by an individual in the
877 employ of his son, daughter, or spouse, and service performed by a
878 child under the age of twenty-one (21) in the employ of his father
879 or mother.

880 (e) Service performed in the employ of the United
881 States government or of an instrumentality wholly owned by the
882 United States; except that if the Congress of the United States
883 shall permit states to require any instrumentalities of the United
884 States to make payments into an unemployment fund under a state
885 unemployment compensation act, then to the extent permitted by
886 Congress and from and after the date as of which such permission
887 becomes effective, all of the provisions of this chapter shall be
888 applicable to such instrumentalities and to services performed by
889 employees for such instrumentalities in the same manner, to the
890 same extent, and on the same terms as to all other employers and
891 employing units. If this state should not be certified under the
892 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any
893 year, then the payment required by such instrumentality with

894 respect to such year shall be deemed to have been erroneously
895 collected and shall be refunded by the department from the fund in
896 accordance with the provisions of Section 71-5-383.

897 (f) Service performed in the employ of an
898 "employer" as defined by the Railroad Unemployment Insurance Act,
899 45 USCS Section 351(a), or as an "employee representative" as
900 defined by the Railroad Unemployment Insurance Act, 45 USCS
901 Section 351(f), and service with respect to which unemployment
902 compensation is payable under an unemployment compensation system
903 for maritime employees, or under any other unemployment
904 compensation system established by an act of Congress; however,
905 the department is * * * authorized and directed to enter into
906 agreements with the proper agencies under such act or acts of
907 Congress, which agreements shall become effective ten (10) days
908 after publication thereof in the manner provided in Section
909 71-5-117 for general rules, to provide reciprocal treatment to
910 individuals who have, after acquiring potential rights to benefits
911 under this chapter, acquired rights to unemployment compensation
912 under such act or acts of Congress or who have, after acquiring
913 potential rights to unemployment compensation under such act or
914 acts of Congress, acquired rights to benefits under this chapter.

915 (g) Service performed in any calendar quarter in
916 the employ of any organization exempt from income tax under the
917 Internal Revenue Code, 26 USCS Section 501(a) (other than an
918 organization described in 26 USCS Section 401(a)), or exempt from
919 income tax under 26 USCS Section 521 if the remuneration for such
920 service is less than Fifty Dollars (\$50.00).

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

923 (i) By a student who is enrolled and is
924 regularly attending classes at such school, college or university,
925 or

926 (ii) By the spouse of such a student if such
927 spouse is advised, at the time such spouse commences to perform
928 such service, that

929 (A) The employment of such spouse to
930 perform such service is provided under a program to provide
931 financial assistance to such student by such school, college, or
932 university, and

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

935 (i) Service performed by an individual under the
936 age of twenty-two (22) who is enrolled at a nonprofit or public
937 educational institution which normally maintains a regular faculty
938 and curriculum and normally has a regularly organized body of
939 students in attendance at the place where its educational
940 activities are carried on, as a student in a full-time program
941 taken for credit at such institution, which combines academic
942 instruction with work experience, if such service is an integral
943 part of such program and such institution has so certified to the
944 employer, except that this subparagraph shall not apply to service
945 performed in a program established for or on behalf of an employer
946 or group of employers.

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

950 (k) Service performed as a student nurse in the
951 employ of a hospital or a nurses' training school by an individual
952 who is enrolled and is regularly attending classes in a nurses'
953 training school chartered or approved pursuant to state law; and
954 services performed as an intern in the employ of a hospital by an
955 individual who has completed a four-year course in a medical
956 school chartered or approved pursuant to state law.

957 (l) Service performed by an individual as an
958 insurance agent or as an insurance solicitor, if all such service

959 performed by such individual is performed for remuneration solely
960 by way of commission.

961 (m) Service performed by an individual under the
962 age of eighteen (18) in the delivery or distribution of newspapers
963 or shopping news, not including delivery or distribution to any
964 point for subsequent delivery or distribution.

965 (n) If the services performed during one-half
966 (1/2) or more of any pay period by an employee for the employing
967 unit employing him constitute employment, all the services of such
968 employee for such period shall be deemed to be employment; but if
969 the services performed during more than one-half (1/2) of any such
970 pay period by an employee for the employing unit employing him do
971 not constitute employment, then none of the services of such
972 employee for such period shall be deemed to be employment. As
973 used in this subsection the term "pay period" means a period (of
974 not more than thirty-one (31) consecutive days) for which a
975 payment of remuneration is ordinarily made to the employee by the
976 employing unit employing him.

977 * * *

978 (o) Service performed by a barber or beautician
979 whose work station is leased to him or her by the owner of the
980 shop in which he or she works and who is compensated directly by
981 the patrons he or she serves and who is free from direction and
982 control by the lessor.

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

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

989 M. "Fund" means the Unemployment Compensation Fund
990 established by this chapter, to which all contributions required

991 and from which all benefits provided under this chapter shall be
992 paid.

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

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

998 (1) Admits as regular students only individuals having
999 a certificate of graduation from a high school, or the recognized
1000 equivalent of such a certificate;

1001 (2) Is legally authorized in this state to provide a
1002 program of education beyond high school;

1003 (3) Provides an educational program for which it awards
1004 a bachelor's or higher degree, or provides a program which is
1005 acceptable for full credit toward such a degree, a program of
1006 postgraduate or postdoctoral studies, or a program of training to
1007 prepare students for gainful employment in a recognized
1008 occupation;

1009 (4) Is a public or other nonprofit institution;

1010 (5) Notwithstanding any of the foregoing provisions of
1011 this subsection, all colleges and universities in this state are
1012 institutions of higher learning for purposes of this section.

1013 P. (1) "State" includes, in addition to the states of the
1014 United States of America, the District of Columbia, Commonwealth
1015 of Puerto Rico and the Virgin Islands.

1016 (2) The term "United States" when used in a
1017 geographical sense includes the states, the District of Columbia,
1018 Commonwealth of Puerto Rico and the Virgin Islands.

1019 (3) The provisions of subsections (1) and (2) of
1020 paragraph N, as including the Virgin Islands, shall become
1021 effective on the day after the day on which the United States
1022 Secretary of Labor approves for the first time under Section
1023 3304(a) of the Internal Revenue Code of 1954 an unemployment

1024 compensation law submitted to the secretary by the Virgin Islands
1025 for such approval.

1026 Q. "Unemployment."

1027 (1) An individual shall be deemed "unemployed" in any
1028 week during which he performs no services and with respect to
1029 which no wages are payable to him, or in any week of less than
1030 full-time work if the wages payable to him with respect to such
1031 week are less than his weekly benefit amount as computed and
1032 adjusted in Section 71-5-505. The department shall prescribe
1033 regulations applicable to unemployed individuals, making such
1034 distinctions in the procedure as to total unemployment, part-total
1035 unemployment, partial unemployment of individuals attached to
1036 their regular jobs, and other forms of short-time work, as the
1037 department deems necessary.

1038 (2) An individual's week of total unemployment shall be
1039 deemed to commence only after his registration at an employment
1040 office, except as the department may by regulation otherwise
1041 prescribe.

1042 R. (1) "Wages" means all remuneration for personal
1043 services, including commissions and bonuses and the cash value of
1044 all remuneration in any medium other than cash, except that
1045 "wages," for purposes of determining employer's coverage and
1046 payment of contributions for agricultural and domestic service
1047 means cash remuneration only. The reasonable cash value of
1048 remuneration in any medium other than cash shall be estimated and
1049 determined in accordance with rules prescribed by the department;
1050 however, that the term "wages" shall not include:

1051 (a) The amount of any payment made to, or on
1052 behalf of, an employee under a plan or system established by an
1053 employer which makes provision for his employees generally or for
1054 a class or classes of his employees (including any amount paid by
1055 an employer for insurance or annuities, or into a fund, to provide
1056 for any such payment), on account of:

1057 (i) Retirement, or
1058 (ii) Sickness or accident disability, or
1059 (iii) Medical or hospitalization expenses in
1060 connection with sickness or actual disability, or
1061 (iv) Death, provided the employee:
1062 (A) Has not the option to receive,
1063 instead of provision for such death benefit, any part of such
1064 payment or, if such death benefit is insured, any part of the
1065 premiums (or contributions to premiums) paid by his employer, and
1066 (B) Has not the right, under the
1067 provisions of the plan or system or policy of insurance providing
1068 for such death benefit, to assign such benefit or to receive a
1069 cash consideration in lieu of such benefit, either upon his
1070 withdrawal from the plan or system providing for such benefit or
1071 upon termination of such plan or system or policy of insurance or
1072 of his employment with such employer;
1073 (b) Dismissal payments which the employer is not
1074 legally required to make;
1075 (c) Payment by an employer (without deduction from
1076 the remuneration of an employee) of the tax imposed by the
1077 Internal Revenue Code, 26 USCS Section 3101;
1078 (d) From and after January 1, 1992, the amount of
1079 any payment made to or on behalf of an employee for a "cafeteria"
1080 plan, which meets the following requirements:
1081 (i) Qualifies under Section 125 of the
1082 Internal Revenue Code;
1083 (ii) Covers only employees;
1084 (iii) Covers only noncash benefits;
1085 (iv) Does not include deferred compensation
1086 plans.

1087 (2) [Not enacted].

1088 S. "Week" means calendar week or such period of seven (7)
1089 consecutive days as the department may by regulation prescribe.

1090 The department may by regulation prescribe that a week shall be
1091 deemed to be in, within, or during any benefit year which includes
1092 any part of such week.

1093 T. "Insured work" means "employment" for "employers."

1094 U. The term "includes" and "including," when used in a
1095 definition contained in this chapter, shall not be deemed to
1096 exclude other things otherwise within the meaning of the term
1097 defined.

1098 V. "Employee leasing arrangement" means any agreement
1099 between an employee leasing firm and a client, whereby specified
1100 client responsibilities such as payment of wages, reporting of
1101 wages for unemployment insurance purposes, payment of unemployment
1102 insurance contributions and other such administrative duties are
1103 to be performed by an employee leasing firm, on an ongoing basis.

1104 W. "Employee leasing firm" means any entity which provides
1105 specified duties for a client company such as payment of wages,
1106 reporting of wages for unemployment insurance purposes, payment of
1107 unemployment insurance contributions and other administrative
1108 duties, in connection with the client's employees, that are
1109 directed and controlled by the client and that are providing
1110 ongoing services for the client.

1111 X. "Temporary help firm" means an entity which hires its own
1112 employees and provides those employees to other individuals or
1113 organizations to perform some service, to support or supplement
1114 the existing work force in special situations such as employee
1115 absences, temporary skill shortages, seasonal workloads and
1116 special assignments and projects, with the expectation that the
1117 worker's position will be terminated upon the completion of the
1118 specified task or function.

1119 **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is
1120 amended as follows:

1121 71-5-19. (1) Whoever makes a false statement or
1122 representation knowing it to be false, or knowingly fails to

1123 disclose a material fact, to obtain or increase any benefit or
1124 other payment under this chapter or under an employment security
1125 law of any other state, of the federal government or of a foreign
1126 government, either for himself or for any other person, shall be
1127 punished by a fine of not less than One Hundred Dollars (\$100.00)
1128 nor more than Five Hundred Dollars (\$500.00), or by imprisonment
1129 for not longer than thirty (30) days, or by both such fine and
1130 imprisonment; and each such false statement or representation or
1131 failure to disclose a material fact shall constitute a separate
1132 offense.

1133 (2) Any employing unit, any officer or agent of an employing
1134 unit or any other person who makes a false statement or
1135 representation knowing it to be false, or who knowingly fails to
1136 disclose a material fact, to prevent or reduce the payment of
1137 benefits to any individual entitled thereto, or to avoid becoming
1138 or remaining subject hereto, or to avoid or reduce any
1139 contribution or other payment required from any employing unit
1140 under this chapter, or who willfully fails or refuses to make any
1141 such contribution or other payment, or to furnish any reports
1142 required hereunder or to produce or permit the inspection or
1143 copying of records as required hereunder, shall be punished by a
1144 fine of not less than One Hundred Dollars (\$100.00) nor more than
1145 One Thousand Dollars (\$1,000.00), or by imprisonment for not
1146 longer than sixty (60) days, or by both such fine and
1147 imprisonment; and each such false statement, or representation, or
1148 failure to disclose a material fact, and each day of such failure
1149 or refusal shall constitute a separate offense. In lieu of such
1150 fine and imprisonment, the employing unit or representative, or
1151 both employing unit and representative, if such representative is
1152 an employing unit in this state and is found to be a party to such
1153 violation, shall not be eligible for a contributions rate of less
1154 than five and four-tenths percent (5.4%) for the tax year in which

1155 such violation is discovered by the department and for the next
1156 two (2) succeeding tax years.

1157 (3) Any person who shall willfully violate any provision of
1158 this chapter or any other rule or regulation thereunder, the
1159 violation of which is made unlawful or the observance of which is
1160 required under the terms of this chapter and for which a penalty
1161 is neither prescribed herein nor provided by any other applicable
1162 statute, shall be punished by a fine of not less than One Hundred
1163 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),
1164 or by imprisonment for not longer than sixty (60) days, or by both
1165 such fine and imprisonment; and each day such violation continues
1166 shall be deemed to be a separate offense. In lieu of such fine
1167 and imprisonment, the employing unit or representative, or both
1168 employing unit and representative, if such representative is an
1169 employing unit in this state and is found to be a party to such
1170 violation, shall not be eligible for a contributions rate of less
1171 than five and four-tenths percent (5.4%) for the tax year in which
1172 the violation is discovered by the department and for the next two
1173 (2) succeeding tax years.

1174 (4) Any person who, by reason of the nondisclosure or
1175 misrepresentation by him or by another of a material fact,
1176 irrespective of whether such nondisclosure or misrepresentation
1177 was known or fraudulent, or who, for any other reason has received
1178 any such benefits under this chapter, while any conditions for the
1179 receipt of benefits imposed by this chapter were not fulfilled in
1180 his case, or while he was disqualified from receiving benefits,
1181 shall, in the discretion of the department, either be liable to
1182 have such sum deducted from any future benefits payable to him
1183 under this chapter or shall be liable to repay to the department
1184 for the unemployment compensation fund a sum equal to the amount
1185 so received by him; and such sum shall be collectible in the
1186 manner provided in Sections 71-5-363 through 71-5-383 for the
1187 collection of past-due contributions. * * * However, * * * no such

1188 deduction shall be made, nor shall any action be taken for the
1189 collection of any such overpayments, after five (5) years have
1190 elapsed from the date of the receipt of the benefits at issue; and
1191 any such judgment against such person for collection of such
1192 overpayments shall not be a lien upon the property of the person
1193 for a longer period than five (5) years from the date of the
1194 filing of the lien, and any such notice of lien shall not be
1195 refiled by the department.

1196 (5) The department, by agreement with another state or the
1197 United States, as provided under Section 303(g) of the Social
1198 Security Act, may recover any overpayment of benefits paid to any
1199 individual under the laws of this state or of another state or
1200 under an unemployment benefit program of the United States. Any
1201 overpayments subject to this subsection may be deducted from any
1202 future benefits payable to the individual under the laws of this
1203 state or of another state or under an unemployment program of the
1204 United States.

1205 **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is
1206 amended as follows:

1207 71-5-101. There is established the Mississippi Department of
1208 Employment Security, Office of the Governor. The Department of
1209 Employment Security shall be the Mississippi Employment Security
1210 Commission and shall retain all powers and duties as granted to
1211 the Mississippi Employment Security Commission. Wherever the term
1212 "Employment Security Commission" appears in any law, the same
1213 shall mean the Mississippi Department of Employment Security,
1214 Office of the Governor. The Executive Director of the Department
1215 of Employment Security may assign to the appropriate offices such
1216 powers and duties deemed appropriate to carry out the lawful
1217 functions of the department.

1218 **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is
1219 amended as follows:

1220 71-5-107. The department shall administer this chapter
1221 through a full-time salaried executive director, to be appointed
1222 by the Governor, with the advice and consent of the Senate.
1223 He * * * shall be responsible for the administration of this
1224 chapter under authority delegated to him by the Governor.

1225 **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is
1226 amended as follows:

1227 71-5-109. There is * * * created a board of review
1228 consisting of three (3) members to be appointed by the executive
1229 director. The executive director shall designate one (1) member
1230 of the board of review as chairman. Each member shall be paid a
1231 salary or per diem at a rate to be determined by the executive
1232 director, and such expenses as may be allowed by the executive
1233 director. All salaries, per diem and expenses of the Board of
1234 Review shall be paid from the Employment Security Administration
1235 Fund.

1236 **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is
1237 amended as follows:

1238 71-5-111. There is * * * created in the State Treasury a
1239 special fund to be known as the Employment Security Administration
1240 Fund. All monies which are deposited or paid into this fund
1241 are * * * appropriated and made available to the department. All
1242 monies in this fund shall be expended solely for the purpose of
1243 defraying the cost of administration of this chapter, and for no
1244 other purpose whatsoever. The fund shall consist of all monies
1245 appropriated by this state and all monies received from the United
1246 States of America, or any agency thereof, or from any other source
1247 for such purpose. Notwithstanding any provision of this section,
1248 all monies requisitioned and deposited in this fund pursuant to
1249 Section 71-5-457 shall remain part of the Employment Security
1250 Administration Fund and shall be used only in accordance with the
1251 conditions specified in that section. All monies in this fund
1252 shall be deposited, administered and disbursed in the same manner

1253 and under the same conditions and requirements as is provided by
1254 law for other special funds in the State Treasury. The State
1255 Treasurer shall be liable on his official bond for the faithful
1256 performance of his duties in connection with the Employment
1257 Security Administration Fund under this chapter.

1258 **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is
1259 amended as follows:

1260 71-5-112. All funds received by the Mississippi Employment
1261 Security Commission shall clear through the State Treasury as
1262 provided and required by Sections 71-5-111 and 71-5-453. All
1263 expenditures from the administration fund of the department
1264 authorized by Section 71-5-111 shall be expended only pursuant to
1265 appropriation approved by the Legislature and as provided by law.

1266 **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is
1267 amended as follows:

1268 71-5-113. All monies received from the Social Security Board
1269 or its successors for the administration of this chapter shall be
1270 expended solely for the purposes and in the amounts found
1271 necessary by the Social Security Board or its successors for the
1272 proper and efficient administration of this chapter.

1273 It shall be the duty of the department to take appropriate
1274 action with respect to the replacement, within a reasonable time,
1275 of any monies received from the Social Security Board, or its
1276 successors, for the administration of this chapter, and monies
1277 used to match grants pursuant to the provisions of the
1278 Wagner-Peyser Act, which the board, or its successors, find,
1279 because of any action or contingency, have been lost or have been
1280 expended for purposes other than, or in amounts in excess of those
1281 found necessary by the Social Security Board, or its successors,
1282 for the proper administration of this chapter. Funds which have
1283 been expended by the department or its agents in accordance with
1284 the budget approved by the Social Security Board, or its
1285 successors, or in accordance with the general standards and

1286 limitations promulgated by the Social Security Board, or its
1287 successors, prior to such expenditure (where proposed expenditures
1288 have not been specifically disapproved by the Social Security
1289 Board, or its successors), shall not be deemed to require
1290 replacement. To effectuate the purposes of this paragraph, it
1291 shall be the duty of the department to take such action to
1292 safeguard the expenditure of the funds referred to herein as it
1293 deems necessary. In the event of a loss of such funds or an
1294 improper expenditure thereof as herein defined, it shall be the
1295 duty of the department to notify the Governor of any such loss or
1296 improper expenditure and submit to him a request for an
1297 appropriation in the amount thereof. The Governor shall transmit
1298 to the next regular session of the Legislature following such
1299 notification, the department's request for an appropriation in an
1300 amount necessary to replace funds which have been lost or
1301 improperly expended as defined above. Such request of the
1302 department for an appropriation shall not be subject to the
1303 provisions of Sections 27-103-101 through 27-103-139. The
1304 Legislature recognizes its obligation to replace such funds as may
1305 be necessary and shall make necessary appropriations in accordance
1306 with such requests.

1307 **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is
1308 amended as follows:

1309 71-5-114. There is * * * created in the State Treasury a
1310 special fund, to be known as the "Special Employment Security
1311 Administration Fund," into which shall be deposited or transferred
1312 all interest, penalties and damages collected on and after July 1,
1313 1982, pursuant to Sections 71-5-363 through 71-5-379. Interest,
1314 penalties and damages collected on delinquent payments deposited
1315 during any calendar quarter in the clearing account in the
1316 Unemployment Compensation Fund shall, as soon as practicable after
1317 the close of such calendar quarter, be transferred to the Special
1318 Employment Security Administration Fund. All monies in this fund

1319 shall be deposited, administered and disbursed in the same manner
1320 and under the same conditions and requirements as is provided by
1321 law for other special funds in the State Treasury. The State
1322 Treasurer shall be liable on his official bond for the faithful
1323 performance of his duties in connection with the Special
1324 Employment Security Administration Fund under this chapter. Those
1325 monies shall not be expended or made available for expenditure in
1326 any manner which would permit their substitution for (or permit a
1327 corresponding reduction in) federal funds which would, in the
1328 absence of those monies, be available to finance expenditures for
1329 the administration of the state unemployment compensation and
1330 employment service laws. Nothing in this section shall prevent
1331 those monies in this fund from being used as a revolving fund to
1332 cover expenditures necessary and proper under the law for which
1333 federal funds have been duly requested but not yet received,
1334 subject to the charging of such expenditures against such funds
1335 when necessary. The monies in this fund may be used by the
1336 department for the payment of costs of administration of the
1337 employment security laws of this state which are found not to be
1338 or not to have been properly and validly chargeable against funds
1339 obtained from federal sources. All monies in this Special
1340 Employment Security Administration Fund shall be continuously
1341 available to the department for expenditure in accordance with the
1342 provisions of this chapter, and shall not lapse at any time. The
1343 monies in this fund are * * * specifically made available to
1344 replace, as contemplated by Section 71-5-113, expenditures from
1345 the Employment Security Administration Fund established by Section
1346 71-5-111, which have been found, because of any action or
1347 contingency, to have been lost or improperly expended.

1348 The department, whenever it is of the opinion that the money
1349 in the Special Employment Security Administration Fund is more
1350 than ample to pay for all foreseeable needs for which such special
1351 fund is set up, may, by written order, order the transfer

1352 therefrom to the Unemployment Compensation Fund of such amount of
1353 money in the * * * Special Employment Security Administration Fund
1354 as it deems proper, and the same shall thereupon be immediately
1355 transferred to the Unemployment Compensation Fund.

1356 **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is
1357 amended as follows:

1358 71-5-115. It shall be the duty of the executive director to
1359 administer this chapter; and the executive director shall have the
1360 power and authority to adopt, amend or rescind such rules and
1361 regulations, to employ such persons, make such expenditures,
1362 require such reports, make such investigations, and take such
1363 other action as he deems necessary or suitable to that end. Such
1364 rules and regulations shall be effective upon publication in the
1365 manner, not inconsistent with the provisions of this chapter,
1366 which the executive director shall prescribe. The executive
1367 director shall determine the department's own organization and
1368 methods of procedure in accordance with the provisions of this
1369 chapter, and shall have an official seal which shall be judicially
1370 noticed. Not later than the first day of February in each year,
1371 the executive director shall submit to the Governor a report
1372 covering the administration and operation of this chapter during
1373 the preceding fiscal year and shall make such recommendations for
1374 amendments to this chapter as the executive director deems proper.
1375 Whenever the executive director believes that a change in
1376 contribution or benefit rates will become necessary to protect the
1377 solvency of the fund, he shall promptly so inform the Governor and
1378 the Legislature, and make recommendations with respect thereto.

1379 **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is
1380 amended as follows:

1381 71-5-117. General rules may be adopted, amended or rescinded
1382 by the executive director only after public hearing or opportunity
1383 to be heard thereon, of which proper notice has been given.
1384 General rules shall become effective ten (10) days after filing

1385 with the Secretary of State and publication in one or more
1386 newspapers of general circulation in this state. Regulations may
1387 be adopted, amended or rescinded by the executive director and
1388 shall become effective in the manner and at the time prescribed by
1389 the executive director.

1390 **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is
1391 amended as follows:

1392 71-5-119. The department shall cause to be printed for
1393 distribution to the public the text of this chapter, its
1394 regulations and general rules, its reports to the Governor, and
1395 any other material it deems relevant and suitable, and shall
1396 furnish the same to any person upon application therefor.

1397 **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is
1398 amended as follows:

1399 71-5-121. Subject to other provisions of this chapter, the
1400 executive director is authorized to appoint, fix the compensation,
1401 and prescribe the duties and powers of such officers, accountants,
1402 attorneys, experts and other persons as may be necessary in the
1403 performance of department duties; however, all personnel who were
1404 former members of the Armed Forces of the United States of America
1405 shall be given credit regardless of rate, rank or commission. All
1406 positions shall be filled by persons selected and appointed on a
1407 nonpartisan merit basis, in accordance with Section 25-9-101 et
1408 seq., that provides for a state service personnel system. The
1409 executive director shall not employ any person who is an officer
1410 or committee member of any political party organization. The
1411 executive director may delegate to any such person so appointed
1412 such power and authority as he deems reasonable and proper for the
1413 effective administration of this chapter, and may in his
1414 discretion bond any person handling monies or signing checks
1415 hereunder. The veteran status of an individual shall be
1416 considered and preference given in accordance with the provisions
1417 of the State Personnel Board.

1418 The department and its employees are exempt from Sections
1419 25-15-101 and 25-15-103.

1420 The department may use federal granted funds to provide such
1421 group health, life, accident and hospitalization insurance for its
1422 employees as may be agreed upon by the department and the federal
1423 granting authorities.

1424 The department shall adopt a "layoff formula" to be used
1425 wherever it is determined that, because of reduced workload,
1426 budget reductions or in order to effect a more economical
1427 operation, a reduction in force shall occur in any group.

1428 In establishing this formula, the department shall give
1429 effect to the principle of seniority and shall provide that
1430 seniority points may be added for disabled veterans and veterans,
1431 with due regard to the efficiency of the service. Any such layoff
1432 formula shall be implemented according to the policies, rules and
1433 regulations of the State Personnel Board.

1434 **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is
1435 amended as follows:

1436 71-5-123. The executive director shall retain all powers and
1437 duties as granted to the state advisory council appointed by the
1438 former Employment Security Commission. The executive director may
1439 appoint local advisory councils, composed in each case of an equal
1440 number of employer representatives and employee representatives
1441 who may fairly be regarded as representative because of their
1442 vocation, employment or affiliations, and of such members
1443 representing the general public as the executive director may
1444 designate. Such councils shall aid the department in formulating
1445 policies and discussing problems related to the administration of
1446 this chapter and in assuring impartiality and freedom from
1447 political influence in the solution of such problems. Members of
1448 the advisory councils shall receive a per diem in accordance with
1449 Section 25-3-69 for attendance upon meetings of the council, and
1450 shall be reimbursed for actual and necessary traveling expenses.

1451 The per diem and expenses herein authorized shall be paid from the
1452 Employment Security Administration Fund.

1453 **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is
1454 amended as follows:

1455 71-5-125. The department shall take all appropriate steps to
1456 reduce and prevent unemployment; to encourage and assist in the
1457 adoption of practical methods of vocational training, retraining
1458 and vocational guidance; to investigate, recommend, advise and
1459 assist in the establishment and operation, by municipalities,
1460 counties, school districts and the state, of reserves for public
1461 works to be used in times of business depression and unemployment;
1462 to promote the reemployment of unemployed workers throughout the
1463 state in every other way that may be feasible; and to these ends
1464 to carry on and publish the results of investigation and research
1465 studies.

1466 **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is
1467 amended as follows:

1468 71-5-127. Each employing unit shall keep true and accurate
1469 work records, containing such information as the department may
1470 prescribe. Such records shall be open to inspection and be
1471 subject to being copied by the department or its authorized
1472 representatives at any reasonable time and as often as may be
1473 necessary. The department, board of review and any referee may
1474 require from any employing unit any sworn or unsworn reports with
1475 respect to persons employed by it which they or any of them deem
1476 necessary for the effective administration of this chapter.
1477 Information thus obtained or obtained from any individual pursuant
1478 to the administration of this chapter shall, except to the extent
1479 necessary for the proper administration of this chapter, be held
1480 confidential and shall not be published or be opened to public
1481 inspection (other than to public employees in the performance of
1482 their public duties) in any manner revealing the individual's or
1483 employing unit's identity, but any claimant (or his legal

1484 representative) at a hearing before an appeal tribunal or the
1485 board of review shall be supplied with information from such
1486 records to the extent necessary for the proper presentation of his
1487 claim. Any employee or member of the board of review or any
1488 employee of the department who violates any provisions of this
1489 section shall be fined not less than Twenty Dollars (\$20.00) nor
1490 more than Two Hundred Dollars (\$200.00), or imprisoned for not
1491 longer than ninety (90) days, or both. The department may make
1492 the state's records relating to the administration of this chapter
1493 available to the Railroad Retirement Board, and may furnish the
1494 Railroad Retirement Board, at the expense of such board, such
1495 copies thereof as the Railroad Retirement Board deems necessary
1496 for its purposes. The department may afford reasonable
1497 cooperation with every agency of the United States charged with
1498 the administration of any unemployment insurance law.

1499 **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is
1500 amended as follows:

1501 71-5-129. Records hereinafter designated, which are found by
1502 the department to be useless, may be disposed of in accordance
1503 with approved records control schedules.

1504 (a) Records which have been preserved by it for not
1505 less than three (3) years:

- 1506 (1) Initial claims for benefits,
1507 (2) Continued claims for benefits,
1508 (3) Correspondence and master index cards in
1509 connection with such claims for benefits, and
1510 (4) Individual wage slips filed by employers
1511 subject to the provisions of the Unemployment Compensation Law.

1512 (b) Records which have been preserved by it for not
1513 less than six (6) months after becoming inactive:

- 1514 (1) Work applications,
1515 (2) Cross-index cards for work applications,
1516 (3) Test records,

- 1517 (4) Employer records,
1518 (5) Work orders,
1519 (6) Clearance records,
1520 (7) Counseling records,
1521 (8) Farm placement records, and
1522 (9) Correspondence relating to all such records.

1523 Nothing herein contained shall be construed as authorizing
1524 the destruction or disposal of basic fiscal records reflecting the
1525 financial operations of the department and no records may be
1526 destroyed without the approval of the Director of the Department
1527 of Archives and History.

1528 **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is
1529 amended as follows:

1530 71-5-131. All letters, reports, communications, or any other
1531 matters, either oral or written, from the employer or employee to
1532 each other or to the department or any of its agents,
1533 representatives or employees, which shall have been written, sent,
1534 delivered or made in connection with the requirements and
1535 administration of this chapter shall be absolutely privileged and
1536 shall not be made the subject matter or basis of any suit for
1537 slander or libel in any court of the State of Mississippi unless
1538 the same be false in fact and maliciously written, sent, delivered
1539 or made for the purpose of causing a denial of benefits under this
1540 chapter.

1541 **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is
1542 amended as follows:

1543 71-5-133. In any case where an employing unit or any
1544 officer, member or agent thereof, or any other person having
1545 possession of the records thereof, shall fail or refuse upon
1546 demand by the department or its duly appointed agents to produce
1547 or permit the examination or copying of any book, paper, account,
1548 record or other data pertaining to payrolls or employment or
1549 ownership of interests or stock in any employing unit, or bearing

1550 upon the correctness of any report, or for the purpose of making a
1551 report as required by this chapter where none has been made, then
1552 and in that event the department or its duly authorized agents
1553 may, by the issuance of a subpoena, require the attendance of such
1554 employing unit or any officer, member or agent thereof, or any
1555 other person having possession of the records thereof, and take
1556 testimony with respect to any such matter and may require any such
1557 person to produce any books or records specified in such subpoena.
1558 The department or its authorized agents at any such hearing shall
1559 have power to administer oaths to any such person or persons.
1560 When any person called as a witness by a subpoena signed by the
1561 department or its agents and served upon him by the sheriff of a
1562 county of which such person is a resident, or wherein is located
1563 the principal office of such employing unit or wherein such
1564 records are located or kept, shall fail to obey such subpoena to
1565 appear before the department or its authorized agent, or shall
1566 refuse to testify or to answer any questions or to produce any
1567 book, record, paper or other data when required to do so, such
1568 failure or refusal shall be reported to the Attorney General, who
1569 shall thereupon institute proceedings by the filing of a petition
1570 in the name of the State of Mississippi, on the relation of the
1571 department, in the circuit court or other court of competent
1572 jurisdiction of the county where such witness resides, or wherein
1573 such records are located or kept, to compel the obedience of such
1574 witness. Such petition shall set forth the facts and
1575 circumstances of the demand for and refusal or failure to permit
1576 the examination or copying of such records, or the failure or
1577 refusal of such witness to testify in answer to such subpoena or
1578 to produce the records so required by such subpoena. Such court,
1579 upon the filing and docketing of such petition, shall thereupon
1580 promptly issue an order to the defendants named in the petition to
1581 produce forthwith in such court, or at a place in such county
1582 designated in such order for the examination or copying by the

1583 department or its duly appointed agents, the records, books or
1584 documents so described, and to testify concerning matters
1585 described in such petition. Unless such defendants to such
1586 petition shall appear in the court upon a day specified in such
1587 order, which * * * day shall be not more than ten (10) days after
1588 the date of issuance of such order, and offer, under oath, good
1589 and sufficient reasons why such examination or copying should not
1590 be permitted, or why such subpoena should not be obeyed, such
1591 court shall thereupon deliver to the department or its agents, for
1592 examination or copying, the records, books and documents so
1593 described in the petition and so produced in such court, and shall
1594 order the defendants to appear in answer to the subpoena of the
1595 department or its agents, and to testify concerning matters
1596 inquired about by the department. Any employing unit or any
1597 officer, member or agent thereof, or any other person having
1598 possession of the records thereof, who shall willfully disobey
1599 such order of the court after the same shall have been served upon
1600 him shall be guilty of indirect contempt of such court from which
1601 such order shall have issued, and may be adjudged in contempt of
1602 the court and punished therefor as provided by law.

1603 **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is
1604 amended as follows:

1605 71-5-135. If any employing unit fails to make any report
1606 required by this chapter, the department or its authorized agents
1607 shall give written notice by mail to such employing unit to make
1608 and file such report within fifteen (15) days from the date of
1609 such notice. If such employing unit, by its proper members,
1610 officers or agents, shall fail or refuse to make and file such
1611 reports within such time, then and in that event such report shall
1612 be made by the department or its authorized agents from the best
1613 information available, and the amount of contributions due shall
1614 be computed thereon; and such report shall be prima facie correct
1615 for the purposes of this chapter.

1616 **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is
1617 amended as follows:

1618 71-5-137. In the discharge of the duties imposed by this
1619 chapter, the department, any referee, the members of the Board of
1620 Review, and any duly authorized representative of any of them
1621 shall have power to administer oaths and affirmations, to take
1622 depositions, certify to official acts, and issue subpoenas to
1623 compel the attendance of witnesses and the production of books,
1624 papers, correspondence, memoranda and other records deemed
1625 necessary as evidence in connection with a disputed claim or the
1626 administration of this chapter.

1627 **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is
1628 amended as follows:

1629 71-5-139. In case of contumacy or refusal to obey a subpoena
1630 issued to any person, any court in this state within the
1631 jurisdiction of which the inquiry is carried on, or within the
1632 jurisdiction of which the person guilty of contumacy or refusal to
1633 obey is found or resides or transacts business, upon application
1634 by the department, the Board of Review, any referee, or any duly
1635 authorized representative of any of them, shall have jurisdiction
1636 to issue to such person an order requiring such person to appear
1637 before the department, the Board of Review, any referee, or any
1638 duly authorized representative of any of them, there to produce
1639 evidence if so ordered or there to give testimony touching the
1640 matter under investigation or in question. Any failure to obey
1641 such order of the court may be punished by the court as a contempt
1642 thereof. Any person who shall, without just cause, fail or refuse
1643 to attend and testify or to answer any lawful inquiry or to
1644 produce books, papers, correspondence, memoranda and other records
1645 if it is in his power so to do, in obedience to a subpoena of the
1646 department, the Board of Review, any referee, or any duly
1647 authorized representative of any of them, shall be punished by a
1648 fine of not more than Two Hundred Dollars (\$200.00), or by

1649 imprisonment for not longer than sixty (60) days, or by both such
1650 fine and imprisonment; and each day such violation continues shall
1651 be deemed to be a separate offense.

1652 **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is
1653 amended as follows:

1654 71-5-141. No person shall be excused from attending and
1655 testifying or from producing books, papers, correspondence,
1656 memoranda and other records before the department, the Board of
1657 Review, any referee, or any duly authorized representative of any
1658 of them, or in obedience to the subpoena of any of them in any
1659 cause or proceeding before the department, the Board of Review or
1660 an appeal tribunal, on the ground that the testimony or evidence,
1661 documentary or otherwise, required of him may tend to incriminate
1662 him or subject him to a penalty or forfeiture; but no individual
1663 shall be prosecuted or subjected to any penalty or forfeiture for
1664 or on account of any transaction, matter or thing concerning which
1665 he is compelled, after having claimed his privilege against
1666 self-incrimination, to testify or produce evidence, documentary or
1667 otherwise, except that such individual so testifying shall not be
1668 exempt from prosecution and punishment for perjury committed in so
1669 testifying.

1670 **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is
1671 amended as follows:

1672 71-5-143. In the administration of this chapter, the
1673 department shall cooperate, to the fullest extent consistent with
1674 the provisions of this chapter, with the Social Security Board
1675 created by the Social Security Act, approved August 14, 1935, as
1676 amended; shall make such reports in such form and containing such
1677 information as the Social Security Board may from time to time
1678 require, and shall comply with such provisions as the Social
1679 Security Board may from time to time find necessary to assure the
1680 correctness and verification of such reports; and shall comply
1681 with the reasonable, valid and lawful regulations prescribed by

1682 the Social Security Board pursuant to and under the authority of
1683 the Social Security Act, governing the expenditures of such sums
1684 as may be allotted and paid to this state under Title III of the
1685 Social Security Act, as amended, for the purpose of assisting in
1686 the administration of this chapter.

1687 Upon request therefor, the department shall furnish to any
1688 agency of the United States charged with the administration of
1689 public works, or assistance through public employment, the name,
1690 address, ordinary occupation and employment status of each
1691 recipient of benefits, and such recipient's rights to further
1692 benefits under this chapter.

1693 **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is
1694 amended as follows:

1695 71-5-201. The Mississippi State Employment Service is * * *
1696 established in the Mississippi Department of Employment Security,
1697 Office of the Governor. The department, in the conduct of such
1698 service, shall establish and maintain free public employment
1699 offices in such number and in such places as may be necessary for
1700 the proper administration of this article and for the purpose of
1701 performing such functions as are within the purview of the act of
1702 Congress entitled "An act to provide for the establishment of a
1703 national employment system and for cooperation with the states in
1704 the promotion of such system, and for other purposes" (29 USCS
1705 Section 49 et seq.). Any existing free public employment offices
1706 maintained by the state but not heretofore under the jurisdiction
1707 of the department shall be transferred to the jurisdiction of the
1708 department, and upon such transfer all duties and powers conferred
1709 upon any other department, agency or officers of this state
1710 relating to the establishment, maintenance and operation of free
1711 public employment offices shall be vested in the department.

1712 The * * * Mississippi State Employment Service shall be
1713 administered by the department, which is charged with the duty to
1714 cooperate with any official or agency of the United States having

1715 powers or duties under the provisions of the act of Congress, as
1716 amended, and to do and perform all things necessary to secure to
1717 this state the benefits of that act of Congress, as amended, in
1718 the promotion and maintenance of a system of public employment
1719 offices. The provisions of that act of Congress, as amended,
1720 are * * * accepted by this state, in conformity with 29 USCS
1721 Section 49c, and this state will observe and comply with the
1722 requirements thereof. The department is * * * designated and
1723 constituted the agency of this state for the purposes of that act.
1724 The department may cooperate with or enter into agreements with
1725 the Railroad Retirement Board or veteran's organization with
1726 respect to the establishment, maintenance and use of free
1727 employment service facilities.

1728 **SECTION 34.** Section 71-5-357, Mississippi Code of 1972, is
1729 amended as follows:

1730 71-5-357. Benefits paid to employees of nonprofit
1731 organizations shall be financed in accordance with the provisions
1732 of this section. For the purpose of this section, a nonprofit
1733 organization is an organization (or group of organizations)
1734 described in Section 501(c)(3) of the Internal Revenue Code of
1735 1954 which is exempt from income tax under Section 501(a) of such
1736 code (26 USCS Section 501).

1737 (a) Any nonprofit organization which, under Section
1738 71-5-11, subsection I(3), is or becomes subject to this chapter
1739 shall pay contributions under the provisions of Sections 71-5-351
1740 through 71-5-355 unless it elects, in accordance with this
1741 paragraph, to pay to the department for the unemployment fund an
1742 amount equal to the amount of regular benefits and one-half (1/2)
1743 of the extended benefits paid, that is attributable to service in
1744 the employ of such nonprofit organization, to individuals for
1745 weeks of unemployment which begin during the effective period of
1746 such election.

1747 (i) Any nonprofit organization which becomes
1748 subject to this chapter may elect to become liable for payments in
1749 lieu of contributions for a period of not less than twelve (12)
1750 months, beginning with the date on which such subjectivity begins,
1751 by filing a written notice of its election with the department not
1752 later than thirty (30) days immediately following the date of the
1753 determination of such subjectivity.

1754 (ii) Any nonprofit organization which makes an
1755 election in accordance with subparagraph (i) of this paragraph
1756 will continue to be liable for payments in lieu of contributions
1757 unless it files with the department a written termination notice
1758 not later than thirty (30) days prior to the beginning of the tax
1759 year for which such termination shall first be effective.

1760 (iii) Any nonprofit organization which has been
1761 paying contributions under this chapter may change to a
1762 reimbursable basis by filing with the department, not later than
1763 thirty (30) days prior to the beginning of any tax year, a written
1764 notice of election to become liable for payments in lieu of
1765 contributions. Such election shall not be terminable by the
1766 organization for that and the next tax year.

1767 (iv) The department may for good cause extend the
1768 period within which a notice of election or a notice of
1769 termination must be filed, and may permit an election to be
1770 retroactive.

1771 (v) The department, in accordance with such
1772 regulations as it may prescribe, shall notify each nonprofit
1773 organization of any determination which it may make of its status
1774 as an employer, of the effective date of any election which it
1775 makes and of any termination of such election. Such
1776 determinations shall be subject to reconsideration, appeal and
1777 review in accordance with the provisions of Sections 71-5-351
1778 through 71-5-355.

1779 (b) Payments in lieu of contributions shall be made in
1780 accordance with the provisions of subparagraph (i) of this
1781 paragraph.

1782 (i) At the end of each calendar quarter, or at the
1783 end of any other period as determined by the department, the
1784 department shall bill each nonprofit organization (or group of
1785 such organizations) which has elected to make payments in lieu of
1786 contributions, for an amount equal to the full amount of regular
1787 benefits plus one-half (1/2) of the amount of extended benefits
1788 paid during such quarter or other prescribed period that is
1789 attributable to service in the employ of such organization.

1790 (ii) Payment of any bill rendered under
1791 subparagraph (i) of this paragraph shall be made not later than
1792 forty-five (45) days after such bill was mailed to the last known
1793 address of the nonprofit organization or was otherwise delivered
1794 to it, unless there has been an application for review and
1795 redetermination in accordance with subparagraph (v) of this
1796 paragraph.

1797 1. All of the enforcement procedures for the
1798 collection of delinquent contributions contained in Sections
1799 71-5-363 through 71-5-383 shall be applicable in all respects for
1800 the collection of delinquent payments due by nonprofit
1801 organizations who have elected to become liable for payments in
1802 lieu of contributions.

1803 2. If any nonprofit organization is
1804 delinquent in making payments in lieu of contributions, the
1805 department may terminate such organization's election to make
1806 payments in lieu of contributions as of the beginning of the next
1807 tax year, and such termination shall be effective for the balance
1808 of such tax year.

1809 (iii) Payments made by any nonprofit organization
1810 under the provisions of this paragraph shall not be deducted or

1811 deductible, in whole or in part, from the remuneration of
1812 individuals in the employ of the organization.

1813 (iv) Payments due by employers who elect to
1814 reimburse the fund in lieu of contributions as provided in this
1815 paragraph may not be noncharged under any condition. The
1816 reimbursement must be on a dollar-for-dollar basis (One Dollar
1817 (\$1.00) reimbursement for each dollar paid in benefits) in every
1818 case, so that the trust fund shall be reimbursed in full, such
1819 reimbursement to include, but not be limited to, benefits or
1820 payments erroneously or incorrectly paid, or paid as a result of a
1821 determination of eligibility which is subsequently reversed, or
1822 paid as a result of claimant fraud. However, political
1823 subdivisions who are reimbursing employers may elect to pay to the
1824 fund an amount equal to five-tenths percent (.5%) of the taxable
1825 wages paid during the calendar year with respect to employment,
1826 and those employers who so elect shall be relieved of liability
1827 for reimbursement of benefits paid under the same conditions that
1828 benefits are not charged to the experience rating record of a
1829 contributing employer as provided in Section 71-5-355(2)(b)(ii)
1830 other than Clause 5 thereof. Benefits paid in such circumstances
1831 for which reimbursing employers are relieved of liability for
1832 reimbursement shall not be considered attributable to service in
1833 the employment of such reimbursing employer.

1834 (v) The amount due specified in any bill from the
1835 department shall be conclusive on the organization unless, not
1836 later than fifteen (15) days after the bill was mailed to its last
1837 known address or otherwise delivered to it, the organization files
1838 an application for redetermination by the department, setting
1839 forth the grounds for such application or appeal. The department
1840 shall promptly review and reconsider the amount due specified in
1841 the bill and shall thereafter issue a redetermination in any case
1842 in which such application for redetermination has been filed. Any
1843 such redetermination shall be conclusive on the organization

1844 unless, not later than fifteen (15) days after the redetermination
1845 was mailed to its last known address or otherwise delivered to it,
1846 the organization files an appeal to the Circuit Court of the First
1847 Judicial District of Hinds County, Mississippi, in accordance with
1848 the provisions of law with respect to review of civil causes by
1849 certiorari.

1850 (vi) Past due payments of amounts in lieu of
1851 contributions shall be subject to the same interest and penalties
1852 that, pursuant to Section 71-5-363, apply to past due
1853 contributions.

1854 (c) Each employer that is liable for payments in lieu
1855 of contributions shall pay to the department for the fund the
1856 amount of regular benefits plus the amount of one-half (1/2) of
1857 extended benefits paid are attributable to service in the employ
1858 of such employer. If benefits paid to an individual are based on
1859 wages paid by more than one (1) employer and one or more of such
1860 employers are liable for payments in lieu of contributions, the
1861 amount payable to the fund by each employer that is liable for
1862 such payments shall be determined in accordance with the
1863 provisions of subparagraph (i) or subparagraph (ii) of this
1864 paragraph.

1865 (i) If benefits paid to an individual are based on
1866 wages paid by one or more employers that are liable for payment in
1867 lieu of contributions and on wages paid by one or more employers
1868 who are liable for contributions, the amount of benefits payable
1869 by each employer that is liable for payments in lieu of
1870 contributions shall be an amount which bears the same ratio to the
1871 total benefits paid to the individual as the total base-period
1872 wages paid to the individual by such employer bear to the total
1873 base-period wages paid to the individual by all of his base-period
1874 employers.

1875 (ii) If benefits paid to an individual are based
1876 on wages paid by two (2) or more employers that are liable for

1877 payments in lieu of contributions, the amount of benefits payable
1878 by each such employer shall be an amount which bears the same
1879 ratio to the total benefits paid to the individual as the total
1880 base-period wages paid to the individual by such employer bear to
1881 the total base-period wages paid to the individual by all of his
1882 base-period employers.

1883 (d) In the discretion of the department, any nonprofit
1884 organization that elects to become liable for payments in lieu of
1885 contributions shall be required, within thirty (30) days after the
1886 effective date of its election, to execute and file with the
1887 department a surety bond approved by the department, or it may
1888 elect instead to deposit with the department money or securities.
1889 The amount of such bond or deposit shall be determined in
1890 accordance with the provisions of this paragraph.

1891 (i) The amount of the bond or deposit required by
1892 paragraph (d) shall be equal to two and seven-tenths percent
1893 (2.7%) of the organization's taxable wages paid for employment as
1894 defined in Section 71-5-11, subsection J(4), for the four (4)
1895 calendar quarters immediately preceding the effective date of the
1896 election, the renewal date in the case of a bond, or the biennial
1897 anniversary of the effective date of election in the case of a
1898 deposit of money or securities, whichever date shall be most
1899 recent and applicable. If the nonprofit organization did not pay
1900 wages in each of such four (4) calendar quarters, the amount of
1901 the bond or deposit shall be as determined by the department.

1902 (ii) Any bond deposited under paragraph (d) shall
1903 be in force for a period of not less than two (2) tax years and
1904 shall be renewed with the approval of the department at such times
1905 as the department may prescribe, but not less frequently than at
1906 intervals of two (2) years as long as the organization continues
1907 to be liable for payments in lieu of contributions. The
1908 department shall require adjustments to be made in a previously
1909 filed bond as it deems appropriate. If the bond is to be

1910 increased, the adjusted bond shall be filed by the organization
1911 within thirty (30) days of the date notice of the required
1912 adjustment was mailed or otherwise delivered to it. Failure by
1913 any organization covered by such bond to pay the full amount of
1914 payments in lieu of contributions when due, together with any
1915 applicable interest and penalties provided in paragraph (b)(v) of
1916 this section, shall render the surety liable on the bond to the
1917 extent of the bond, as though the surety was such organization.

1918 (iii) Any deposit of money or securities in
1919 accordance with paragraph (d) shall be retained by the department
1920 in an escrow account until liability under the election is
1921 terminated, at which time it shall be returned to the
1922 organization, less any deductions as hereinafter provided. The
1923 department may deduct from the money deposited under paragraph (d)
1924 by a nonprofit organization, or sell the securities it has so
1925 deposited, to the extent necessary to satisfy any due and unpaid
1926 payments in lieu of contributions and any applicable interest and
1927 penalties provided for in paragraph (b)(v) of this section. The
1928 department shall require the organization, within thirty (30) days
1929 following any deduction from a money deposit or sale of deposited
1930 securities under the provisions hereof, to deposit sufficient
1931 additional money or securities to make whole the organization's
1932 deposit at the prior level. Any cash remaining from the sale of
1933 such securities shall be a part of the organization's escrow
1934 account. The department may, at any time, review the adequacy of
1935 the deposit made by any organization. If, as a result of such
1936 review, it determines that an adjustment is necessary, it shall
1937 require the organization to make additional deposit within thirty
1938 (30) days of written notice of its determination or shall return
1939 to it such portion of the deposit as it no longer considers
1940 necessary, whichever action is appropriate. Disposition of income
1941 from securities held in escrow shall be governed by the applicable
1942 provisions of the state law.

1943 (iv) If any nonprofit organization fails to file a
1944 bond or make a deposit, or to file a bond in an increased amount,
1945 or to increase or make whole the amount of a previously made
1946 deposit as provided under this subparagraph, the department may
1947 terminate such organization's election to make payments in lieu of
1948 contributions, and such termination shall continue for not less
1949 than the four (4) consecutive calendar-quarter periods beginning
1950 with the quarter in which such termination becomes effective;
1951 however, the department may extend for good cause the applicable
1952 filing, deposit or adjustment period by not more than thirty (30)
1953 days.

1954 (v) Group account shall be established according
1955 to regulations prescribed by the department.

1956 (e) Any employer which elects to make payments in lieu
1957 of contributions into the Unemployment Compensation Fund as
1958 provided in this paragraph shall not be liable to make such
1959 payments with respect to the benefits paid to any individual whose
1960 base-period wages include wages for previously uncovered services
1961 as defined in Section 71-5-511(e) to the extent that the
1962 Unemployment Compensation Fund is reimbursed for such benefits
1963 pursuant to Section 121 of Public Law 94-566.

1964 **SECTION 35.** Section 71-5-359, Mississippi Code of 1972, is
1965 amended as follows:

1966 71-5-359. (1) (a) Before January 1, 1978, each state board
1967 or other instrumentality of this state or one or more other states
1968 covered under Section 71-5-11, subsection I(3), shall pay
1969 contributions under the provisions of Sections 71-5-351 through
1970 71-5-355 for all of the hospitals or institutions of higher
1971 learning under its jurisdiction unless it elects, in the same
1972 manner and under the same conditions as provided for nonprofit
1973 organizations in subsections (a), (b) and (c) of Section 71-5-357,
1974 to pay to the department for the unemployment fund an amount equal
1975 to the regular benefits and one-half (1/2) of the extended

1976 benefits paid that are attributable to service in the employ of
1977 such hospitals or institutions. When an election is made, the
1978 amounts required to be paid in lieu of contributions shall be
1979 billed and payment made as provided in Section 71-5-357 with
1980 respect to similar payments by nonprofit organizations. A state
1981 board having jurisdiction over two (2) or more state-owned
1982 hospitals or state-owned institutions of higher learning shall be
1983 treated as a single employer for the employment in all of those
1984 hospitals or institutions of higher learning for purposes of
1985 computing contribution rates and payment of contributions, or for
1986 purposes of reimbursing the fund, unless it elects, in accordance
1987 with this section, to have one or more of those hospitals or
1988 institutions of higher learning treated as a separate employer.

1989 (b) A state board may elect to have one or more
1990 state-owned hospitals or one or more state-owned institutions of
1991 higher learning under its jurisdiction treated as a separate
1992 employer for the purposes of this section, provided it files with
1993 the department, not later than thirty (30) days prior to the
1994 beginning of any tax year, a written notice of such election. Any
1995 such election shall be effective throughout such tax year, and
1996 shall continue in effect unless the state board files with the
1997 department a written notice of termination of such election not
1998 less than thirty (30) days prior to the beginning of the tax year
1999 for which such termination is to be effective.

2000 (2) (a) From January 1, 1978, through December 31, 1978,
2001 the Commission of Budget and Accounting shall, in the manner
2002 provided in subsection (2)(c) of this section, pay, upon warrant
2003 issued by the State Auditor of Public Accounts, to the department
2004 for the unemployment compensation fund an amount equal to the
2005 regular benefits and one-half (1/2) of the extended benefits paid
2006 that are attributable to service in the employ of a state agency.
2007 The amount required to be reimbursed by a certain agency shall be
2008 billed to the Commission of Budget and Accounting and shall be

2009 paid from the Employment Compensation Revolving Fund pursuant to
2010 subsection (2)(c) of this section not later than thirty (30) days
2011 after such bill was mailed, unless there has been an application
2012 for review and redetermination in accordance with Section
2013 71-5-357(b)(v).

2014 (b) The Department of Finance and Administration shall,
2015 in the manner provided in subsection (2)(c) of this section, pay,
2016 upon warrant issued by the State Auditor, or the successor to
2017 these duties, to the department for the Unemployment Compensation
2018 Fund an amount equal to the regular benefits and the extended
2019 benefits paid that are attributable to service in the employ of a
2020 state agency. The amount required to be reimbursed by a certain
2021 agency shall be billed to the Department of Finance and
2022 Administration and shall be paid from the Employment Compensation
2023 Revolving Fund pursuant to subsection (2)(c) of this section not
2024 later than thirty (30) days after such bill was mailed, unless
2025 there has been an application for review and redetermination in
2026 accordance with Section 71-5-357(b)(v).

2027 (c) Each agency of state government shall deposit
2028 monthly for a period of twenty-four (24) months an amount equal to
2029 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand
2030 Dollars (\$6,000.00) paid to each employee thereof during the next
2031 preceding year into the Employment Compensation Revolving Fund
2032 that is created in the State Treasury. The Department of Finance
2033 and Administration shall determine the percentage to be applied to
2034 the amount of covered wages paid in order to maintain a balance in
2035 the revolving fund of not less than two percent (2%) of the
2036 covered wages paid during the next preceding year. The State
2037 Treasurer shall invest all funds in the Employment Compensation
2038 Revolving Fund and all interest earned shall be credited to the
2039 Employment Compensation Revolving Fund.

2040 The reimbursement of benefits paid by the Mississippi
2041 Employment Security Commission shall be paid by the Department of

2042 Finance and Administration from the Employment Compensation
2043 Revolving Fund upon warrants issued by the State Auditor of Public
2044 Accounts, or the successor to these duties; and the * * * auditor
2045 shall issue his warrants upon requisitions signed by the
2046 Department of Finance and Administration. * * * However, * * * the
2047 Department of Finance and Administration may, if it so elects,
2048 contract for the performance of the duties prescribed by
2049 subsections (2)(b) and (c), and other duties necessarily related
2050 thereto.

2051 (d) From January 1, 1978, through December 31, 1978,
2052 any political subdivision of this state shall pay to the
2053 department for the unemployment fund an amount equal to the
2054 regular benefits and one-half (1/2) of the extended benefits paid
2055 that are attributable to service in the employ of such political
2056 subdivision unless it elects to make contributions to the
2057 unemployment fund as provided in subsection (2)(j) of this
2058 section. The amount required to be reimbursed shall be billed and
2059 shall be paid as provided in Section 71-5-357, with respect to
2060 similar payments for nonprofit organizations.

2061 (e) On and after January 1, 1979, any political
2062 subdivision of this state shall pay to the department for the
2063 unemployment fund an amount equal to the regular benefits and the
2064 extended benefits paid that are attributable to service in the
2065 employ of such political subdivision unless it elects to make
2066 contributions to the unemployment fund as provided in subsection
2067 (2)(j) of this section. The amount required to be reimbursed
2068 shall be billed and shall be paid as provided in Section 71-5-357,
2069 with respect to similar payments for nonprofit organizations.

2070 (f) Each political subdivision unless it elects to make
2071 contributions to the unemployment fund as provided in subsection
2072 (2)(j) of this section, shall establish a revolving fund and
2073 deposit therein monthly for a period of twenty-four (24) months an
2074 amount equal to one-twelfth of one percent (1/12 of 1%) of the

2075 first Six Thousand Dollars (\$6,000.00) paid to each employee
2076 thereof during the next preceding year plus an amount each month
2077 equal to one-third (1/3) of any reimbursement paid to the
2078 department for the next preceding quarter. After January 1, 1980,
2079 the balance in the revolving fund shall be maintained at an amount
2080 not less than two percent (2%) of the covered wages paid during
2081 the next preceding year. * * * However, * * * the department shall
2082 by regulation establish a procedure to allow reimbursing political
2083 subdivisions to elect to maintain the balance in the revolving
2084 fund as required under this paragraph or to annually execute a
2085 surety bond to be approved by the department in an amount not less
2086 than two percent (2%) of the covered wages paid during the next
2087 preceding year.

2088 (g) In the event any political subdivision becomes
2089 delinquent in payments due under this chapter, upon due notice,
2090 and upon certification of the delinquency by the department to the
2091 Department of Finance and Administration, the State Tax
2092 Commission, the Department of Environmental Quality and the
2093 Department of Insurance, or any of them, such agencies shall
2094 direct the issuance of warrants which in the aggregate shall be
2095 the amount of such delinquency payable to the department and drawn
2096 upon any funds in the State Treasury which may be available to
2097 such political subdivision in satisfaction of any such
2098 delinquency. This remedy shall be in addition to any other
2099 collection remedies in this chapter or otherwise provided by law.

2100 (h) Payments made by any political subdivision under
2101 the provisions of this section shall not be deducted or
2102 deductible, in whole or in part, from the remuneration of
2103 individuals in the employ of the organization.

2104 (i) Any governmental entity shall not be liable to make
2105 payments to the unemployment fund with respect to the benefits
2106 paid to any individual whose base-period wages include wages for
2107 previously uncovered services as defined in Section 71-5-511,

2108 subsection (e), to the extent that the unemployment compensation
2109 fund is reimbursed for such benefits pursuant to Section 121 of
2110 Public Law 94-566.

2111 (j) Any political subdivision of this state may elect
2112 to make contributions to the unemployment fund instead of making
2113 reimbursement for benefits paid as provided in subsections (2)(d),
2114 (e) and (f) of this section. A political subdivision which makes
2115 this election shall so notify the department, not later than July
2116 1, 1978; and shall be subject to the provisions of Section
2117 71-5-351, with regard to the payment of contributions. A
2118 political subdivision which makes this election shall pay
2119 contributions equal to two percent (2%) of wages paid by it during
2120 each calendar quarter it is subject to this chapter. The
2121 department shall by regulation establish a procedure to allow
2122 political subdivisions the option periodically to elect either the
2123 reimbursement or the contribution method of financing unemployment
2124 compensation coverage.

2125 **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is
2126 amended as follows:

2127 71-5-451. There is * * * established as a special fund,
2128 separate and apart from all public monies or funds of this state,
2129 an Unemployment Compensation Fund, which shall be administered by
2130 the department exclusively for:

- 2131 (a) All contributions collected under this chapter;
- 2132 (b) Interest earned upon any monies in the fund;
- 2133 (c) Any property or securities acquired through the use
2134 of monies belonging to the fund;
- 2135 (d) All earnings of such property or securities;
- 2136 (e) All monies credited to this state's account in the
2137 Unemployment Trust Fund pursuant to the Social Security Act, 42
2138 USCS, Section 1104; and
- 2139 (f) By way of reimbursement in accordance with Section
2140 204 of the Federal-State Extended Unemployment Compensation Act of

2141 1970 (84 Stat. 711). All monies in the fund shall be mingled and
2142 undivided.

2143 **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is
2144 amended as follows:

2145 71-5-457. (1) Except as otherwise provided in subsection
2146 (5), money credited to the account of this state in the
2147 Unemployment Trust Fund by the Secretary of the Treasury of the
2148 United States of America pursuant to the Social Security Act, 42
2149 USCS Section 1103, may be requisitioned and used for the payment
2150 of expenses incurred for the administration of this law pursuant
2151 to a specific appropriation by the Legislature, provided that the
2152 expenses are incurred and the money is requisitioned after the
2153 enactment of an appropriation law which:

2154 (a) Specifies the purposes for which such money is
2155 appropriated and the amounts appropriated therefor;

2156 (b) Limits the period within which such money may be
2157 obligated to a period ending not more than two (2) years after the
2158 date of the enactment of the appropriation law; and

2159 (c) Limits the amount which may be obligated during a
2160 twelve-month period beginning on July 1 and ending on the next
2161 June 30 to an amount which does not exceed the amount by which:

2162 (i) The aggregate of the amounts credited to the
2163 account of this state pursuant to the Social Security Act, 42 USCS
2164 Section 1103, during the same twelve-month period and the
2165 thirty-four (34) preceding twelve-month periods exceeds.

2166 (ii) The aggregate of the amounts obligated
2167 pursuant to this section and charged against the amounts credited
2168 to the account of this state during such thirty-five (35)
2169 twelve-month periods.

2170 For the purposes of this section, amounts obligated during
2171 any such twelve-month period shall be charged against equivalent
2172 amounts which were first credited and which are not already so
2173 charged; except that no amount obligated for administration during

2174 any such twelve-month period may be charged against any amount
2175 credited during such a twelve-month period earlier than the
2176 thirty-fourth preceding such period.

2177 (2) Money credited to the account of this state pursuant to
2178 the Social Security Act, 42 USCS Section 1103, may not be
2179 withdrawn or used except for the payment of benefits and for the
2180 payment of expenses for the administration of this law and of
2181 public employment offices pursuant to this section.

2182 (3) Money appropriated as provided herein for the payment of
2183 expenses of administration shall be requisitioned as needed for
2184 the payment of obligations incurred under such appropriation and,
2185 upon requisition, shall be deposited in the Employment Security
2186 Administration Fund, from which such payments shall be made.
2187 Money so deposited shall, until expended, remain a part of the
2188 Unemployment Compensation Fund and, if it will not be expended,
2189 shall be returned promptly to the account of this state in the
2190 Unemployment Trust Fund.

2191 (4) The thirty-five-year limitation provided in this section
2192 is no longer in force, effective October 1, 1991.

2193 (5) Notwithstanding subsection (1), monies credited with
2194 respect to federal fiscal years 1999, 2000 and 2001 shall be used
2195 by the department solely for the administration of the
2196 unemployment compensation program.

2197 **SECTION 38.** Section 71-5-511, Mississippi Code of 1972, is
2198 amended as follows:

2199 71-5-511. An unemployed individual shall be eligible to
2200 receive benefits with respect to any week only if the department
2201 finds that:

2202 (a) (i) He has registered for work at and thereafter
2203 has continued to report to an employment office in accordance with
2204 such regulations as the department may prescribe; except that the
2205 department may, by regulation, waive or alter either or both of
2206 the requirements of this subparagraph as to such types of cases or

2207 situations with respect to which it finds that compliance with
2208 such requirements would be oppressive or would be inconsistent
2209 with the purposes of this chapter; and

2210 (ii) He participates in reemployment services,
2211 such as job search assistance services, if, in accordance with a
2212 profiling system established by the department, it has been
2213 determined that he is likely to exhaust regular benefits and needs
2214 reemployment services, unless the department determines that:

2215 1. The individual has completed such
2216 services; or

2217 2. There is justifiable cause for the
2218 claimant's failure to participate in such services.

2219 (b) He has made a claim for benefits in accordance with
2220 the provisions of Section 71-5-515 and in accordance with such
2221 regulations as the department may prescribe thereunder.

2222 (c) He is able to work and is available for work.

2223 (d) He has been unemployed for a waiting period of one
2224 (1) week. No week shall be counted as a week of unemployment for
2225 the purposes of this subsection:

2226 (i) Unless it occurs within the benefit year which
2227 includes the week with respect to which he claims payment of
2228 benefits;

2229 (ii) If benefits have been paid with respect
2230 thereto;

2231 (iii) Unless the individual was eligible for
2232 benefits with respect thereto, as provided in Sections 71-5-511
2233 and 71-5-513, except for the requirements of this subsection.

2234 (e) For weeks beginning on or before July 1, 1982, he
2235 has, during his base period, been paid wages for insured work
2236 equal to not less than thirty-six (36) times his weekly benefit
2237 amount; he has been paid wages for insured work during at least
2238 two (2) quarters of his base period; and he has, during that
2239 quarter of his base period in which his total wages were highest,

2240 been paid wages for insured work equal to not less than sixteen
2241 (16) times the minimum weekly benefit amount. For benefit years
2242 beginning after July 1, 1982, he has, during his base period, been
2243 paid wages for insured work equal to not less than forty (40)
2244 times his weekly benefit amount; he has been paid wages for
2245 insured work during at least two (2) quarters of his base period,
2246 and he has, during that quarter of his base period in which his
2247 total wages were highest, been paid wages for insured work equal
2248 to not less than twenty-six (26) times the minimum weekly benefit
2249 amount. For purposes of this subsection, wages shall be counted
2250 as "wages for insured work" for benefit purposes with respect to
2251 any benefit year only if such benefit year begins subsequent to
2252 the date on which the employing unit by which such wages were paid
2253 has satisfied the conditions of Section 71-5-11, subsection I, or
2254 Section 71-5-361, subsection (3), with respect to becoming an
2255 employer.

2256 (f) No individual may receive benefits in a benefit
2257 year unless, subsequent to the beginning of the next preceding
2258 benefit year during which he received benefits, he performed
2259 service in "employment" as defined in Section 71-5-11, subsection
2260 J, and earned remuneration for such service in an amount equal to
2261 not less than eight (8) times his weekly benefit amount applicable
2262 to his * * * next preceding benefit year.

2263 (g) Benefits based on service in employment defined in
2264 Section 71-5-11, subsection J(3) and J(4), and Section 71-5-361,
2265 subsection (4) shall be payable in the same amount, on the same
2266 terms, and subject to the same conditions as compensation payable
2267 on the basis of other service subject to this chapter, except that
2268 benefits based on service in an instructional, research or
2269 principal administrative capacity in an institution of higher
2270 learning (as defined in Section 71-5-11, subsection O) with
2271 respect to service performed prior to January 1, 1978, shall not
2272 be paid to an individual for any week of unemployment which begins

2273 during the period between two (2) successive academic years, or
2274 during a similar period between two (2) regular terms, whether or
2275 not successive, or during a period of paid sabbatical leave
2276 provided for in the individual's contract, if the individual has a
2277 contract or contracts to perform services in any such capacity for
2278 any institution or institutions of higher learning for both such
2279 academic years or both such terms.

2280 (h) Benefits based on service in employment defined in
2281 Section 71-5-11, subsection J(3) and J(4), shall be payable in the
2282 same amount, on the same terms and subject to the same conditions
2283 as compensation payable on the basis of other service subject to
2284 this chapter; except that:

2285 (i) With respect to service performed in an
2286 instructional, research or principal administrative capacity for
2287 an educational institution, benefits shall not be paid based on
2288 such services for any week of unemployment commencing during the
2289 period between two (2) successive academic years, or during a
2290 similar period between two (2) regular but not successive terms,
2291 or during a period of paid sabbatical leave provided for in the
2292 individual's contract, to any individual, if such individual
2293 performs such services in the first of such academic years or
2294 terms and if there is a contract or a reasonable assurance that
2295 such individual will perform services in any such capacity for any
2296 educational institution in the second of such academic years or
2297 terms, and provided that Section 71-5-511, subsection (g), shall
2298 apply with respect to such services prior to January 1, 1978. In
2299 no event shall benefits be paid unless the individual employee was
2300 terminated by the employer.

2301 (ii) With respect to services performed in any
2302 other capacity for an educational institution, benefits shall not
2303 be paid on the basis of such services to any individual for any
2304 week which commences during a period between two (2) successive
2305 academic years or terms, if such individual performs such services

2306 in the first of such academic years or terms and there is a
2307 reasonable assurance that such individual will perform such
2308 services in the second of such academic years or terms, except
2309 that if compensation is denied to any individual under this
2310 subparagraph and such individual was not offered an opportunity to
2311 perform such services for the educational institution for the
2312 second of such academic years or terms, such individual shall be
2313 entitled to a retroactive payment of compensation for each week
2314 for which the individual filed a timely claim for compensation and
2315 for which compensation was denied solely by reason of this clause.
2316 In no event shall benefits be paid unless the individual employee
2317 was terminated by the employer.

2318 (iii) With respect to services described in
2319 subsection (h)(i) and (ii), benefits shall not be payable on the
2320 basis of services in any such capacities to any individual for any
2321 week which commences during an established and customary vacation
2322 period or holiday recess if such individual performs such services
2323 in the first of such academic years or terms, or in the period
2324 immediately before such vacation period or holiday recess, and
2325 there is a reasonable assurance that such individual will perform
2326 such services in the period immediately following such vacation
2327 period or holiday recess.

2328 (iv) With respect to any services described in
2329 subsection (h)(i) and (ii), benefits shall not be payable on the
2330 basis of services in any such capacities as specified in
2331 subsection (h)(i), (ii) and (iii) to any individual who performed
2332 such services in an educational institution while in the employ of
2333 an educational service agency. For purposes of this subsection,
2334 the term "educational service agency" means a governmental agency
2335 or governmental entity which is established and operated
2336 exclusively for the purpose of providing such services to one or
2337 more educational institutions.

2338 (v) With respect to services to which Sections
2339 71-5-357 and 71-5-359 apply, if such services are provided to or
2340 on behalf of an educational institution, benefits shall not be
2341 payable under the same circumstances and subject to the same terms
2342 and conditions as described in subsection (h)(i), (ii), (iii) and
2343 (iv).

2344 (i) Subsequent to December 31, 1977, benefits shall not
2345 be paid to any individual on the basis of any services
2346 substantially all of which consist of participating in sports or
2347 athletic events or training or preparing to so participate, for
2348 any week which commences during the period between two (2)
2349 successive sports seasons (or similar periods) if such individual
2350 performs such services in the first of such seasons (or similar
2351 periods) and there is a reasonable assurance that such individual
2352 will perform such services in the later of such seasons (or
2353 similar periods).

2354 (j) (i) Subsequent to December 31, 1977, benefits
2355 shall not be payable on the basis of services performed by an
2356 alien, unless such alien is an individual who was lawfully
2357 admitted for permanent residence at the time such services were
2358 performed, was lawfully present for purposes of performing such
2359 services, or was permanently residing in the United States under
2360 color of law at the time such services were performed (including
2361 an alien who was lawfully present in the United States as a result
2362 of the application of the provisions of Section 203(a)(7) or
2363 Section 212(d)(5) of the Immigration and Nationality Act).

2364 (ii) Any data or information required of
2365 individuals applying for benefits to determine whether benefits
2366 are not payable to them because of their alien status shall be
2367 uniformly required from all applicants for benefits.

2368 (iii) In the case of an individual whose
2369 application for benefits would otherwise be approved, no
2370 determination that benefits to such individual are not payable

2371 because of his alien status shall be made, except upon a
2372 preponderance of the evidence.

2373 (k) An individual shall be deemed prima facie
2374 unavailable for work, and therefore ineligible to receive
2375 benefits, during any period which, with respect to his employment
2376 status, is found by the department to be a holiday or vacation
2377 period.

2378 **SECTION 39.** Section 71-5-513, Mississippi Code of 1972, is
2379 amended as follows:

2380 71-5-513. A. An individual shall be disqualified for
2381 benefits:

2382 (1) (a) For the week, or fraction thereof, which
2383 immediately follows the day on which he left work voluntarily
2384 without good cause, if so found by the department, and for each
2385 week thereafter until he has earned remuneration for personal
2386 services performed for an employer, as in this chapter defined,
2387 equal to not less than eight (8) times his weekly benefit amount,
2388 as determined in each case; however, marital, filial and domestic
2389 circumstances and obligations shall not be deemed good cause
2390 within the meaning of this subsection. Pregnancy shall not be
2391 deemed to be a marital, filial or domestic circumstance for the
2392 purpose of this subsection.

2393 (b) For the week, or fraction thereof, which
2394 immediately follows the day on which he was discharged for
2395 misconduct connected with his work, if so found by the department,
2396 and for each week thereafter until he has earned remuneration for
2397 personal services performed for an employer, as in this chapter
2398 defined, equal to not less than eight (8) times his weekly benefit
2399 amount, as determined in each case.

2400 (c) The burden of proof of good cause for leaving
2401 work shall be on the claimant, and the burden of proof of
2402 misconduct shall be on the employer.

2403 (2) For the week, or fraction thereof, with respect to
2404 which he willfully makes a false statement, a false representation
2405 of fact, or willfully fails to disclose a material fact for the
2406 purpose of obtaining or increasing benefits under the provisions
2407 of this law, if so found by the department, and such individual's
2408 maximum benefit allowance shall be reduced by the amount of
2409 benefits so paid to him during any such week of disqualification;
2410 and additional disqualification shall be imposed for a period not
2411 exceeding fifty-two (52) weeks, the length of such period of
2412 disqualification and the time when such period begins to be
2413 determined by the department, in its discretion, according to the
2414 circumstances in each case.

2415 (3) If the department finds that he has failed, without
2416 good cause, either to apply for available suitable work when so
2417 directed by the employment office or the department, to accept
2418 suitable work when offered him, or to return to his customary
2419 self-employment (if any) when so directed by the department, such
2420 disqualification shall continue for the week in which such failure
2421 occurred and for not more than the twelve (12) weeks which
2422 immediately follow such week, as determined by the department
2423 according to the circumstances in each case.

2424 (a) In determining whether or not any work is
2425 suitable for an individual, the department shall consider among
2426 other factors the degree of risk involved to his health, safety
2427 and morals, his physical fitness and prior training, his
2428 experience and prior earnings, his length of unemployment and
2429 prospects for securing local work in his customary occupation, and
2430 the distance of the available work from his residence; * * *
2431 however, * * * offered employment paying the minimum wage or
2432 higher, if such minimum or higher wage is that prevailing for his
2433 customary occupation or similar work in the locality, shall be
2434 deemed to be suitable employment after benefits have been paid to
2435 the individual for a period of eight (8) weeks.

2436 (b) Notwithstanding any other provisions of this
2437 chapter, no work shall be deemed suitable and benefits shall not
2438 be denied under this chapter to any otherwise eligible individual
2439 for refusing to accept new work under any of the following
2440 conditions:

2441 (i) If the position offered is vacant due
2442 directly to a strike, lockout or other labor dispute;

2443 (ii) If the wages, hours or other conditions
2444 of the work offered are substantially less favorable to the
2445 individual than those prevailing for similar work in the locality;

2446 (iii) If as a condition of being employed the
2447 individual would be required to join a company union or to resign
2448 from or refrain from joining any bona fide labor organization.

2449 (4) For any week with respect to which the department
2450 finds that his total unemployment is due to a stoppage of work
2451 which exists because of a labor dispute at a factory,
2452 establishment or other premises at which he is or was last
2453 employed; however, this subsection shall not apply if it is shown
2454 to the satisfaction of the department:

2455 (a) He is unemployed due to a stoppage of work
2456 occasioned by an unjustified lockout, if such lockout was not
2457 occasioned or brought about by such individual acting alone or
2458 with other workers in concert; or

2459 (b) He is not participating in or directly
2460 interested in the labor dispute which caused the stoppage of work;
2461 and

2462 (c) He does not belong to a grade or class of
2463 workers of which, immediately before the commencement of stoppage,
2464 there were members employed at the premises at which the stoppage
2465 occurs, any of whom are participating in or directly interested in
2466 the dispute.

2467 * * * If in any case separate branches of work which are
2468 commonly conducted as separate businesses in separate premises are

2469 conducted in separate departments of the same premises, each such
2470 department shall, for the purposes of this subsection, be deemed
2471 to be a separate factory, establishment or other premises.

2472 (5) For any week with respect to which he has received
2473 or is seeking unemployment compensation under an unemployment
2474 compensation law of another state or of the United States.
2475 However, if the appropriate agency of such other state or of the
2476 United States finally determines that he is not entitled to such
2477 unemployment compensation benefits, this disqualification shall
2478 not apply. Nothing in this subsection contained shall be
2479 construed to include within its terms any law of the United States
2480 providing unemployment compensation or allowances for honorably
2481 discharged members of the Armed Forces.

2482 (6) For any week with respect to which he is receiving
2483 or has received remuneration in the form of payments under any
2484 governmental or private retirement or pension plan, system or
2485 policy which a base-period employer is maintaining or contributing
2486 to or has maintained or contributed to on behalf of the
2487 individual; however, if the amount payable with respect to any
2488 week is less than the benefits which would otherwise be due under
2489 Section 71-5-501, he shall be entitled to receive for such week,
2490 if otherwise eligible, benefits reduced by the amount of such
2491 remuneration. However, on or after the first Sunday immediately
2492 following July 1, 2001, no social security payments, to which the
2493 employee has made contributions, shall be deducted from
2494 unemployment benefits paid for any period of unemployment
2495 beginning on or after the first Sunday following July 1, 2001.
2496 This one hundred percent (100%) exclusion shall not apply to any
2497 other governmental or private retirement or pension plan, system
2498 or policy. If benefits payable under this section, after being
2499 reduced by the amount of such remuneration, are not a multiple of
2500 One Dollar (\$1.00), they shall be adjusted to the next lower
2501 multiple of One Dollar (\$1.00).

2502 (7) For any week with respect to which he is receiving
2503 or has received remuneration in the form of a back pay award, or
2504 other compensation allocable to any week, whether by settlement or
2505 otherwise. Any benefits previously paid for weeks of unemployment
2506 with respect to which back pay awards, or other such compensation,
2507 are made shall constitute an overpayment and such amounts shall be
2508 deducted from the award by the employer prior to payment to the
2509 employee, and shall be transmitted promptly to the department by
2510 the employer for application against the overpayment and credit to
2511 the claimant's maximum benefit amount and prompt deposit into the
2512 fund; * * * however, the removal of any charges made against the
2513 employer as a result of such previously paid benefits shall be
2514 applied to the calendar year and the calendar quarter in which the
2515 overpayment is transmitted to the department, and no attempt shall
2516 be made to relate such a credit to the period to which the award
2517 applies. Any amount of overpayment so deducted by the employer
2518 and not transmitted to the department shall be subject to the same
2519 procedures for collection as is provided for contributions by
2520 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
2521 deducted by the employer shall be established as an overpayment
2522 against the claimant and collected as provided above. It is the
2523 purpose of this paragraph to assure equity in the situations to
2524 which it applies, and it shall be construed accordingly.

2525 B. Notwithstanding any other provision in this chapter, no
2526 otherwise eligible individual shall be denied benefits for any
2527 week because he is in training with the approval of the
2528 department; nor shall such individual be denied benefits with
2529 respect to any week in which he is in training with the approval
2530 of the department by reason of the application of provisions in
2531 Section 71-5-511, subsection (c), relating to availability for
2532 work, or the provisions of subsection A(3) of this section,
2533 relating to failure to apply for, or a refusal to accept, suitable
2534 work.

2535 C. Notwithstanding any other provisions of this chapter, no
2536 otherwise eligible individual shall be denied benefits for any
2537 week because he or she is in training approved under Section
2538 236(a)(1) of the Trade Act of 1974, nor shall such individual be
2539 denied benefits by reason of leaving work to enter such training,
2540 provided the work left is not suitable employment, or because of
2541 the application to any such week in training of provisions in this
2542 law (or any applicable federal unemployment compensation law),
2543 relating to availability for work, active search for work or
2544 refusal to accept work.

2545 For purposes of this section, the term "suitable employment"
2546 means with respect to an individual, work of a substantially equal
2547 or higher skill level than the individual's past adversely
2548 affected employment (as defined for purposes of the Trade Act of
2549 1974), and wages for such work at not less than eighty percent
2550 (80%) of the individual's average weekly wage as determined for
2551 the purposes of the Trade Act of 1974.

2552 **SECTION 40.** Section 71-5-517, Mississippi Code of 1972, is
2553 amended as follows:

2554 71-5-517. An examiner designated by the department shall
2555 take the claim. An initial determination thereon shall be made
2556 promptly and shall include a determination with respect to whether
2557 or not benefits are payable, the week with respect to which
2558 benefits shall commence, the weekly benefit amount payable and the
2559 maximum duration of benefits. In any case in which the payment or
2560 denial of benefits will be determined by the provisions of
2561 subsection A(4) of Section 71-5-513, the examiner shall promptly
2562 transmit all the evidence with respect to that subsection to the
2563 department, which, on the basis of evidence so submitted and such
2564 additional evidence as it may require, shall make an initial
2565 determination with respect thereto. An initial determination may
2566 for good cause be reconsidered. The claimant, his most recent
2567 employing unit and all employers whose experience-rating record

2568 would be charged with benefits pursuant to such determination
2569 shall be promptly notified of such initial determination or any
2570 amended initial determination and the reason therefor. Benefits
2571 shall be denied or, if the claimant is otherwise eligible,
2572 promptly paid in accordance with the initial determination or
2573 amended initial determination. The jurisdiction of the department
2574 over benefit claims which have not been appealed shall be
2575 continuous. The claimant or any party to the initial
2576 determination or amended initial determination may file an appeal
2577 from such initial determination or amended initial determination
2578 within fourteen (14) days after notification thereof, or after the
2579 date such notification was mailed to his last known address.

2580 Notwithstanding any other provision of this section, benefits
2581 shall be paid promptly in accordance with a determination or
2582 redetermination, or the decision of an appeal tribunal, the board
2583 of review or a reviewing court upon the issuance of such
2584 determination, redetermination or decision in favor of the
2585 claimant (regardless of the pendency of the period to apply for
2586 reconsideration, file an appeal, or petition for judicial review,
2587 as the case may be, or the pendency of any such application,
2588 filing or petition), unless and until such determination,
2589 redetermination or decision has been modified or reversed by a
2590 subsequent redetermination or decision, in which event benefits
2591 shall be paid or denied in accordance with such modifying or
2592 reversing redetermination or decision. Any benefits finally
2593 determined to have been erroneously paid shall be set up as an
2594 overpayment to the claimant and must be liquidated before any
2595 future benefits can be paid to the claimant. If, subsequent to
2596 such initial determination or amended initial determination,
2597 benefits with respect to any week for which a claim has been filed
2598 are denied for reasons other than matters included in the initial
2599 determination or amended initial determination, the claimant shall
2600 be promptly notified of the denial and the reason therefor and may

2601 appeal therefrom in accordance with the procedure herein described
2602 for appeals from initial determination or amended initial
2603 determination.

2604 **SECTION 41.** Section 71-5-519, Mississippi Code of 1972, is
2605 amended as follows:

2606 71-5-519. Unless such appeal is withdrawn, an appeal
2607 tribunal appointed by the executive director, after affording the
2608 parties reasonable opportunity for fair hearing, shall affirm,
2609 modify or reverse the findings of fact and initial determination
2610 or amended initial determination. The parties shall be duly
2611 notified of such tribunal's decision, together with its reasons
2612 therefor, which shall be deemed to be the final decision of the
2613 executive director unless, within fourteen (14) days after the
2614 date of notification or mailing of such decision, further appeal
2615 is initiated pursuant to Section 71-5-523.

2616 **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is
2617 amended as follows:

2618 71-5-523. The board of review may on its own motion affirm,
2619 modify, or set aside any decision of an appeal tribunal on the
2620 basis of the evidence previously submitted in such case, or direct
2621 the taking of additional evidence, or may permit any of the
2622 parties to such decision to initiate further appeals before it.
2623 The board of review shall permit such further appeal by any of the
2624 parties to a decision of an appeal tribunal which is not
2625 unanimous, and by the examiner whose decision has been overruled
2626 or modified by an appeal tribunal. The board of review may remove
2627 to itself or transfer to another appeal tribunal the proceedings
2628 on any claim pending before an appeal tribunal. Any proceedings
2629 so removed to the board of review shall be heard by a quorum
2630 thereof in accordance with the requirements of Section 71-5-519
2631 and within fifteen (15) days after notice of appeal has been
2632 received by the executive director. No notice of appeal shall be
2633 deemed to be received by the executive director, within the

2634 meaning of this section, until all prior appeals pending before
2635 the board of review have been heard. The board of review shall,
2636 within four (4) days after its decision, so notify the parties to
2637 any proceeding of its findings and decision. * * *

2638 **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is
2639 amended as follows:

2640 71-5-525. The manner in which appealed claims shall be
2641 presented and the conduct of hearings and appeals shall be in
2642 accordance with regulations prescribed by the board of review for
2643 determining the rights of the parties, whether or not such
2644 regulations conform to common law or statutory rules of evidence
2645 and other technical rules of procedure. A full and complete
2646 record shall be kept of all proceedings in connection with an
2647 appealed claim. The department's entire file relative to the
2648 appealed claim shall be a part of such record and shall be
2649 considered as evidence. All testimony at any hearing upon an
2650 appealed claim shall be recorded, but need not be transcribed
2651 unless the claim is further appealed.

2652 **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is
2653 amended as follows:

2654 71-5-529. Any decision of the board of review, in the
2655 absence of an appeal therefrom as herein provided, shall become
2656 final ten (10) days after the date of notification or mailing
2657 thereof; and judicial review thereof shall be permitted only after
2658 any party claiming to be aggrieved thereby has exhausted his
2659 administrative remedies as provided by this chapter. The
2660 department shall be deemed to be a party to any judicial action
2661 involving any such decision, and may be represented in any such
2662 judicial action by any qualified attorney employed by the
2663 department and designated by it for that purpose or, at the
2664 department's request, by the Attorney General.

2665 **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is
2666 amended as follows:

2667 71-5-531. Within ten (10) days after the decision of the
2668 Board of Review has become final, any party aggrieved thereby may
2669 secure judicial review thereof by commencing an action, in the
2670 circuit court of the county in which the plaintiff resides,
2671 against the department for the review of such decision, in which
2672 action any other party to the proceeding before the Board of
2673 Review shall be made a defendant. In cases wherein the plaintiff
2674 is not a resident of the State of Mississippi, such action may be
2675 filed in the circuit court of the county in which the employer
2676 resides, the county in which the cause of action arose, or in the
2677 county of employment. In such action, a petition which need not
2678 be verified, but which shall state the grounds upon which a review
2679 is sought, shall be served upon the department or upon such person
2680 as the department may designate, and such service shall be deemed
2681 completed service on all parties; but there shall be left with the
2682 party so served as many copies of the petition as there are
2683 defendants, and the department shall forthwith mail one (1) such
2684 copy to each such defendant. With its answer, the department
2685 shall certify and file with said court all documents and papers
2686 and a transcript of all testimony taken in the matter, together
2687 with the Board of Review's findings of fact and decision therein.
2688 The department may also, in its discretion, certify to such court
2689 questions of law involved in any decision. In any judicial
2690 proceedings under this section, the findings of the Board of
2691 Review as to the facts, if supported by evidence and in the
2692 absence of fraud, shall be conclusive, and the jurisdiction of the
2693 court shall be confined to questions of law. Such actions, and
2694 the questions so certified, shall be heard in a summary manner and
2695 shall be given precedence over all other civil cases. An appeal
2696 may be taken from the decision of the circuit court of the county
2697 in which the plaintiff resides to the Supreme Court of
2698 Mississippi, in the same manner, but not inconsistent with the
2699 provisions of this chapter, as is provided in civil cases. It

2700 shall not be necessary, in any judicial proceeding under this
2701 section, to enter exceptions to the rulings of the Board of
2702 Review, and no bond shall be required for entering such appeal.
2703 Upon the final determination of such judicial proceeding, the
2704 Board of Review shall enter an order in accordance with such
2705 determination. A petition for judicial review shall not act as a
2706 supersedeas or stay unless the Board of Review shall so order.

2707 **SECTION 46.** Section 71-5-541, Mississippi Code of 1972, is
2708 amended as follows:

2709 71-5-541. A. (1) In the administration of this chapter,
2710 the department shall cooperate with the Department of Labor to the
2711 fullest extent consistent with the provisions of this chapter and
2712 shall take such action, through the adoption of appropriate rules,
2713 regulations, administrative methods and standards, as may be
2714 necessary to secure to this state and its citizens all advantages
2715 available under the provisions of the Social Security Act that
2716 relate to unemployment compensation, the Federal Unemployment Tax
2717 Act, the Wagner-Peyser Act and the Federal-State Extended
2718 Unemployment Compensation Act of 1970, all as amended.

2719 (2) In the administration of the provisions of this
2720 section, which are enacted to conform with the requirements of the
2721 Federal-State Extended Unemployment Compensation Act of 1970, as
2722 amended, the department shall take such actions as may be
2723 necessary:

2724 (a) To ensure that the provisions are so
2725 interpreted and applied as to meet the requirements of such
2726 federal act as interpreted by the U.S. Department of Labor; and

2727 (b) To secure to this state the full reimbursement
2728 of the federal share of extended benefits paid under this chapter
2729 that are reimbursable under the federal act; and also

2730 (c) To limit the amount of extended benefits paid
2731 as may be necessary so that the reimbursement of the federal share

2732 of extended benefits paid shall remain at one-half (1/2) of the
2733 total extended benefits paid.

2734 B. As used in this section, unless the context clearly
2735 requires otherwise:

2736 (1) "Extended benefit period" means a period which:

2737 (a) Begins with the third week after a week for
2738 which there is a state "on" indicator; and

2739 (b) Ends with either of the following weeks,
2740 whichever occurs later:

2741 (i) The third week after the first week for
2742 which there is a state "off" indicator; or

2743 (ii) The thirteenth consecutive week of such
2744 period.

2745 No extended benefit period may begin by reason of a state
2746 "on" indicator before the fourteenth week following the end of a
2747 prior extended benefit period which was in effect with respect to
2748 this state.

2749 (2) For weeks beginning after September 25, 1982, there
2750 is a "state 'on' indicator" for a week if the rate of insured
2751 unemployment under this chapter for the period consisting of such
2752 week and the immediately preceding twelve (12) weeks:

2753 (a) Equaled or exceeded one hundred twenty percent
2754 (120%) of the average of such rates for the corresponding period
2755 of thirteen (13) weeks ending in each of the preceding two (2)
2756 calendar years; and

2757 (b) Equaled or exceeded five percent (5%).

2758 * * * The determination of whether there has been a state
2759 "on" or "off" indicator beginning or ending any extended benefit
2760 period shall be made under this subsection as if (i) paragraph (2)
2761 did not contain subparagraph (a) thereof, and (ii) the figure "5"
2762 contained in subparagraph (b) thereof were "6"; except that,
2763 notwithstanding any such provision of this subsection, any week
2764 for which there would otherwise be a "state 'on' indicator" shall

2765 continue to be such week and shall not be determined to be a week
2766 for which there is a "state 'off' indicator."

2767 (3) There is a "state 'off' indicator" for a week if,
2768 for the period consisting of such week and the immediately
2769 preceding twelve (12) weeks, either subparagraph (a) or (b) of
2770 paragraph (2) was not satisfied.

2771 (4) "Rate of insured unemployment," for purposes of
2772 paragraphs (2) and (3) of this subsection, means the percentage
2773 derived by dividing:

2774 (a) The average number of continued weeks claimed
2775 for regular state compensation in this state for weeks of
2776 unemployment with respect to the most recent period of thirteen
2777 (13) consecutive weeks, as determined by the department on the
2778 basis of its reports to the U.S. Secretary of Labor; by

2779 (b) The average monthly employment covered under
2780 this chapter for the first four (4) of the most recent six (6)
2781 completed calendar quarters ending before the end of such period
2782 of thirteen (13) weeks.

2783 (5) "Regular benefits" means benefits payable to an
2784 individual under this chapter or under any other state law
2785 (including benefits payable to federal civilian employees and to
2786 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than
2787 extended benefits.

2788 (6) "Extended benefits" means benefits (including
2789 benefits payable to federal civilian employees and to
2790 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an
2791 individual under the provisions of this section for weeks of
2792 unemployment in his eligibility period.

2793 (7) "Eligibility period" of an individual means the
2794 period consisting of the weeks in his benefit year which begin in
2795 an extended benefit period and, if his benefit year ends within
2796 such extended benefit period, any weeks thereafter which begin in
2797 such period.

2798 (8) "Exhaustee" means an individual who, with respect
2799 to any week of unemployment in his eligibility period:

2800 (a) Has received, prior to such week, all of the
2801 regular benefits that were available to him under this chapter or
2802 any other state law (including dependents' allowances and benefits
2803 payable to federal civilian employees and ex-servicemen under 5
2804 USCS Section 8501-8525) in his current benefit year that includes
2805 such week;

2806 For the purposes of this subparagraph, an individual shall be
2807 deemed to have received all of the regular benefits that were
2808 available to him although, as a result of a pending appeal with
2809 respect to wages that were not considered in the original monetary
2810 determination in his benefit year, he may subsequently be
2811 determined to be entitled to added regular benefits; or

2812 (b) Has no, or insufficient, wages on the basis of
2813 which he could establish a new benefit year that would include
2814 such week, his benefit year having expired prior to such week; and

2815 (c) (i) Has no right to unemployment benefits or
2816 allowances, as the case may be, under the Railroad Unemployment
2817 Insurance Act, the Trade Expansion Act of 1962, the Automotive
2818 Products Trade Act of 1965, and such other federal laws as are
2819 specified in regulations issued by the U.S. Secretary of Labor;
2820 and

2821 (ii) Has not received and is not seeking
2822 unemployment benefits under the Unemployment Compensation Law of
2823 the Virgin Islands or of Canada; but if he is seeking such
2824 benefits and the appropriate agency finally determines that he is
2825 not entitled to benefits under such law, he is considered an
2826 exhaustee; however, the reference in this subsection to the Virgin
2827 Islands shall be inapplicable effective on the day on which the
2828 United States Secretary of Labor approves under Section 3304(a) of
2829 the Internal Revenue Code of 1954, an unemployment compensation
2830 law submitted to the Secretary by the Virgin Islands for approval.

2831 (9) "State law" means the unemployment insurance law of
2832 any state, approved by the United States Secretary of Labor under
2833 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section
2834 3304). C. Except when the result would be inconsistent with
2835 the other provisions of this section, as provided in the
2836 regulations of the department, the provisions of this chapter
2837 which apply to claims for, or the payment of, regular benefits
2838 shall apply to claims for, and the payment of, extended benefits.

2839 D. An individual shall be eligible to receive extended
2840 benefits with respect to any week of unemployment in his
2841 eligibility period only if the department finds that with respect
2842 to such week:

2843 (1) He is an "exhaustee" as defined in subsection B(8)
2844 of this section.

2845 (2) He has satisfied the requirements of this chapter
2846 for the receipt of regular benefits that are applicable to
2847 individuals claiming extended benefits, including not being
2848 subject to a disqualification for the receipt of benefits.

2849 (3) For a week beginning after September 25, 1982, he
2850 has, during his base period, been paid wages for insured work
2851 equal to not less than forty (40) times his weekly benefit amount;
2852 he has been paid wages for insured work during at least two (2)
2853 quarters of his base period, and he has, during that quarter of
2854 his base period in which his total wages were highest, been paid
2855 wages for insured work equal to not less than twenty-six (26)
2856 times the minimum weekly benefit amount.

2857 E. The weekly extended benefit amount payable to an
2858 individual for a week of total unemployment in his eligibility
2859 period shall be an amount equal to the weekly benefit amount
2860 payable to him during his applicable benefit year; * * *
2861 however, * * * benefits paid to individuals during eligibility
2862 periods beginning before October 1, 1983, shall be computed to the
2863 next higher multiple of One Dollar (\$1.00), if not a multiple of

2864 One Dollar (\$1.00); and benefits paid to individuals during
2865 eligibility periods beginning on or after October 1, 1983, shall
2866 be computed to the next lower multiple of One Dollar (\$1.00), if
2867 not a multiple of One Dollar (\$1.00). * * * In no event shall the
2868 weekly extended benefit amount payable to an individual be more
2869 than two (2) times the amount of the reimbursement of the federal
2870 share of extended benefits paid.

2871 F. (1) The total extended benefit amount payable to any
2872 eligible individual with respect to his applicable benefit year
2873 shall be the least of the following amounts:

2874 (a) Fifty percent (50%) of the total amount of
2875 regular benefits which were payable to him under this chapter in
2876 his applicable benefit year; * * * however, * * * benefits paid to
2877 individuals during eligibility periods beginning before October 1,
2878 1983, shall be computed to the next higher multiple of One Dollar
2879 (\$1.00), if not a multiple of One Dollar (\$1.00), and benefits
2880 paid to individuals during eligibility periods beginning on or
2881 after October 1, 1983, shall be computed to the next lower
2882 multiple of One Dollar (\$1.00), if not a multiple of One Dollar
2883 (\$1.00); or

2884 (b) Thirteen (13) times his weekly benefit amount
2885 which was payable to him under this chapter for a week of total
2886 unemployment in the applicable benefit year.

2887 (2) The total extended benefits otherwise payable to an
2888 individual who is filing an interstate claim under the interstate
2889 benefit payment plan shall not exceed two (2) weeks whenever an
2890 extended benefit period is not in effect for such week in the
2891 state where the claim is filed.

2892 (3) * * * In no event shall the total extended benefit
2893 amount payable to any eligible individual with respect to his
2894 applicable benefit year be more than two (2) times the amount of
2895 the reimbursement of the federal share of extended benefits paid.

2896 G. (1) Whenever an extended benefit period is to become
2897 effective in this state as a result of a state "on" indicator, or
2898 an extended benefit period is to be terminated in this state as a
2899 result of state "off" indicators, the department shall make an
2900 appropriate public announcement.

2901 (2) Computations required by the provisions of
2902 subsection B(4) shall be made by the department, in accordance
2903 with regulations prescribed by the United States Secretary of
2904 Labor.

2905 H. Extended benefits paid under the provisions of this
2906 section which are not reimbursable from federal funds shall be
2907 charged to the experience-rating record of base period employers.

2908 I. (1) Notwithstanding the provisions of subsections C and
2909 D of this section, an individual shall be disqualified for receipt
2910 of extended benefits if the department finds that during any week
2911 of his eligibility period:

2912 (a) He has failed either to apply for or to accept
2913 an offer of suitable work (as defined under paragraph (3)) to
2914 which he was referred by the department; or

2915 (b) He has failed to furnish tangible evidence
2916 that he has actively engaged in a systematic and sustained effort
2917 to find work, unless such individual is not actively engaged in
2918 seeking work because such individual is:

2919 (i) Before any court of the United States or
2920 any state pursuant to a lawfully issued summons to appear for jury
2921 duty;

2922 (ii) Hospitalized for treatment of an
2923 emergency or a life-threatening condition.

2924 The entitlement to benefits of any individual who is
2925 determined not to be actively engaged in seeking work in any week
2926 for the foregoing reasons shall be decided pursuant to the able
2927 and available requirements in Section 71-5-511 without regard to
2928 the disqualification provisions otherwise applicable under Section

2929 71-5-541. The conditions prescribed in clauses (i) and (ii) of
2930 this subparagraph (b) must be applied in the same manner to
2931 individuals filing claims for regular benefits.

2932 (2) Such disqualification shall begin with the week in
2933 which such failure occurred and shall continue until he has been
2934 employed in each of eight (8) subsequent weeks (whether or not
2935 consecutive) and has earned remuneration for personal services
2936 performed for an employer, as in this chapter defined, equal to
2937 not less than eight (8) times his weekly extended benefit amount.

2938 (3) For the purpose of subparagraph (a) of paragraph
2939 (1) the term "suitable work" means any work which is within the
2940 individual's capabilities to perform, if:

2941 (a) The gross average weekly remuneration payable
2942 for the work exceeds the sum of the individual's weekly extended
2943 benefit amount plus the amount, if any, of supplemental
2944 unemployment benefits (as defined in Section 501(c)(17)(D) of the
2945 Internal Revenue Code of 1954) payable to such individual for such
2946 week;

2947 (b) The wages payable for the work equal the
2948 higher of the minimum wages provided by Section 6(a)(1) of the
2949 Fair Labor Standards Act of 1938 (without regard to any
2950 exemption), or the state or local minimum wage; and

2951 (c) The position was offered to the individual in
2952 writing or was listed with the state employment service; and

2953 (d) Such work otherwise meets the definition of
2954 "suitable work" for regular benefits contained in Section
2955 71-5-513A(4) to the extent that such criteria of suitability are
2956 not inconsistent with the provisions of this paragraph (3); and

2957 (e) The individual cannot furnish satisfactory
2958 evidence to the department that his prospects for obtaining work
2959 in his customary occupation within a reasonably short period are
2960 good. If such evidence is deemed satisfactory for this purpose,
2961 the determination of whether any work is suitable with respect to

2962 such individual shall be made in accordance with the definition of
2963 suitable work contained in Section 71-5-513A(4) without regard to
2964 the definition specified by this paragraph (3).

2965 (4) Notwithstanding any provisions of subsection I to
2966 the contrary, no work shall be deemed to be suitable work for an
2967 individual which does not accord with the labor standard
2968 provisions set forth herein under Section 71-5-513A(4).

2969 (5) The employment service shall refer any claimant
2970 entitled to extended benefits under this section to any suitable
2971 work which meets the criteria prescribed in paragraph (3).

2972 (6) An individual shall be disqualified for extended
2973 benefits for the week, or fraction thereof, which immediately
2974 follows the day on which he left work voluntarily without good
2975 cause (as defined in Section 71-5-513A(1)), was discharged for
2976 misconduct connected with his work, or refused suitable work
2977 (except as provided in subsection I of this section), and for each
2978 week thereafter until he has earned remuneration for personal
2979 services performed for an employer, as in this chapter defined,
2980 equal to not less than eight (8) times his weekly benefit amount,
2981 as determined in each case.

2982 (7) The provisions of paragraphs I(1) through (6) of
2983 this section shall not apply to claims for weeks of unemployment
2984 beginning after March 6, 1993, and before January 1, 1995, and
2985 during that period the provisions of this chapter applicable to
2986 claims for regular compensation shall apply.

2987 J. Notwithstanding any other provisions of this chapter, if
2988 the benefit year of any individual ends within an extended benefit
2989 period, the remaining balance of extended benefits that such
2990 individual would, but for this section, be entitled to receive in
2991 that extended benefit period, with respect to weeks of
2992 unemployment beginning after the end of the benefit year, shall be
2993 reduced (but not below zero) by the product of the number of weeks
2994 for which the individual received any amounts as trade

2995 readjustment allowances within that benefit year, multiplied by
2996 the individual's weekly benefit amount for extended benefits.

2997 **SECTION 47.** Section 73-30-25, Mississippi Code of 1972, is
2998 amended as follows:

2999 73-30-25. It is not the intent of this chapter to regulate
3000 against members of other duly regulated professions in this state
3001 who do counseling in the normal course of the practice of their
3002 own profession. This chapter does not apply to:

3003 (a) Any person registered, certified or licensed by the
3004 state to practice any other occupation or profession while
3005 rendering counseling services in the performance of the occupation
3006 or profession for which he is registered, certified or licensed;

3007 (b) Certified school counselors when they are
3008 practicing counseling within the scope of their employment;

3009 (c) Certified vocational counselors when they are
3010 practicing vocational counseling within the scope of their
3011 employment;

3012 (d) Counselors in post-secondary institutions when they
3013 are practicing within the scope of their employment;

3014 (e) Student interns or trainees in counseling pursuing
3015 a course of study in counseling in a regionally or nationally
3016 accredited institution of higher learning or training institution
3017 if activities and services constitute a part of the supervised
3018 course of study, provided that such persons be designated a
3019 counselor intern;

3020 (f) Professionals employed by regionally or nationally
3021 accredited post-secondary institutions as counselor educators when
3022 they are practicing counseling within the scope of their
3023 employment;

3024 (g) Professionals registered, certified or licensed by
3025 a recognized state or national professional association that has a
3026 published code of ethics and requires adherence to same;

3027 (h) Duly ordained ministers or clergy while functioning
3028 in their ministerial capacity and duly accredited Christian
3029 Science practitioners;

3030 (i) Professional employees of regional mental health
3031 centers, state mental hospitals, vocational rehabilitation
3032 institutions, youth court counselors and employees of the
3033 Mississippi Department of Employment Security or other
3034 governmental agency so long as they practice within the scope of
3035 their employment;

3036 (j) Professional employees of alcohol or drug abuse
3037 centers or treatment facilities, whether privately or publicly
3038 funded, so long as they practice within the scope of their
3039 employment;

3040 (k) Private employment counselors;

3041 (l) Any nonresident temporarily employed in this state
3042 to render counseling services for not more than thirty (30) days
3043 in any year, if in the opinion of the board the person would
3044 qualify for a license under this chapter and if the person holds
3045 any license required for counselors in his home state or country;
3046 and

3047 (m) Any social workers holding a master's degree in
3048 social work from a school accredited by the Council on Social Work
3049 Education and who do counseling in the normal course of the
3050 practice of their own profession.

3051 **SECTION 48.** Section 43-1-30, Mississippi Code of 1972, is
3052 amended as follows:

3053 43-1-30. (1) There is * * * created the Mississippi TANF
3054 Implementation Council. It shall serve as the independent, single
3055 state advisory and review council for assuring Mississippi's
3056 compliance with the federal Personal Responsibility and Work
3057 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as
3058 amended. The council shall further cooperation between
3059 government, education and the private sector in meeting the needs

3060 of the TANF program. It shall also further cooperation between
3061 the business and labor communities, education and training
3062 delivery systems, and between businesses in developing highly
3063 skilled workers for high skill, high paying jobs in Mississippi.

3064 (2) The council shall be comprised of thirteen (13) public
3065 members and certain ex officio nonvoting members. All public
3066 members of the council shall be appointed as follows by the
3067 Governor:

3068 Ten (10) members shall be representatives from business and
3069 industry, provided that no fewer than five (5) members are from
3070 the manufacturing and industry sector who are also serving as
3071 members of private industry councils established within the state,
3072 and one (1) member may be a representative of a nonprofit
3073 organization. Three (3) members shall be recipients or former
3074 recipients of TANF assistance appointed from the state at large.

3075 The ex officio nonvoting members of the council shall consist
3076 of the following, or their designees:

3077 (a) The Executive Director of the Mississippi
3078 Department of Human Services;

3079 (b) The Executive Director of the Mississippi
3080 Department of Employment Security;

3081 (c) The Executive Director of the Mississippi
3082 Development Authority;

3083 (d) The State Superintendent of Public Education;

3084 (e) The Director of the State Board for Community and
3085 Junior Colleges;

3086 (f) The Executive Director of the Division of Medicaid;

3087 (g) The Commissioner of the Mississippi Department of
3088 Corrections; and

3089 (h) The Director of the Mississippi Cooperative
3090 Extension Service.

3091 (3) The Governor shall designate one (1) public member to
3092 serve as chairman of the council for a term of two (2) years and
3093 until a successor as chairman is appointed and qualified.

3094 (4) The term of office for public members appointed by the
3095 Governor shall be four (4) years and until their successors are
3096 appointed and qualified.

3097 (5) Any vacancy shall be filled for the unexpired term by
3098 the Governor in the manner of the original appointment, unless
3099 otherwise specified in this section.

3100 (6) Public members shall receive a per diem as authorized in
3101 Section 25-3-69, for each day actually engaged in meetings of the
3102 council, and shall be reimbursed for mileage and necessary
3103 expenses incurred in the performance of their duties, as provided
3104 in Section 25-3-41.

3105 (7) The council shall:

3106 (a) Annually review and recommend policies and programs
3107 to the Governor and the Legislature that will implement and meet
3108 federal requirements under the TANF program.

3109 (b) Annually review and recommend policies and programs
3110 to the Governor and to the Legislature that will enable citizens
3111 of Mississippi to acquire the skills necessary to maximize their
3112 economic self-sufficiency.

3113 (c) Review the provision of services and the use of
3114 funds and resources under the TANF program, and under all
3115 state-financed job training and job retraining programs, and
3116 advise the Governor and the Legislature on methods of coordinating
3117 such provision of services and use of funds and resources
3118 consistent with the laws and regulations governing such programs.

3119 (d) Assist in developing outcome and output measures to
3120 measure the success of the Department of Human Services' efforts
3121 in implementing the TANF program. These recommendations shall be
3122 made to the Department of Human Services at such times as required

3123 in the event that the department implements new programs to comply
3124 with the TANF program requirements.

3125 (e) Collaborate with the Mississippi Development
3126 Authority, local planning and development districts and local
3127 industrial development boards, and shall develop an economic
3128 development plan for the creation of manufacturing jobs in each of
3129 the counties in the state that has an unemployment rate of ten
3130 percent (10%) or more, which shall include, but not be limited to,
3131 procedures for business development, entrepreneurship and
3132 financial and technical assistance.

3133 (8) A majority of the members of the council shall
3134 constitute a quorum for the conduct of meetings and all actions of
3135 the council shall be by a majority of the members present at a
3136 meeting.

3137 (9) The council shall adopt rules and regulations as it
3138 deems necessary to carry out its responsibilities under this
3139 section and under applicable federal human resources programs.

3140 (10) The council may make and enter into contracts and
3141 interagency agreements as may be necessary and proper.

3142 (11) The council is authorized to commit and expend monies
3143 appropriated to it by the Legislature for its authorized purposes.
3144 The council is authorized to solicit, accept and expend public and
3145 private gifts, grants, awards and contributions related to
3146 furtherance of its statutory duties.

3147 (12) Funds for the operations of the council shall be
3148 derived from federal funds for the operation of state councils
3149 pursuant to applicable federal human resources programs and from
3150 such other monies appropriated to it by the Legislature.

3151 **SECTION 49.** Section 43-17-5, Mississippi Code of 1972, is
3152 amended as follows:

3153 43-17-5. (1) The amount of Temporary Assistance for Needy
3154 Families (TANF) benefits which may be granted for any dependent
3155 child and a needy caretaker relative shall be determined by the

3156 county department with due regard to the resources and necessary
3157 expenditures of the family and the conditions existing in each
3158 case, and in accordance with the rules and regulations made by the
3159 Department of Human Services which shall not be less than the
3160 Standard of Need in effect for 1988, and shall be sufficient when
3161 added to all other income (except that any income specified in the
3162 federal Social Security Act, as amended, may be disregarded) and
3163 support available to the child to provide such child with a
3164 reasonable subsistence compatible with decency and health. The
3165 first family member in the dependent child's budget may receive an
3166 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;
3167 the second family member in the dependent child's budget may
3168 receive an amount not to exceed Thirty-six Dollars (\$36.00) per
3169 month; and each additional family member in the dependent child's
3170 budget an amount not to exceed Twenty-four Dollars (\$24.00) per
3171 month. The maximum for any individual family member in the
3172 dependent child's budget may be exceeded for foster or medical
3173 care or in cases of mentally retarded or physically handicapped
3174 children. TANF benefits granted shall be specifically limited
3175 only (a) to children existing or conceived at the time the
3176 caretaker relative initially applies and qualifies for such
3177 assistance, unless this limitation is specifically waived by the
3178 department, or (b) to a child born following a twelve (12)
3179 consecutive month period of discontinued benefits by the caretaker
3180 relative.

3181 (2) TANF cash benefits in Mississippi shall be provided by
3182 monthly checks mailed to the recipient family until such time as
3183 an on-line electronic benefits transfer system for TANF benefit
3184 payments is implemented pursuant to Section 43-1-28.

3185 (3) The Department of Human Services shall deny TANF
3186 benefits to the following categories of individuals, except for
3187 individuals and families specifically exempt or excluded for good
3188 cause as allowed by federal statute or regulation:

3189 (a) Families without a minor child residing with the
3190 custodial parent or other adult caretaker relative of the child;

3191 (b) Families which include an adult who has received
3192 TANF assistance for sixty (60) months after the commencement of
3193 the Mississippi TANF program, whether or not such period of time
3194 is consecutive;

3195 (c) Families not assigning to the state any rights a
3196 family member may have, on behalf of the family member or of any
3197 other person for whom the family member has applied for or is
3198 receiving such assistance, to support from any other person, as
3199 required by law;

3200 (d) Families who fail to cooperate in establishing
3201 paternity or obtaining child support, as required by law;

3202 (e) Any individual who has not attained eighteen (18)
3203 years of age, is not married to the head of household, has a minor
3204 child at least twelve (12) weeks of age in his or her care, and
3205 has not successfully completed a high school education or its
3206 equivalent, if such individual does not participate in educational
3207 activities directed toward the attainment of a high school diploma
3208 or its equivalent, or an alternative educational or training
3209 program approved by the department;

3210 (f) Any individual who has not attained eighteen (18)
3211 years of age, is not married, has a minor child in his or her
3212 care, and does not reside in a place or residence maintained by a
3213 parent, legal guardian or other adult relative or the individual
3214 as such parent's, guardian's or adult relative's own home;

3215 (g) Any minor child who has been, or is expected by a
3216 parent or other caretaker relative of the child to be, absent from
3217 the home for a period of more than thirty (30) days;

3218 (h) Any individual who is a parent or other caretaker
3219 relative of a minor child who fails to notify the department of
3220 the absence of the minor child from the home for the thirty-day
3221 period specified in paragraph (g), by the end of the five-day

3222 period that begins with the date that it becomes clear to the
3223 individual that the minor child will be absent for the thirty-day
3224 period;

3225 (i) Any individual who fails to comply with the
3226 provisions of the Employability Development Plan signed by the
3227 individual which prescribe those activities designed to help the
3228 individual become and remain employed, or to participate
3229 satisfactorily in the assigned work activity, as authorized under
3230 subsections (6)(c) and (d);

3231 (j) A parent or caretaker relative who has not engaged
3232 in an allowable work activity once the department determines the
3233 parent or caretaker relative is ready to engage in work, or once
3234 the parent or caretaker relative has received TANF assistance
3235 under the program for twenty-four (24) months, whether or not
3236 consecutive, whichever is earlier;

3237 (k) Any individual who is fleeing to avoid prosecution,
3238 or custody or confinement after conviction, under the laws of the
3239 jurisdiction from which the individual flees, for a crime, or an
3240 attempt to commit a crime, which is a felony under the laws of the
3241 place from which the individual flees, or who is violating a
3242 condition of probation or parole imposed under federal or state
3243 law;

3244 (l) Aliens who are not qualified under federal law;

3245 (m) For a period of ten (10) years following
3246 conviction, individuals convicted in federal or state court of
3247 having made a fraudulent statement or representation with respect
3248 to the individual's place of residence in order to receive TANF,
3249 food stamps or Supplemental Security Income (SSI) assistance under
3250 Title XVI or Title XIX simultaneously from two (2) or more states;
3251 and

3252 (n) Individuals who are recipients of federal
3253 Supplemental Security Income (SSI) assistance.

3254 (4) (a) Any person who is otherwise eligible for TANF
3255 benefits, including custodial and noncustodial parents, shall be
3256 required to attend school and meet the monthly attendance
3257 requirement as provided in this subsection if all of the following
3258 apply:

3259 (i) The person is under age twenty (20);

3260 (ii) The person has not graduated from a public or
3261 private high school or obtained a GED equivalent;

3262 (iii) The person is physically able to attend
3263 school and is not excused from attending school; and

3264 (iv) If the person is a parent or caretaker
3265 relative with whom a dependent child is living, child care is
3266 available for the child.

3267 The monthly attendance requirement under this subsection
3268 shall be attendance at the school in which the person is enrolled
3269 for each day during a month that the school conducts classes in
3270 which the person is enrolled, with not more than two (2) absences
3271 during the month for reasons other than the reasons listed in
3272 paragraph (e)(iv) of this subsection. Persons who fail to meet
3273 participation requirements in this subsection shall be subject to
3274 sanctions as provided in paragraph (f) of this subsection.

3275 (b) As used in this subsection, "school" means any one
3276 (1) of the following:

3277 (i) A school as defined in Section 37-13-91(2);

3278 (ii) A vocational, technical and adult education
3279 program; or

3280 (iii) A course of study meeting the standards
3281 established by the State Department of Education for the granting
3282 of a declaration of equivalency of high school graduation.

3283 (c) If any compulsory-school-age child, as defined in
3284 Section 37-13-91(2), to which TANF eligibility requirements apply
3285 is not in compliance with the compulsory school attendance
3286 requirements of Section 37-13-91(6), the superintendent of schools

3287 of the school district in which the child is enrolled or eligible
3288 to attend shall notify the county department of human services of
3289 the child's noncompliance. The Department of Human Services shall
3290 review school attendance information as provided under this
3291 paragraph at all initial eligibility determinations and upon
3292 subsequent report of unsatisfactory attendance.

3293 (d) The signature of a person on an application for
3294 TANF benefits constitutes permission for the release of school
3295 attendance records for that person or for any child residing with
3296 that person. The department shall request information from the
3297 child's school district about the child's attendance in the school
3298 district's most recently completed semester of attendance. If
3299 information about the child's previous school attendance is not
3300 available or cannot be verified, the department shall require the
3301 child to meet the monthly attendance requirement for one (1)
3302 semester or until the information is obtained. The department
3303 shall use the attendance information provided by a school district
3304 to verify attendance for a child. The department shall review
3305 with the parent or caretaker relative a child's claim that he or
3306 she has a good cause for not attending school.

3307 A school district shall provide information to the department
3308 about the attendance of a child who is enrolled in a public school
3309 in the district within five (5) working days of the receipt of a
3310 written request for such information from the department. The
3311 school district shall define how many hours of attendance count as
3312 a full day and shall provide that information, upon request, to
3313 the department. In reporting attendance, the school district may
3314 add partial days' absence together to constitute a full day's
3315 absence.

3316 (e) A child who is required to attend school to meet
3317 the requirements under this subsection shall comply except when
3318 there is good cause, which shall be demonstrated by any of the
3319 following circumstances:

3320 (i) The minor parent is the caretaker of a child
3321 less than twelve (12) weeks old; or

3322 (ii) The department determines that child care
3323 services are necessary for the minor parent to attend school and
3324 there is no child care available; or

3325 (iii) The child is prohibited by the school
3326 district from attending school and an expulsion is pending. This
3327 exemption no longer applies once the teenager has been expelled;
3328 however, a teenager who has been expelled and is making
3329 satisfactory progress towards obtaining a GED equivalent shall be
3330 eligible for TANF benefits; or

3331 (iv) The child failed to attend school for one or
3332 more of the following reasons:

- 3333 1. Illness, injury or incapacity of the child
3334 or the minor parent's child;
- 3335 2. Court-required appearances or temporary
3336 incarceration;
- 3337 3. Medical or dental appointments for the
3338 child or minor parent's child;
- 3339 4. Death of a close relative;
- 3340 5. Observance of a religious holiday;
- 3341 6. Family emergency;
- 3342 7. Breakdown in transportation;
- 3343 8. Suspension; or
- 3344 9. Any other circumstance beyond the control
3345 of the child, as defined in regulations of the department.

3346 (f) Upon determination that a child has failed without
3347 good cause to attend school as required, the department shall
3348 provide written notice to the parent or caretaker relative
3349 (whoever is the primary recipient of the TANF benefits) that
3350 specifies:

3351 (i) That the family will be sanctioned in the next
3352 possible payment month because the child who is required to attend

3353 school has failed to meet the attendance requirement of this
3354 subsection;

3355 (ii) The beginning date of the sanction, and the
3356 child to whom the sanction applies;

3357 (iii) The right of the child's parents or
3358 caretaker relative (whoever is the primary recipient of the TANF
3359 benefits) to request a fair hearing under this subsection.

3360 The child's parent or caretaker relative (whoever is the
3361 primary recipient of the TANF benefits) may request a fair hearing
3362 on the department's determination that the child has not been
3363 attending school. If the child's parents or caretaker relative
3364 does not request a fair hearing under this subsection, or if,
3365 after a fair hearing has been held, the hearing officer finds that
3366 the child without good cause has failed to meet the monthly
3367 attendance requirement, the department shall discontinue or deny
3368 TANF benefits to the child thirteen (13) years old, or older, in
3369 the next possible payment month. The department shall discontinue
3370 or deny twenty-five percent (25%) of the family grant when a child
3371 six (6) through twelve (12) years of age without good cause has
3372 failed to meet the monthly attendance requirement. Both the child
3373 and family sanction may apply when children in both age groups
3374 fail to meet the attendance requirement without good cause. A
3375 sanction applied under this subsection shall be effective for one
3376 (1) month for each month that the child failed to meet the monthly
3377 attendance requirement. In the case of a dropout, the sanction
3378 shall remain in force until the parent or caretaker relative
3379 provides written proof from the school district that the child has
3380 reenrolled and met the monthly attendance requirement for one (1)
3381 calendar month. Any month in which school is in session for at
3382 least ten (10) days during the month may be used to meet the
3383 attendance requirement under this subsection. This includes
3384 attendance at summer school. The sanction shall be removed the
3385 next possible payment month.

3386 (5) All parents or caretaker relatives shall have their
3387 dependent children receive vaccinations and booster vaccinations
3388 against those diseases specified by the State Health Officer
3389 pursuant to Section 41-23-37 in accordance with the vaccination
3390 and booster vaccination schedule prescribed by the State Health
3391 Officer for children of that age, in order for the parents or
3392 caretaker relatives to be eligible or remain eligible to receive
3393 TANF benefits. Proof of having received such vaccinations and
3394 booster vaccinations shall be given by presenting the certificates
3395 of vaccination issued by any health care provider licensed to
3396 administer vaccinations, and submitted on forms specified by the
3397 State Board of Health. If the parents without good cause do not
3398 have their dependent children receive the vaccinations and booster
3399 vaccinations as required by this subsection and they fail to
3400 comply after thirty (30) days' notice, the department shall
3401 sanction the family's TANF benefits by twenty-five percent (25%)
3402 for the next payment month and each subsequent payment month until
3403 the requirements of this subsection are met.

3404 (6) (a) If the parent or caretaker relative applying for
3405 TANF assistance is an employable person, as determined by the
3406 Department of Human Services, the person shall be required to
3407 engage in an allowable work activity once the department
3408 determines the parent or caretaker relative is ready to engage in
3409 work, or once the parent or caretaker relative has received TANF
3410 assistance under the program for twenty-four (24) months, whether
3411 or not consecutive, whichever is earlier. No TANF benefits shall
3412 be given to any person to whom this section applies who fails
3413 without good cause to comply with the Employability Development
3414 Plan prepared by the department for the person, or who has refused
3415 to accept a referral or offer of employment, training or education
3416 in which he or she is able to engage, subject to the penalties
3417 prescribed in subsection (6)(e). A person shall be deemed to have

3418 refused to accept a referral or offer of employment, training or
3419 education if he or she:

3420 (i) Willfully fails to report for an interview
3421 with respect to employment when requested to do so by the
3422 department; or

3423 (ii) Willfully fails to report to the department
3424 the result of a referral to employment; or

3425 (iii) Willfully fails to report for allowable work
3426 activities as prescribed in subsections (6)(c) and (d).

3427 (b) The Department of Human Services shall operate a
3428 statewide work program for TANF recipients to provide work
3429 activities and supportive services to enable families to become
3430 self-sufficient and improve their competitive position in the work
3431 force in accordance with the requirements of the federal Personal
3432 Responsibility and Work Opportunity Reconciliation Act of 1996
3433 (Public Law 104-193), as amended, and the regulations promulgated
3434 thereunder. All adults who are not specifically exempt shall be
3435 referred by the department for allowable work activities. An
3436 adult may be exempt from the mandatory work activity requirement
3437 for the following reasons:

3438 (i) Incapacity;

3439 (ii) Temporary illness or injury, verified by
3440 physician's certificate;

3441 (iii) Is in the third trimester of pregnancy,
3442 verified by physician's certificate;

3443 (iv) Caretaker of a child under twelve (12)
3444 months, for not more than twelve (12) months of the sixty-month
3445 maximum benefit period;

3446 (v) Caretaker of an ill or incapacitated person,
3447 as verified by physician's certificate;

3448 (vi) Age, if over sixty (60) or under eighteen
3449 (18) years of age;

3450 (vii) Receiving treatment for substance abuse, if
3451 the person is in compliance with the substance abuse treatment
3452 plan;

3453 (viii) In a two-parent family, the caretaker of a
3454 severely disabled child, as verified by a physician's certificate;
3455 or

3456 (ix) History of having been a victim of domestic
3457 violence, which has been reported as required by state law and is
3458 substantiated by police reports or court records, and being at
3459 risk of further domestic violence, shall be exempt for a period as
3460 deemed necessary by the department but not to exceed a total of
3461 twelve (12) months, which need not be consecutive, in the
3462 sixty-month maximum benefit period. For the purposes of this
3463 paragraph (ix), "domestic violence" means that an individual has
3464 been subjected to:

3465 1. Physical acts that resulted in, or
3466 threatened to result in, physical injury to the individual;

3467 2. Sexual abuse;

3468 3. Sexual activity involving a dependent
3469 child;

3470 4. Being forced as the caretaker relative of
3471 a dependent child to engage in nonconsensual sexual acts or
3472 activities;

3473 5. Threats of, or attempts at, physical or
3474 sexual abuse;

3475 6. Mental abuse; or

3476 7. Neglect or deprivation of medical care.

3477 (c) For all families, all adults who are not
3478 specifically exempt shall be required to participate in work
3479 activities for at least the minimum average number of hours per
3480 week specified by federal law or regulation, not fewer than twenty
3481 (20) hours per week (thirty-five (35) hours per week for

3482 two-parent families) of which are attributable to the following
3483 allowable work activities:

- 3484 (i) Unsubsidized employment;
- 3485 (ii) Subsidized private employment;
- 3486 (iii) Subsidized public employment;
- 3487 (iv) Work experience (including work associated
3488 with the refurbishing of publicly assisted housing), if sufficient
3489 private employment is not available;
- 3490 (v) On-the-job training;
- 3491 (vi) Job search and job readiness assistance
3492 consistent with federal TANF regulations;
- 3493 (vii) Community service programs;
- 3494 (viii) Vocational educational training (not to
3495 exceed twelve (12) months with respect to any individual);
- 3496 (ix) The provision of child care services to an
3497 individual who is participating in a community service program;
- 3498 (x) Satisfactory attendance at high school or in a
3499 course of study leading to a high school equivalency certificate,
3500 for heads of household under age twenty (20) who have not
3501 completed high school or received such certificate;
- 3502 (xi) Education directly related to employment, for
3503 heads of household under age twenty (20) who have not completed
3504 high school or received such equivalency certificate.

3505 (d) The following are allowable work activities which
3506 may be attributable to hours in excess of the minimum specified in
3507 subsection (6)(c):

- 3508 (i) Job skills training directly related to
3509 employment;
- 3510 (ii) Education directly related to employment for
3511 individuals who have not completed high school or received a high
3512 school equivalency certificate;
- 3513 (iii) Satisfactory attendance at high school or in
3514 a course of study leading to a high school equivalency, for

3515 individuals who have not completed high school or received such
3516 equivalency certificate;

3517 (iv) Job search and job readiness assistance
3518 consistent with federal TANF regulations.

3519 (e) If any adult or caretaker relative refuses to
3520 participate in allowable work activity as required under this
3521 subsection (6), the following full family TANF benefit penalty
3522 will apply, subject to due process to include notification,
3523 conciliation and a hearing if requested by the recipient:

3524 (i) For the first violation, the department shall
3525 terminate the TANF assistance otherwise payable to the family for
3526 a two-month period or until the person has complied with the
3527 required work activity, whichever is longer;

3528 (ii) For the second violation, the department
3529 shall terminate the TANF assistance otherwise payable to the
3530 family for a six-month period or until the person has complied
3531 with the required work activity, whichever is longer;

3532 (iii) For the third violation, the department
3533 shall terminate the TANF assistance otherwise payable to the
3534 family for a twelve-month period or until the person has complied
3535 with the required work activity, whichever is longer;

3536 (iv) For the fourth violation, the person shall be
3537 permanently disqualified.

3538 For a two-parent family, unless prohibited by state or
3539 federal law, Medicaid assistance shall be terminated only for the
3540 person whose failure to participate in allowable work activity
3541 caused the family's TANF assistance to be sanctioned under this
3542 subsection (6)(e), unless an individual is pregnant, but shall not
3543 be terminated for any other person in the family who is meeting
3544 that person's applicable work requirement or who is not required
3545 to work. Minor children shall continue to be eligible for
3546 Medicaid benefits regardless of the disqualification of their

3547 parent or caretaker relative for TANF assistance under this
3548 subsection (6), unless prohibited by state or federal law.

3549 (f) Any person enrolled in a two-year or four-year
3550 college program who meets the eligibility requirements to receive
3551 TANF benefits, and who is meeting the applicable work requirements
3552 and all other applicable requirements of the TANF program, shall
3553 continue to be eligible for TANF benefits while enrolled in the
3554 college program for as long as the person meets the requirements
3555 of the TANF program, unless prohibited by federal law.

3556 (g) No adult in a work activity required under this
3557 subsection (6) shall be employed or assigned (i) when any other
3558 individual is on layoff from the same or any substantially
3559 equivalent job within six (6) months before the date of the TANF
3560 recipient's employment or assignment; or (ii) if the employer has
3561 terminated the employment of any regular employee or otherwise
3562 caused an involuntary reduction of its work force in order to fill
3563 the vacancy so created with an adult receiving TANF assistance.
3564 The Mississippi Department of Employment Security, established
3565 under Section 71-5-101, shall appoint one or more impartial
3566 hearing officers to hear and decide claims by employees of
3567 violations of this paragraph (f). The hearing officer shall hear
3568 all the evidence with respect to any claim made hereunder and such
3569 additional evidence as he may require and shall make a
3570 determination and the reason therefor. The claimant shall be
3571 promptly notified of the decision of the hearing officer and the
3572 reason therefor. Within ten (10) days after the decision of the
3573 hearing officer has become final, any party aggrieved thereby may
3574 secure judicial review thereof by commencing an action, in the
3575 circuit court of the county in which the claimant resides, against
3576 the department for the review of such decision, in which action
3577 any other party to the proceeding before the hearing officer shall
3578 be made a defendant. Any such appeal shall be on the record which
3579 shall be certified to the court by the department in the manner

3580 provided in Section 71-5-531, and the jurisdiction of the court
3581 shall be confined to questions of law which shall render its
3582 decision as provided in that section.

3583 (7) The Department of Human Services may provide child care
3584 for eligible participants who require such care so that they may
3585 accept employment or remain employed. The department may also
3586 provide child care for those participating in the TANF program
3587 when it is determined that they are satisfactorily involved in
3588 education, training or other allowable work activities. The
3589 department may contract with Head Start agencies to provide child
3590 care services to TANF recipients. The department may also arrange
3591 for child care by use of contract or vouchers, provide vouchers in
3592 advance to a caretaker relative, reimburse a child care provider,
3593 or use any other arrangement deemed appropriate by the department,
3594 and may establish different reimbursement rates for child care
3595 services depending on the category of the facility or home. Any
3596 center-based or group home child care facility under this
3597 paragraph shall be licensed by the State Department of Health
3598 pursuant to law. When child care is being provided in the child's
3599 own home, in the home of a relative of the child, or in any other
3600 unlicensed setting, the provision of such child care may be
3601 monitored on a random basis by the Department of Human Services or
3602 the State Department of Health. Transitional child care
3603 assistance may be continued if it is necessary for parents to
3604 maintain employment once support has ended, unless prohibited
3605 under state or federal law. Transitional child care assistance
3606 may be provided for up to twenty-four (24) months after the last
3607 month during which the family was eligible for TANF assistance, if
3608 federal funds are available for such child care assistance.

3609 (8) The Department of Human Services may provide
3610 transportation or provide reasonable reimbursement for
3611 transportation expenses that are necessary for individuals to be

3612 able to participate in allowable work activity under the TANF
3613 program.

3614 (9) Medicaid assistance shall be provided to a family of
3615 TANF program participants for up to twenty-four (24) consecutive
3616 calendar months following the month in which the participating
3617 family would be ineligible for TANF benefits because of increased
3618 income, expiration of earned income disregards, or increased hours
3619 of employment of the caretaker relative; however, Medicaid
3620 assistance for more than twelve (12) months may be provided only
3621 if a federal waiver is obtained to provide such assistance for
3622 more than twelve (12) months and federal and state funds are
3623 available to provide such assistance.

3624 (10) The department shall require applicants for and
3625 recipients of public assistance from the department to sign a
3626 personal responsibility contract that will require the applicant
3627 or recipient to acknowledge his or her responsibilities to the
3628 state.

3629 (11) The department shall enter into an agreement with the
3630 State Personnel Board and other state agencies that will allow
3631 those TANF participants who qualify for vacant jobs within state
3632 agencies to be placed in state jobs. State agencies participating
3633 in the TANF work program shall receive any and all benefits
3634 received by employers in the private sector for hiring TANF
3635 recipients. This subsection (11) shall be effective only if the
3636 state obtains any necessary federal waiver or approval and if
3637 federal funds are available therefor.

3638 (12) No new TANF program requirement or restriction
3639 affecting a person's eligibility for TANF assistance, or allowable
3640 work activity, which is not mandated by federal law or regulation
3641 may be implemented by the Department of Human Services after the
3642 effective date of this act, unless such is specifically authorized
3643 by an amendment to this section by the Legislature.

3644 **SECTION 50.** Section 43-19-45, Mississippi Code of 1972, is
3645 amended as follows:

3646 43-19-45. (1) The Child Support Unit shall establish a
3647 state parent locator service for the purpose of locating absent
3648 and nonsupporting parents and alleged parents, which will utilize
3649 all appropriate public and private locator sources. In order to
3650 carry out the responsibilities imposed under Sections 43-19-31
3651 through 43-19-53, the Child Support Unit may secure by
3652 administrative subpoena from the customer records of public
3653 utilities and cable television companies the names and addresses
3654 of individuals and the names and addresses of employers of such
3655 individuals that would enable the location of parents or alleged
3656 parents who have a duty to provide support and maintenance for
3657 their children. The Child Support Unit may also administratively
3658 subpoena any and all financial information, including account
3659 numbers, names and social security numbers of record for assets,
3660 accounts, and account balances from any individual, financial
3661 institution, business or other entity, public or private, needed
3662 to establish, modify or enforce a support order. No entity
3663 complying with an administrative subpoena to supply the requested
3664 information of whatever nature shall be liable in any civil action
3665 or proceeding on account of such compliance. Full faith and
3666 credit shall be given to all uniform administrative subpoenas
3667 issued by other state child support units. The recipient of an
3668 administrative subpoena shall supply the Child Support Unit, other
3669 state and federal IV-D agencies, its attorneys, investigators,
3670 probation officers, county or district attorneys in this state,
3671 all information relative to the location, employment, employment
3672 related benefits including, but not limited to, availability of
3673 medical insurance, income and property of such parents and alleged
3674 parents and with all information on hand relative to the location
3675 and prosecution of any person who has, by means of a false
3676 statement or misrepresentation or by impersonation or other

3677 fraudulent device, obtained Temporary Assistance for Needy
3678 Families (TANF) to which he or she was not entitled,
3679 notwithstanding any provision of law making such information
3680 confidential. The Mississippi Department of Information
3681 Technology Services and any other agency in this state using the
3682 facilities of the Mississippi Department of Information Technology
3683 Services are directed to permit the Child Support Unit access to
3684 their files, inclusive of those maintained for other state
3685 agencies, for the purpose of locating absent and nonsupporting
3686 parents and alleged parents, except to the extent that any such
3687 access would violate any valid federal statute or regulation
3688 issued pursuant thereto. The Child Support Unit, other state and
3689 federal IV-D agencies, its attorneys, investigators, probation
3690 officers, or county or district attorneys, shall use such
3691 information only for the purpose of investigating or enforcing the
3692 support liability of such absent parents or alleged parents or for
3693 the prosecution of other persons mentioned herein. Neither the
3694 Child Support Unit nor those authorities shall use the
3695 information, or disclose it, for any other purpose. All records
3696 maintained pursuant to the provisions of Sections 43-19-31 through
3697 43-19-53 shall be confidential and shall be available only to the
3698 Child Support Unit, other state and federal IV-D agencies, the
3699 attorneys, investigators and other staff employed or under
3700 contract under Sections 43-19-31 through 43-19-53, district or
3701 county attorneys, probation departments, child support units in
3702 other states, and courts having jurisdiction in paternity, support
3703 or abandonment proceedings. The Child Support Unit may release to
3704 the public the name, photo, last known address, arrearage amount
3705 and other necessary information of a parent who has a judgment
3706 against him for child support and is currently in arrears in the
3707 payment of this support. Such release may be included in a "Most
3708 Wanted List" or other media in order to solicit assistance.

3709 (2) The Child Support Unit shall have the authority to
3710 secure information from the records of the Mississippi Department
3711 of Employment Security that may be necessary to locate absent and
3712 nonsupporting parents and alleged parents under the provisions of
3713 Sections 43-19-31 through 43-19-53. Upon request of the Child
3714 Support Unit, all departments, boards, bureaus and agencies of the
3715 state shall provide to the Child Support Unit verification of
3716 employment or payment and the address and social security number
3717 of any person designated as an absent or nonsupporting parent or
3718 alleged parent. In addition, upon request of the Child Support
3719 Unit, the Mississippi Department of Employment Security, or any
3720 private employer or payor of any income to a person designated as
3721 an absent or nonsupporting parent or alleged parent, shall provide
3722 to the Child Support Unit verification of employment or payment
3723 and the address and social security number of the person so
3724 designated. Full faith and credit shall be given to such notices
3725 issued by child support units in other states. All such records
3726 and information shall be confidential and shall not be used for
3727 any purposes other than those specified by Sections 43-19-31
3728 through 43-19-53. The violation of the provisions of this
3729 subsection shall be unlawful and any person convicted of violating
3730 the provisions of this subsection shall be guilty of a misdemeanor
3731 and shall pay a fine of not more than Two Hundred Dollars
3732 (\$200.00).

3733 (3) Federal and state IV-D agencies shall have access to the
3734 state parent locator service and any system used by the Child
3735 Support Unit to locate an individual for purposes relating to
3736 motor vehicles or law enforcement. No employer or other source of
3737 income who complies with this section shall be liable in any civil
3738 action or proceeding brought by the obligor or obligee on account
3739 of such compliance.

3740 **SECTION 51.** Section 43-19-46, Mississippi Code of 1972, is
3741 amended as follows:

3742 43-19-46. (1) Each employer, as defined in Section
3743 93-11-101, doing business in Mississippi shall report to the
3744 Directory of New Hires within the Mississippi Department of Human
3745 Services:

3746 (a) The hiring of any person who resides or works in
3747 this state to whom the employer anticipates paying wages; and

3748 (b) The hiring or return to work of any employee who
3749 was laid off, furloughed, separated, granted leave without pay or
3750 was terminated from employment.

3751 (2) Employers shall report, by mailing or by other means
3752 authorized by the Department of Human Services, a copy of the
3753 employee's W-4 form or its equivalent which will result in timely
3754 reporting. Each employer shall submit reports within fifteen (15)
3755 days of the hiring, rehiring or return to work of the employee.
3756 The report shall contain:

3757 (a) The employee's name, address, social security
3758 number and the date of birth;

3759 (b) The employer's name, address, and federal and state
3760 withholding tax identification numbers; and

3761 (c) The date upon which the employee began or resumed
3762 employment, or is scheduled to begin or otherwise resume
3763 employment.

3764 (3) The department shall retain the information, which shall
3765 be forwarded to the federal registry of new hires.

3766 (4) The Department of Human Services may operate the
3767 program, may enter into a mutual agreement with the Mississippi
3768 Department of Employment Security or the State Tax Commission, or
3769 both, for the operation of the Directory of New Hires Program, or
3770 the Department of Human Services may contract for such service, in
3771 which case the department shall maintain administrative control of
3772 the program.

3773 (5) In cases in which an employer fails to report
3774 information, as required by this section, an administratively

3775 levied civil penalty in an amount not to exceed Five Hundred
3776 Dollars (\$500.00) shall apply if the failure is the result of a
3777 conspiracy between the employer and employee to not supply the
3778 required report or to supply a false or incomplete report. The
3779 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).
3780 Appeal shall be as provided in Section 43-19-58.

3781 **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is
3782 amended as follows:

3783 57-62-5. As used in this chapter, the following words and
3784 phrases shall have the meanings ascribed in this section unless
3785 the context clearly indicates otherwise:

3786 (a) "Qualified business or industry" means any
3787 corporation, limited liability company, partnership, sole
3788 proprietorship, business trust or other legal entity and subunits
3789 or affiliates thereof, pursuant to rules and regulations of the
3790 MDA, which provides an average annual salary, excluding benefits
3791 which are not subject to Mississippi income taxes, of at least one
3792 hundred twenty-five percent (125%) of the most recently published
3793 state average annual wage or the most recently published average
3794 annual wage of the county in which the qualified business or
3795 industry is located as determined by the Mississippi Department of
3796 Employment Security, whichever is the lesser. An establishment
3797 shall not be considered to be a qualified business or industry
3798 unless it offers, or will offer within one hundred eighty (180)
3799 days of the date it receives the first incentive payment pursuant
3800 to the provisions of this chapter, a basic health benefits plan to
3801 the individuals it employs in new direct jobs in this state which
3802 is approved by the MDA. Qualified business or industry does not
3803 include retail business or gaming business;

3804 (b) "New direct job" means full-time employment in this
3805 state in a qualified business or industry that has qualified to
3806 receive an incentive payment pursuant to this chapter, which
3807 employment did not exist in this state before the date of approval

3808 by the MDA of the application of the qualified business or
3809 industry pursuant to the provisions of this chapter. "New direct
3810 job" shall include full-time employment in this state of employees
3811 who are employed by an entity other than the establishment that
3812 has qualified to receive an incentive payment and who are leased
3813 to the qualified business or industry, if such employment did not
3814 exist in this state before the date of approval by the MDA of the
3815 application of the establishment;

3816 (c) "Full-time job" means a job of at least thirty-five
3817 (35) hours per week;

3818 (d) "Estimated direct state benefits" means the tax
3819 revenues projected by the MDA to accrue to the state as a result
3820 of the qualified business or industry;

3821 (e) "Estimated direct state costs" means the costs
3822 projected by the MDA to accrue to the state as a result of the
3823 qualified business or industry;

3824 (f) "Estimated net direct state benefits" means the
3825 estimated direct state benefits less the estimated direct state
3826 costs;

3827 (g) "Net benefit rate" means the estimated net direct
3828 state benefits computed as a percentage of gross payroll, provided
3829 that:

3830 (i) Except as otherwise provided in this paragraph
3831 (g), the net benefit rate may be variable and shall not exceed
3832 four percent (4%) of the gross payroll; and shall be set in the
3833 sole discretion of the MDA;

3834 (ii) In no event shall incentive payments,
3835 cumulatively, exceed the estimated net direct state benefits;

3836 (h) "Gross payroll" means wages for new direct jobs of
3837 the qualified business or industry; and

3838 (i) "MDA" means the Mississippi Development Authority.

3839 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is
3840 amended as follows:

3841 57-62-9. (1) Except as otherwise provided in this section,
3842 a qualified business or industry that meets the qualifications
3843 specified in the Mississippi Advantage Jobs Act may receive
3844 quarterly incentive payments for a period not to exceed ten (10)
3845 years from the State Tax Commission pursuant to the provisions of
3846 the Mississippi Advantage Jobs Act in an amount which shall be
3847 equal to the net benefit rate multiplied by the actual gross
3848 payroll of new direct jobs for a calendar quarter as verified by
3849 the Mississippi Department of Employment Security, but not to
3850 exceed the amount of money previously paid into the fund by the
3851 employer. A qualified business or industry that is a project as
3852 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
3853 the ten-year period will begin. Such date may not be later than
3854 sixty (60) months after the date the business or industry applied
3855 for incentive payments.

3856 (2) (a) A qualified business or industry that is a project
3857 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
3858 receive incentive payments for an additional period not to exceed
3859 five (5) years beyond the expiration date of the initial ten-year
3860 period if:

3861 (i) The qualified business or industry creates at
3862 least three thousand (3,000) new direct jobs within five (5) years
3863 after the date the business or industry commences commercial
3864 production;

3865 (ii) Within five (5) years after the date the
3866 business or industry commences commercial production, the average
3867 annual wage of the jobs is at least one hundred fifty percent
3868 (150%) of the most recently published state average annual wage or
3869 the most recently published average annual wage of the county in
3870 which the qualified business or industry is located as determined
3871 by the Mississippi Department of Employment Security, whichever is
3872 the lesser. The criteria for the average annual wage requirement
3873 shall be based upon the state average annual wage or the average

3874 annual wage of the county whichever is appropriate, at the time of
3875 creation of the minimum number of jobs, and the threshold
3876 established at that time will remain constant for the duration of
3877 the additional period; and

3878 (iii) The qualified business or industry meets and
3879 maintains the job and wage requirements of subparagraphs (i) and
3880 (ii) of this paragraph (a) for four (4) consecutive calendar
3881 quarters.

3882 (b) A qualified business or industry that is a project
3883 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
3884 incentive payments for the additional period provided in paragraph
3885 (a) of this subsection (2) may apply to the MDA to receive
3886 incentive payments for an additional period not to exceed ten (10)
3887 years beyond the expiration date of the additional period provided
3888 in paragraph (a) of this subsection (2) if:

3889 (i) The qualified business or industry creates at
3890 least four thousand (4,000) new direct jobs after qualifying for
3891 the additional incentive period provided in paragraph (a) of this
3892 subsection (2) but before the expiration of the additional period.
3893 For purposes of determining whether the business or industry meets
3894 the minimum jobs requirement of this subparagraph (i), the number
3895 of jobs the business or industry created in order to meet the
3896 minimum jobs requirement of paragraph (a) of this subsection (2)
3897 shall be subtracted from the minimum jobs requirement of this
3898 subparagraph (i);

3899 (ii) The average annual wage of the jobs is at
3900 least one hundred fifty percent (150%) of the most recently
3901 published state average annual wage or the most recently published
3902 average annual wage of the county in which the qualified business
3903 or industry is located as determined by the Mississippi Department
3904 of Employment Security, whichever is the lesser. The criteria for
3905 the average annual wage requirement shall be based upon the state
3906 average annual wage or the average annual wage of the county

3907 whichever is appropriate, at the time of creation of the minimum
3908 number of jobs, and the threshold established at that time will
3909 remain constant for the duration of the additional period; and

3910 (iii) The qualified business or industry meets and
3911 maintains the job and wage requirements of subparagraphs (i) and
3912 (ii) of this paragraph (b) for four (4) consecutive calendar
3913 quarters.

3914 (3) In order to receive incentive payments, an establishment
3915 shall apply to the MDA. The application shall be on a form
3916 prescribed by the MDA and shall contain such information as may be
3917 required by the MDA to determine if the applicant is qualified.

3918 (4) In order to qualify to receive such payments, the
3919 establishment applying shall be required to:

3920 (a) Be engaged in a qualified business or industry;

3921 (b) Provide an average salary, excluding benefits which
3922 are not subject to Mississippi income taxes, of at least one
3923 hundred twenty-five percent (125%) of the most recently published
3924 state average annual wage or the most recently published average
3925 annual wage of the county in which the qualified business or
3926 industry is located as determined by the Mississippi Department of
3927 Employment Security, whichever is the lesser. The criteria for
3928 this requirement shall be based upon the state average annual wage
3929 or the average annual wage of the county whichever is appropriate,
3930 at the time of application, and the threshold established upon
3931 application will remain constant for the duration of the project;

3932 (c) The business or industry must create and maintain a
3933 minimum of ten (10) full-time jobs in counties that have an
3934 average unemployment rate over the previous twelve-month period
3935 which is at least one hundred fifty percent (150%) of the most
3936 recently published state unemployment rate, as determined by the
3937 Mississippi Department of Employment Security or in Tier Three
3938 counties as determined under Section 57-73-21. In all other
3939 counties, the business or industry must create and maintain a

3940 minimum of twenty-five (25) full-time jobs. The criteria for this
3941 requirement shall be based on the designation of the county at the
3942 time of the application. The threshold established upon the
3943 application will remain constant for the duration of the project.
3944 The business or industry must meet its job creation commitment
3945 within twenty-four (24) months of the application approval.
3946 However, if the qualified business or industry is applying for
3947 incentive payments for an additional period under subsection (2)
3948 of this section, the business or industry must comply with the
3949 applicable job and wage requirements of subsection (2) of this
3950 section.

3951 (5) The MDA shall determine if the applicant is qualified to
3952 receive incentive payments. If the applicant is determined to be
3953 qualified by the MDA, the MDA shall conduct a cost/benefit
3954 analysis to determine the estimated net direct state benefits and
3955 the net benefit rate applicable for a period not to exceed ten
3956 (10) years and to estimate the amount of gross payroll for the
3957 period. If the applicant is determined to be qualified to receive
3958 incentive payments for an additional period under subsection (2)
3959 of this section, the MDA shall conduct a cost/benefit analysis to
3960 determine the estimated net direct state benefits and the net
3961 benefit rate applicable for the appropriate additional period and
3962 to estimate the amount of gross payroll for the additional period.
3963 In conducting such cost/benefit analysis, the MDA shall consider
3964 quantitative factors, such as the anticipated level of new tax
3965 revenues to the state along with the cost to the state of the
3966 qualified business or industry, and such other criteria as deemed
3967 appropriate by the MDA, including the adequacy of retirement
3968 benefits that the business or industry provides to individuals it
3969 employs in new direct jobs in this state. In no event shall
3970 incentive payments, cumulatively, exceed the estimated net direct
3971 state benefits. Once the qualified business or industry is
3972 approved by the MDA, an agreement shall be deemed to exist between

3973 the qualified business or industry and the State of Mississippi,
3974 requiring the continued incentive payment to be made as long as
3975 the qualified business or industry retains its eligibility.

3976 (6) Upon approval of such an application, the MDA shall
3977 notify the State Tax Commission and shall provide it with a copy
3978 of the approved application and the estimated net direct state
3979 benefits. The State Tax Commission may require the qualified
3980 business or industry to submit such additional information as may
3981 be necessary to administer the provisions of this chapter. The
3982 qualified business or industry shall report to the State Tax
3983 Commission periodically to show its continued eligibility for
3984 incentive payments. The qualified business or industry may be
3985 audited by the State Tax Commission to verify such eligibility.

3986 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is
3987 amended as follows:

3988 57-75-5. Words and phrases used in this chapter shall have
3989 meanings as follows, unless the context clearly indicates a
3990 different meaning:

3991 (a) "Act" means the Mississippi Major Economic Impact
3992 Act as originally enacted or as hereafter amended.

3993 (b) "Authority" means the Mississippi Major Economic
3994 Impact Authority created pursuant to the act.

3995 (c) "Bonds" means general obligation bonds, interim
3996 notes and other evidences of debt of the State of Mississippi
3997 issued pursuant to this chapter.

3998 (d) "Facility related to the project" means and
3999 includes any of the following, as the same may pertain to the
4000 project within the project area: (i) facilities to provide
4001 potable and industrial water supply systems, sewage and waste
4002 disposal systems and water, natural gas and electric transmission
4003 systems to the site of the project; (ii) airports, airfields and
4004 air terminals; (iii) rail lines; (iv) port facilities; (v)
4005 highways, streets and other roadways; (vi) public school

4006 buildings, classrooms and instructional facilities, training
4007 facilities and equipment, including any functionally related
4008 facilities; (vii) parks, outdoor recreation facilities and
4009 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
4010 art centers, cultural centers, folklore centers and other public
4011 facilities; (ix) health care facilities, public or private; and
4012 (x) fire protection facilities, equipment and elevated water
4013 tanks.

4014 (e) "Person" means any natural person, corporation,
4015 association, partnership, receiver, trustee, guardian, executor,
4016 administrator, fiduciary, governmental unit, public agency,
4017 political subdivision, or any other group acting as a unit, and
4018 the plural as well as the singular.

4019 (f) "Project" means:

4020 (i) Any industrial, commercial, research and
4021 development, warehousing, distribution, transportation,
4022 processing, mining, United States government or tourism enterprise
4023 together with all real property required for construction,
4024 maintenance and operation of the enterprise with an initial
4025 capital investment of not less than Three Hundred Million Dollars
4026 (\$300,000,000.00) from private or United States government sources
4027 together with all buildings, and other supporting land and
4028 facilities, structures or improvements of whatever kind required
4029 or useful for construction, maintenance and operation of the
4030 enterprise; or with an initial capital investment of not less than
4031 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
4032 or United States government sources together with all buildings
4033 and other supporting land and facilities, structures or
4034 improvements of whatever kind required or useful for construction,
4035 maintenance and operation of the enterprise and which creates at
4036 least one thousand (1,000) net new full-time jobs; or which
4037 creates at least one thousand (1,000) net new full-time jobs which
4038 provides an average salary, excluding benefits which are not

4039 subject to Mississippi income taxation, of at least one hundred
4040 twenty-five percent (125%) of the most recently published average
4041 annual wage of the state as determined by the Mississippi
4042 Employment Security Commission. "Project" shall include any
4043 addition to or expansion of an existing enterprise if such
4044 addition or expansion has an initial capital investment of not
4045 less than Three Hundred Million Dollars (\$300,000,000.00) from
4046 private or United States government sources, or has an initial
4047 capital investment of not less than One Hundred Fifty Million
4048 Dollars (\$150,000,000.00) from private or United States government
4049 sources together with all buildings and other supporting land and
4050 facilities, structures or improvements of whatever kind required
4051 or useful for construction, maintenance and operation of the
4052 enterprise and which creates at least one thousand (1,000) net new
4053 full-time jobs; or which creates at least one thousand (1,000) net
4054 new full-time jobs which provides an average salary, excluding
4055 benefits which are not subject to Mississippi income taxation, of
4056 at least one hundred twenty-five percent (125%) of the most
4057 recently published average annual wage of the state as determined
4058 by the Mississippi Department of Employment Security. "Project"
4059 shall also include any ancillary development or business resulting
4060 from the enterprise, of which the authority is notified, within
4061 three (3) years from the date that the enterprise entered into
4062 commercial production, that the project area has been selected as
4063 the site for the ancillary development or business.

4064 (ii) Any major capital project designed to
4065 improve, expand or otherwise enhance any active duty United States
4066 Air Force or Navy training bases or naval stations, their support
4067 areas or their military operations, upon designation by the
4068 authority that any such base was or is at risk to be recommended
4069 for closure or realignment pursuant to the Defense Base Closure
4070 and Realignment Act of 1990; or any major development project
4071 determined by the authority to be necessary to acquire base

4072 properties and to provide employment opportunities through
4073 construction of projects as defined in Section 57-3-5, which shall
4074 be located on or provide direct support service or access to such
4075 military installation property as such property exists on July 1,
4076 1993, in the event of closure or reduction of military operations
4077 at the installation. From and after July 1, 1997, projects
4078 described in this subparagraph (ii) shall not be considered to be
4079 within the meaning of the term "project" for purposes of this
4080 section, unless such projects are commenced before July 1, 1997,
4081 and shall not be eligible for any funding provided under the
4082 Mississippi Major Economic Impact Act.

4083 (iii) Any enterprise to be maintained, improved or
4084 constructed in Tishomingo County by or for a National Aeronautics
4085 and Space Administration facility in such county.

4086 (iv) 1. Any major capital project with an initial
4087 capital investment from private sources of not less than Seven
4088 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
4089 at least three thousand (3,000) jobs meeting criteria established
4090 by the Mississippi Development Authority.

4091 2. "Project" shall also include any ancillary
4092 development or business resulting from an enterprise operating a
4093 project as defined in item 1 of this paragraph (f)(iv), of which
4094 the authority is notified, within three (3) years from the date
4095 that the enterprise entered into commercial production, that the
4096 state has been selected as the site for the ancillary development
4097 or business.

4098 (v) Any manufacturing, processing or industrial
4099 project determined by the authority, in its sole discretion, to
4100 contribute uniquely and significantly to the economic growth and
4101 development of the state, and which meets the following criteria:

4102 1. The project shall create at least two
4103 thousand (2,000) net new full-time jobs meeting criteria
4104 established by the authority, which criteria shall include, but

4105 not be limited to, the requirement that such jobs must be held by
4106 persons eligible for employment in the United States under
4107 applicable state and federal law.

4108 2. The project and any facility related to
4109 the project shall include a total investment from private sources
4110 of not less than Sixty Million Dollars (\$60,000,000.00), or from
4111 any combination of sources of not less than Eighty Million Dollars
4112 (\$80,000,000.00).

4113 (vi) Any real property owned or controlled by the
4114 National Aeronautics and Space Administration, the United States
4115 government, or any agency thereof, which is legally conveyed to
4116 the State of Mississippi or to the State of Mississippi for the
4117 benefit of the Mississippi Major Economic Impact Authority, its
4118 successors and assigns pursuant to Section 212 of Public Law
4119 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4120 (vii) Any major capital project related to the
4121 establishment, improvement, expansion and/or other enhancement of
4122 any active duty military installation and having a minimum capital
4123 investment from any source or combination of sources other than
4124 the State of Mississippi of at least Forty Million Dollars
4125 (\$40,000,000.00), and which will create at least four hundred
4126 (400) military installation related full-time jobs, which jobs may
4127 be military jobs, civilian jobs or a combination of military and
4128 civilian jobs. The authority shall require that binding
4129 commitments be entered into requiring that the minimum
4130 requirements for the project provided for in this subparagraph
4131 shall be met not later than July 1, 2008.

4132 (viii) Any major capital project with an initial
4133 capital investment from any source or combination of sources of
4134 not less than Ten Million Dollars (\$10,000,000.00) which will
4135 create at least eighty (80) full-time jobs which provide an
4136 average annual salary, excluding benefits which are not subject to
4137 Mississippi income taxes, of at least one hundred thirty-five

4138 percent (135%) of the most recently published average annual wage
4139 of the state or the most recently published average annual wage of
4140 the county in which the project is located as determined by the
4141 Mississippi Employment Security Commission, whichever is the
4142 lesser. The authority shall require that binding commitments be
4143 entered into requiring that:

4144 1. The minimum requirements for the project
4145 provided for in this subparagraph shall be met, and

4146 2. That if such commitments are not met, all
4147 or a portion of the funds provided by the state for the project as
4148 determined by the authority shall be repaid.

4149 (ix) Any regional retail shopping mall with an
4150 initial capital investment from private sources in excess of One
4151 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
4152 footage in excess of eight hundred thousand (800,000) square feet,
4153 which will create at least seven hundred (700) full-time jobs with
4154 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
4155 authority shall require that binding commitments be entered into
4156 requiring that:

4157 1. The minimum requirements for the project
4158 provided for in this subparagraph shall be met, and

4159 2. That if such commitments are not met, all
4160 or a portion of the funds provided by the state for the project as
4161 determined by the authority shall be repaid.

4162 (x) Any major capital project with an initial
4163 capital investment from any source or combination of sources of
4164 not less than Seventy-five Million Dollars (\$75,000,000.00) which
4165 will create at least one hundred twenty-five (125) full-time jobs
4166 which provide an average annual salary, excluding benefits which
4167 are not subject to Mississippi income taxes, of at least one
4168 hundred thirty-five percent (135%) of the most recently published
4169 average annual wage of the state or the most recently published
4170 average annual wage of the county in which the project is located

4171 as determined by the Mississippi Department of Employment
4172 Security, whichever is the greater. The authority shall require
4173 that binding commitments be entered into requiring that:

4174 1. The minimum requirements for the project
4175 provided for in this subparagraph shall be met; and

4176 2. That if such commitments are not met, all
4177 or a portion of the funds provided by the state for the project as
4178 determined by the authority shall be repaid.

4179 (xi) Any potential major capital project that the
4180 authority has determined is feasible to recruit.

4181 (g) "Project area" means the project site, together
4182 with any area or territory within the state lying within
4183 sixty-five (65) miles of any portion of the project site whether
4184 or not such area or territory be contiguous; * * * however, * * *
4185 for the project defined in paragraph (f)(iv) of this section the
4186 term "project area" means any area or territory within the state.
4187 The project area shall also include all territory within a county
4188 if any portion of such county lies within sixty-five (65) miles of
4189 any portion of the project site. "Project site" means the real
4190 property on which the principal facilities of the enterprise will
4191 operate.

4192 (h) "Public agency" means:

4193 (i) Any department, board, commission, institution
4194 or other agency or instrumentality of the state;

4195 (ii) Any city, town, county, political
4196 subdivision, school district or other district created or existing
4197 under the laws of the state or any public agency of any such city,
4198 town, county, political subdivision or district or any other
4199 public entity created or existing under local and private
4200 legislation;

4201 (iii) Any department, commission, agency or
4202 instrumentality of the United States of America; and

4203 (iv) Any other state of the United States of
4204 America which may be cooperating with respect to location of the
4205 project within the state, or any agency thereof.

4206 (i) "State" means State of Mississippi.

4207 (j) "Fee-in-lieu" means a negotiated fee to be paid by
4208 the project in lieu of any franchise taxes imposed on the project
4209 by Chapter 13, Title 27, Mississippi Code of 1972. The
4210 fee-in-lieu shall not be less than Twenty-five Thousand Dollars
4211 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an
4212 enterprise operating an existing project defined in Section
4213 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated
4214 for other existing enterprises that fall within the definition of
4215 the term "project."

4216 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is
4217 amended as follows:

4218 57-80-7. (1) From and after December 31, 2000, and until
4219 December 31, 2005, the following counties may apply to the MDA for
4220 the issuance of a certificate of public convenience and necessity:

4221 (a) Any county of this state which has an annualized
4222 unemployment rate that is at least two hundred percent (200%) of
4223 the state's unemployment rate as of December 31 of any year from
4224 2000 through 2005, as determined by the Mississippi Department of
4225 Employment Security's most recently published data;

4226 (b) Any county of this state in which thirty percent
4227 (30%) or more of the population of the county is at or below the
4228 federal poverty level according to the official data compiled by
4229 the United States Census Bureau as of August 30, 2000, for
4230 counties that apply before December 31, 2002, or the most recent
4231 official data compiled by the United States Census Bureau for
4232 counties that apply from and after December 31, 2002; or

4233 (c) Any county of this state having an eligible
4234 supervisors district.

4235 (2) The application, at a minimum, must contain (a) the
4236 Mississippi Department of Employment Security's most recently
4237 published figures that reflect the annualized unemployment rate of
4238 the applying county as of December 31 or the most recent official
4239 data by the United States Census Bureau required by subsection (1)
4240 of this section, as the case may be, and (b) an order or
4241 resolution of the county consenting to the designation of the
4242 county as a growth and prosperity county.

4243 (3) Any municipality of a designated growth and prosperity
4244 county or within an eligible supervisors district and not more
4245 than eight (8) miles from the boundary of the county that meets
4246 the criteria of subsection (1)(b) of this section may by order or
4247 resolution of the municipality consent to participation in the
4248 Growth and Prosperity Program.

4249 (4) No incentive or tax exemption shall be given under this
4250 chapter without the consent of the affected county or
4251 municipality.

4252 **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is
4253 amended as follows:

4254 69-2-5. (1) The Mississippi Cooperative Extension Service
4255 shall act as a clearinghouse for the dissemination of information
4256 regarding programs and services which may be available to help
4257 those persons and businesses which have been adversely affected by
4258 the present emergency in the agricultural community. The
4259 Cooperative Extension Service shall develop a plan of assistance
4260 which shall identify all programs and services available within
4261 the state which can be of assistance to those affected by the
4262 present emergency. The Department of Agriculture and Commerce,
4263 the Department of Finance and Administration, Department of Human
4264 Services, Department of Mental Health, State Department of Health,
4265 Board of Trustees of State Institutions of Higher Learning, State
4266 Board for Community and Junior Colleges, Research and Development
4267 Center, Mississippi Development Authority, Department of

4268 Employment Security, Office of the Governor, Board of Vocational
4269 and Technical Education, Mississippi Authority for Educational
4270 Television, and other agencies of the state which have programs
4271 and services that can be of assistance to those affected by the
4272 present emergency, shall provide information regarding their
4273 programs and services to the Cooperative Extension Service for use
4274 in the clearinghouse. The types of programs and services shall
4275 include, but not be limited to, financial counseling, farm and
4276 small business management, employment services, labor market
4277 information, job re-training, vocational and technical training,
4278 food stamp programs, personal counseling, health services, and
4279 free or low cost legal services. The clearinghouse shall provide
4280 a single contact point to provide program information and referral
4281 services to individuals interested or needing services from state
4282 funded assistance programs affecting agriculture, horticulture,
4283 aquaculture and other agribusinesses or related industries. Such
4284 assistance information shall identify all monies available under
4285 the Small Business Financing Act, the Business Investment Act, the
4286 Emerging Crop Fund legislation and any other sources which may be
4287 used singularly or combined, to provide a comprehensive financing
4288 package. The provisions of this section in establishing a single
4289 contact point for information and referral services shall not be
4290 construed to authorize the hiring of additional personnel.

4291 (2) The Cooperative Extension Service may accept monetary or
4292 in-kind contributions, gifts and grants for the establishment or
4293 operation of the clearinghouse.

4294 (3) The Cooperative Extension Service shall establish a
4295 method for the dissemination of information to those who can be
4296 benefited by the existing programs and services of the state.

4297 (4) The Cooperative Extension Service shall file an annual
4298 report with the Governor, Lieutenant Governor and Speaker of the
4299 House of Representatives regarding the efforts which have been
4300 made in the clearinghouse operation. The report shall also

4301 recommend any additional measures, including legislation, which
4302 may be needed or desired in providing programs and benefits to
4303 those affected by the agricultural emergency.

4304 **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is
4305 amended as follows:

4306 7-1-355. (1) The Mississippi Development Authority,
4307 is * * * designated as the sole administrator of all programs for
4308 which the state is the prime sponsor under Title 1(B) of Public
4309 Law 105-220, Workforce Investment Act of 1998, and the regulations
4310 promulgated thereunder, and may take all necessary action to
4311 secure to this state the benefits of that legislation. The
4312 Mississippi Development Authority may receive and disburse funds
4313 for those programs that become available to it from any source.

4314 (2) The Mississippi Development Authority shall establish
4315 guidelines on the amount and/or percentage of indirect and/or
4316 administrative expenses by the local fiscal agent or the Workforce
4317 Development Center operator. The Mississippi Development
4318 Authority shall develop an accountability system and make an
4319 annual report to the Legislature before December 31 of each year
4320 on Workforce Investment Act activities. The report shall include,
4321 but is not limited to, the following:

4322 (a) The total number of individuals served through the
4323 Workforce Development Centers and the percentage and number of
4324 individuals for which a quarterly follow up is provided;

4325 (b) The number of individuals who receive core services
4326 by center;

4327 (c) The number of individuals who receive intensive
4328 services by each center;

4329 (d) The number of Workforce Investment Act vouchers
4330 issued by the Workforce Development Centers including:

4331 (i) A list of schools and colleges to which these
4332 vouchers were issued and the average cost per school of the
4333 vouchers; and

4334 (ii) A list of the types of programs for which
4335 these vouchers were issued;

4336 (e) The number of individuals placed in a job through
4337 Workforce Development Centers;

4338 (f) The monies and the amount retained for
4339 administrative and other costs received from Workforce Investment
4340 Act funds for each agency or organization that Workforce
4341 Investment Act funds flow through as a percentage and actual
4342 dollar amount of all Workforce Investment Act funds received.

4343 **SECTION 58.** Sections 37-151-69, 37-151-71 and 37-151-73,
4344 Mississippi Code of 1972, which authorize a Mississippi Workforce
4345 Development Council, local district councils and workforce
4346 development centers, are repealed.

4347 **SECTION 59.** Sections 71-5-103 and 71-5-105, Mississippi Code
4348 of 1972, which provide for the organization and compensation of
4349 members of the Mississippi Employment Security Commission, are
4350 repealed.

4351 **SECTION 60.** This act shall stand repealed on July 1, 2008.

4352 **SECTION 61.** Sections 1 through 4 of this act shall take
4353 effect and be in force from and after the passage of this act,
4354 this act shall take effect and be in force from and after July 1,
4355 2004.