

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

To: Appropriations

HOUSE BILL NO. 973
(As Sent to Governor)

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. 973, 2004 Regular Session to establish one (1)
48 comprehensive workforce development 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 services. This system shall reflect a consolidation
52 of the Mississippi Workforce Development Advisory Council and the
53 Mississippi State Workforce Investment Act Board. The purpose of
54 House Bill No. 973, 2004 Regular Session, is to provide workforce
55 activities, through a statewide system that maximizes cooperation
56 among state agencies, that increase the employment, retention and
57 earnings of participants, and increase occupational skill
58 attainment by participants and as a result, improve the quality of
59 the workforce, reduce welfare dependency and enhance the
60 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 State 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 development activities of local
72 workforce 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 State
76 Workforce Investment Board. The Mississippi State Workforce

77 Investment Board shall be composed of thirty-seven (37) voting
78 members, of which a majority shall be representatives of business
79 and industry in accordance with the federal Workforce Investment
80 Act.

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

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

85 (ii) The Executive Director of the Mississippi
86 Municipal League;

87 (iii) One (1) elected mayor;

88 (iv) One (1) elected county supervisor;

89 (v) One (1) representative of a labor
90 organization, who has been nominated by the organization;

91 (vi) One (1) representative of a youth activities
92 organization, who has been nominated by the organization;

93 (vii) One (1) representative of the Mississippi
94 Association of Planning and Development Districts;

95 (viii) One (1) representative from each of the
96 four (4) workforce areas in the state, who has been nominated by
97 the community colleges in each respective area, with the consent
98 of the elected county supervisors within the respective workforce
99 area; and

100 (ix) Nineteen (19) representatives of business
101 owners nominated by business and industry organizations, which may
102 include representatives of the various planning and development
103 districts in Mississippi.

104 (b) The following state officials shall be members of
105 the board:

106 (i) The Executive Director of the Mississippi
107 Department of Employment Security;

108 (ii) The Executive Director of the Department of
109 Rehabilitation Services;

110 (iii) The State Superintendent of Public
111 Education;

112 (iv) The Executive Director of the Mississippi
113 Development Authority;

114 (v) The Executive Director of the Mississippi
115 Department of Human Services;

116 (vi) The Executive Director of the State Board for
117 Community and Junior Colleges.

118 (c) The Governor, or his designee, shall serve as a
119 member.

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

125 (e) The membership of the board shall reflect the
126 diversity of the State of Mississippi.

127 (f) The Governor shall designate the Chairman of the
128 Mississippi State Workforce Investment Board from among the voting
129 members of the board, and a quorum of the board shall consist of a
130 majority of the voting members of the board.

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

135 (h) The Mississippi Development Authority shall be
136 responsible for providing necessary administrative, clerical and
137 budget support for the Mississippi State Workforce Investment
138 Board.

139 (2) The Mississippi Development Authority shall establish
140 limits on administrative costs for each portion of Mississippi's
141 Workforce Development System consistent with the federal Workforce
142 Investment Act or any future federal workforce legislation.

143 (3) The Mississippi State Workforce Investment Board shall
144 have the following duties:

145 (a) Develop and submit to the Governor a strategic plan
146 for an integrated state workforce development system that aligns
147 resources and structures the system to more effectively and
148 efficiently meet the demands of Mississippi's employers and job
149 seekers. This plan will comply with the federal Workforce
150 Investment Act of 1998, as amended.

151 (b) Assist the Governor in the development and
152 continuous improvement of the statewide workforce investment
153 system that shall include:

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

156 (ii) Review local workforce development plans that
157 reflect the use of funds from the federal Workforce Investment
158 Act, Wagner-Peyser Act and the Mississippi Comprehensive Workforce
159 Training and Education Consolidation Act.

160 (c) Recommend the designation of local workforce
161 investment areas as required in Section 116 of the federal
162 Workforce Investment Act of 1998. There shall be four (4)
163 workforce investment areas that are generally aligned with the
164 planning and development district structure in Mississippi.
165 Planning and development districts will serve as the fiscal agents
166 to manage Workforce Investment Act funds, oversee and support the
167 local workforce investment boards aligned with the area and the
168 local programs and activities as delivered by the one-stop
169 employment and training system. The planning and development
170 districts will perform this function through the provisions of the
171 county cooperative service districts created under Sections
172 19-3-101 through 19-3-115; however, planning and development
173 districts currently performing this function under the Interlocal
174 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
175 continue to do so.

176 (d) Assist the Governor in the development of an
177 allocation formula for the distribution of funds for adult
178 employment and training activities and youth activities to local
179 workforce investment areas.

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

183 (f) Assist the Governor in the establishment and
184 management of a one-stop employment and training system conforming
185 to the requirements of the federal Workforce Investment Act of
186 1998, as amended, recommending policy for implementing the
187 Governor's approved plan for employment and training activities
188 and services within the state. In developing this one-stop career
189 operating system, the Mississippi State Workforce Investment
190 Board, in conjunction with local workforce investment boards,
191 shall:

192 (i) Design broad guidelines for the delivery of
193 workforce development programs;

194 (ii) Identify all existing delivery agencies and
195 other resources;

196 (iii) Define appropriate roles of the various
197 agencies to include an analysis of service providers' strengths
198 and weaknesses;

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

201 (v) Develop a financial plan to support the
202 delivery system that shall, at a minimum, include an
203 accountability system.

204 (g) Assist the Governor in reducing duplication of
205 services by urging the Local Workforce Investment Boards to
206 designate the local community/junior college as the operator of
207 the WIN Job Center. Incentive grants of Two Hundred Thousand
208 Dollars (\$200,000.00) from federal Workforce Investment Act funds

209 may be awarded to the local workforce boards where the
210 community/junior college district is designated as the WIN Job
211 Center. These grants must be provided to the community and junior
212 colleges for the extraordinary costs of coordinating with the
213 Workforce Investment Act, advanced technology centers and advanced
214 skills centers. In no case shall these funds be used to supplant
215 state resources being used for operation of workforce development
216 programs.

217 (h) To provide authority, in accordance with any
218 executive order of the Governor, for developing the necessary
219 collaboration among state agencies at the highest level for
220 accomplishing the purposes of this chapter;

221 (i) To monitor the effectiveness of the workforce
222 development centers and WIN job centers;

223 (j) To advise the Governor, public schools,
224 community/junior colleges and institutions of higher learning on
225 effective school-to-work transition policies and programs that
226 link students moving from high school to higher education and
227 students moving between community colleges and four-year
228 institutions in pursuit of academic and technical skills training;

229 (k) To work with industry to identify barriers that
230 inhibit the delivery of quality work force education and the
231 responsiveness of educational institutions to the needs of
232 industry; * * *

233 (l) To provide periodic assessments on effectiveness
234 and results of the overall Mississippi comprehensive workforce
235 development system and district councils; and

236 (m) To assist the Governor in carrying out any other
237 responsibility required by the federal Workforce Investment Act of
238 1998, as amended.

239 (4) The Mississippi State Workforce Investment Board shall
240 coordinate all training programs and funds in the State of
241 Mississippi.

242 Each state agency director responsible for workforce training
243 activities shall advise the Mississippi State Workforce Investment
244 Board of appropriate federal and state requirements. Each such
245 state agency director shall remain responsible for the actions of
246 his agency; however, each state agency and director shall work
247 cooperatively, and shall be individually and collectively
248 responsible to the Governor for the successful implementation of
249 the statewide workforce investment system. The Governor, as the
250 Chief Executive Officer of the state, shall have complete
251 authority to enforce cooperation among all entities within the
252 state that utilize federal or state funding for the conduct of
253 workforce development activities.

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

256 37-153-9. (1) In accordance with the federal Workforce
257 Investment Act of 1998, there shall be established, for each of
258 the four (4) state workforce areas prescribed in Section 37-153-3
259 (2)(c), a local Workforce Investment Board to set policy for the
260 portion of the state workforce investment system within the local
261 area and carry out the provisions of the Workforce Investment Act.

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

275 District Workforce Development Council affiliated with each
276 respective community or junior college shall advise the president
277 of the community or junior college on the operation of its
278 workforce development center/one-stop center.

279 The Workforce Development Council shall have the following
280 advisory duties:

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

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

285 (ii) Sets short-term and long-term goals for
286 industry-specific training and upgrading and for general
287 development of the workforce; and

288 (iii) Provides for coordination of all training
289 programs, including ABE/GED, Skills Enhancement and Industrial
290 Services, and shall work collaboratively with the State Literacy
291 Resource Center;

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

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

296 (d) To encourage continuous improvement through
297 evaluation and assessment; and

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

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

302 37-153-11. (1) There are created workforce development
303 centers to provide assessment, training and placement services to
304 individuals needing retraining, training and upgrading for small
305 business and local industry. Each workforce development center
306 shall be affiliated with a separate public community or junior
307 college district.

308 (2) Each workforce development center shall be staffed and
309 organized locally by the affiliated community college. The
310 workforce development center shall serve as staff to the
311 affiliated district council.

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

316 (a) For individuals needing training and retraining:

317 (i) Recruiting, assessing, counseling and
318 referring to training or jobs;

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

321 (iii) Basic literacy skills training and high
322 school equivalency education;

323 (iv) Vocational and technical training, full-time
324 or part-time; and

325 (v) Short-term skills training for educationally
326 and economically disadvantaged adults in cooperation with
327 federally established employment and training programs;

328 (b) For specific small businesses, industries or firms
329 within the district:

330 (i) Job analysis, testing and curriculum
331 development;

332 (ii) Development of specific long-range training
333 plans;

334 (iii) Industry or firm-related preemployment
335 training;

336 (iv) Workplace basic skills and literacy training;

337 (v) Customized skills training;

338 (vi) Assistance in developing the capacity for

339 Total Quality Management training; * * *

340 (vii) Technology transfer information and referral
341 services to business of local applications of new research in
342 cooperation with the University Research Center, the state's
343 universities and other laboratories; and

344 (viii) Development of business plans;

345 (c) For public schools within the district technical
346 assistance to secondary schools in curriculum coordination,
347 development of tech prep programs, instructional development and
348 resource coordination; and

349 (d) For economic development, a local forum and
350 resource center for all local industrial development groups to
351 meet and promote regional economic development.

352 (4) Each workforce development center shall compile and make
353 accessible to the Mississippi Workforce Investment Board necessary
354 information for use in evaluating outcomes of its efforts and in
355 improving the quality of programs at each community college, and
356 shall include information on literacy initiatives. Each workforce
357 development center shall, through an interagency management
358 information system, maintain records on new small businesses,
359 placement, length of time on the job after placement and wage
360 rates of those placed in a form containing such information as
361 established by the state council.

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

364 37-153-13. The State Board for Community and Junior Colleges
365 is designated as the primary support agency to the workforce
366 development centers * * *. The State Board for Community and
367 Junior Colleges may exercise the following powers:

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

370 (b) To provide the workforce development centers
371 consistent standards and benchmarks to guide development of the

372 local work force development system and to provide a means by
373 which the outcomes of local services can be measured;

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

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

379 (ii) Establishing rigorous and comprehensive local
380 preemployment training programs;

381 (iii) Developing local institutional capacity to
382 deliver Total Quality Management training;

383 (iv) Developing local institutional capacity to
384 transfer new technologists into the marketplace;

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

387 (vi) Developing data for strategic planning;

388 (d) To collaborate with the Mississippi Development
389 Authority and other economic development organizations to increase
390 the community college systems' economic development potential;

391 (e) To administer presented and approved certification
392 programs by the community colleges for tax credits and partnership
393 funding for corporate training;

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

399 (g) To develop internal capacity to provide services
400 and to contract for services from universities and other providers
401 directly to local institutions;

402 (h) To develop and administer an incentive
403 certification program; * * *

404 (i) To develop and hire staff and purchase equipment
405 necessary to accomplish the goals set forth in this section; and
406 (j) To collaborate, partner and contract for services
407 with community-based organizations and disadvantaged businesses in
408 the delivery of workforce training and career information
409 especially to youth, as defined by the federal Workforce
410 Investment Act, and to those adults who are in low income jobs or
411 whose individual skill levels are so low as to be unable initially
412 to be aided by a workforce development center. Community-based
413 organizations and disadvantaged businesses must meet
414 performance-based certification requirements set by the State
415 Board for Community and Junior Colleges.

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

418 71-5-5. The Legislature * * * finds and declares that the
419 existence and continued operation of a federal tax upon employers,
420 against which some portion of the contributions required under
421 this chapter may be credited, will protect Mississippi employers
422 from undue disadvantages in their competition with employers in
423 other states. If at any time, upon a formal complaint to the
424 Governor, he shall find that Title IX of the Social Security Act
425 has been amended or repealed by Congress or has been held
426 unconstitutional by the Supreme Court of the United States, and
427 that, as a result thereof, the provisions of this chapter
428 requiring Mississippi employers to pay contributions will subject
429 them to a serious competitive disadvantage in relation to
430 employers in other states, he shall publish such findings and
431 proclaim that the operation of the provisions of this chapter
432 requiring the payment of contributions and benefits shall be
433 suspended for a period of not more than six (6) months. The
434 Department of Employment Security shall thereupon requisition from
435 the Unemployment Trust Fund all monies therein standing to its
436 credit, and shall direct the State Treasurer to deposit such

437 monies, together with any other monies in the Unemployment
438 Compensation Fund, as a special fund in any banks or public
439 depositories in this state in which general funds of the state may
440 be deposited.

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

443 If within the aforesaid six-months' period the Governor shall
444 find that other federal legislation has been enacted which avoids
445 the competitive disadvantage herein described, he shall forthwith
446 publicly so proclaim, and upon the date of such proclamation, the
447 provisions of this chapter requiring the payment of contributions
448 and benefits shall again become fully operative as of the date of
449 such suspension with the same effect as if such suspension had not
450 occurred. If within such six-months' period no such other federal
451 legislation is enacted or the Legislature of this state has not
452 otherwise prescribed, the Department of Employment Security shall,
453 under regulations prescribed by it, refund, without interest, to
454 each employer by whom contributions have been paid his pro rata
455 share of the total contributions paid under this chapter. Any
456 interest or earnings of the fund shall be available to the
457 Department of Employment Security to pay for the costs of making
458 such refunds. When the Department of Employment Security shall
459 have executed the duties herein prescribed and performed such
460 other acts as are incidental to the termination of its duties
461 under this chapter, the Governor shall by public proclamation
462 declare that the provisions of this chapter, in their entirety,
463 shall cease to be operative.

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

466 71-5-11. As used in this chapter, unless the context clearly
467 requires otherwise:

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

471 B. "Benefits" means the money payments payable to an
472 individual, as provided in this chapter, with respect to his
473 unemployment.

474 C. "Benefit year" with respect to any individual means the
475 period beginning with the first day of the first week with respect
476 to which he first files a valid claim for benefits, and ending
477 with the day preceding the same day of the same month in the next
478 calendar year; and, thereafter, the period beginning with the
479 first day of the first week with respect to which he next files
480 his valid claim for benefits, and ending with the day preceding
481 the same day of the same month in the next calendar year. Any
482 claim for benefits made in accordance with Section 71-5-515 shall
483 be deemed to be a "valid claim" for purposes of this subsection if
484 the individual has been paid the wages for insured work required
485 under Section 71-5-511(e).

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

488 E. "Calendar quarter" means the period of three (3)
489 consecutive calendar months ending on March 31, June 30, September
490 30, or December 31.

491 F. "Department" or "commission" means the Mississippi
492 Department of Employment Security, Office of the Governor.

493 G. "Executive director" means the Executive Director of the
494 Mississippi Department of Employment Security, Office of the
495 Governor, appointed under Section 71-5-107.

496 H. "Employing unit" means this state or another state or any
497 instrumentalities or any political subdivisions thereof or any of
498 their instrumentalities or any instrumentality of more than one
499 (1) of the foregoing or any instrumentality of any of the
500 foregoing and one or more other states or political subdivisions,

501 any Indian tribe as defined in Section 3306(u) of the Federal
502 Unemployment Tax Act (FUTA), which includes any subdivision,
503 subsidiary or business enterprise wholly owned by such Indian
504 tribe, any individual or type of organization, including any
505 partnership, association, trust, estate, joint-stock company,
506 insurance company, or corporation, whether domestic or foreign, or
507 the receiver, trustee in bankruptcy, trustee or successor thereof,
508 or the legal representative of a deceased person, which has or had
509 in its employ one or more individuals performing services for it
510 within this state. All individuals performing services within
511 this state for any employing unit which maintains two (2) or more
512 separate establishments within this state shall be deemed to be
513 employed by a single employing unit for all the purposes of this
514 chapter. Each individual employed to perform or to assist in
515 performing the work of any agent or employee of an employing unit
516 shall be deemed to be employed by such employing unit for all
517 purposes of this chapter, whether such individual was hired or
518 paid directly by such employing unit or by such agent or employee,
519 provided the employing unit had actual or constructive knowledge
520 of the work. All individuals performing services in the employ of
521 an elected fee-paid county official, other than those related by
522 blood or marriage within the third degree computed by the rule of
523 the civil law to such fee-paid county official, shall be deemed to
524 be employed by such county as the employing unit for all the
525 purposes of this chapter. For purposes of defining an "employing
526 unit" which shall pay contributions on remuneration paid to
527 individuals, if two (2) or more related corporations concurrently
528 employ the same individual and compensate such individual through
529 a common paymaster which is one (1) of such corporations, then
530 each such corporation shall be considered to have paid as
531 remuneration to such individual only the amounts actually
532 disbursed by it to such individual and shall not be considered to

533 have paid as remuneration to such individual such amounts actually
534 disbursed to such individual by another of such corporations.

535 I. "Employer" means:

536 (1) Any employing unit which,

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

541 (b) For some portion of a day in each of twenty
542 (20) different calendar weeks, whether or not such weeks were
543 consecutive, in either the current or the preceding calendar year
544 had in employment at least one (1) individual (irrespective of
545 whether the same individual was in employment in each such day),
546 except as provided in paragraph (9) of this subsection;

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

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

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

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

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

561 (6) Any individual or employing unit which acquired its
562 organization, trade, business, or substantially all the assets
563 thereof, from another employing unit, if the employment record of
564 the acquiring individual or employing unit subsequent to such
565 acquisition, together with the employment record of the acquired

566 organization, trade, or business prior to such acquisition, both
567 within the same calendar year, would be sufficient to constitute
568 an employing unit an employer subject to this chapter under
569 paragraph (1) or (3) of this subsection;

570 (7) Any employing unit which, having become an employer
571 under paragraph (1), (3), (5) or (6) of this subsection or under
572 any other provisions of this chapter, has not, under Section
573 71-5-361, ceased to be an employer subject to this chapter;

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

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

582 (b) In determining whether or not an employing
583 unit for which service other than agricultural labor is also
584 performed is an employer under paragraph (1) or (4)(b) of this
585 subsection, the wages earned or the employment of an employee
586 performing services in agricultural labor, shall not be taken into
587 account. If an employing unit is determined an employer of
588 agricultural labor, such employing unit shall be determined an
589 employer for purposes of paragraph (1) of this subsection;

590 (10) All entities utilizing the services of any
591 employee leasing firm shall be considered the employer of the
592 individuals leased from the employee leasing firm. Temporary help
593 firms shall be considered the employer of the individuals they
594 provide to perform services for other individuals or
595 organizations.

596 J. "Employment" means and includes:

597 (1) Any service performed, which was employment as
598 defined in this section and, subject to the other provisions of

599 this subsection, including service in interstate commerce,
600 performed for wages or under any contract of hire, written or
601 oral, express or implied.

602 (2) Services performed for remuneration for a
603 principal:

604 (a) As an agent-driver or commission-driver
605 engaged in distributing meat products, vegetable products, fruit
606 products, bakery products, beverages (other than milk), or laundry
607 or dry cleaning services;

608 (b) As a traveling or city salesman, other than as
609 an agent-driver or commission-driver, engaged upon a full-time
610 basis in the solicitation on behalf of, and the transmission to, a
611 principal (except for sideline sales activities on behalf of some
612 other person) of orders from wholesalers, retailers, contractors,
613 or operator of hotels, restaurants, or other similar
614 establishments for merchandise for resale or supplies for use in
615 their business operations.

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

619 (i) The contract of service contemplates that
620 substantially all of the services are to be performed personally
621 by such individual;

622 (ii) The individual does not have a
623 substantial investment in facilities used in connection with the
624 performance of the services (other than in facilities for
625 transportation); and

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

629 (3) Service performed in the employ of this state or
630 any of its instrumentalities or any political subdivision thereof
631 or any of its instrumentalities or any instrumentality of more

632 than one (1) of the foregoing or any instrumentality of any of the
633 foregoing and one or more other states or political subdivisions
634 or any Indian tribe as defined in Section 3306(u) of the Federal
635 Unemployment Tax Act (FUTA), which includes any subdivision,
636 subsidiary or business enterprise wholly owned by such Indian
637 tribe; however, such service is excluded from "employment" as
638 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)
639 of that act and is not excluded from "employment" under subsection
640 I(5) of this section.

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

645 (b) The organization had four (4) or more
646 individuals in employment for some portion of a day in each of
647 twenty (20) different weeks, whether or not such weeks were
648 consecutive, within the current or preceding calendar year,
649 regardless of whether they were employed at the same moment of
650 time.

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

654 (a) In the employ of:

655 (i) A church or convention or association of
656 churches; or

657 (ii) An organization which is operated
658 primarily for religious purposes and which is operated,
659 supervised, controlled, or principally supported by a church or
660 convention or association of churches; or

661 (b) By a duly ordained, commissioned, or licensed
662 minister of a church in the exercise of his ministry, or by a
663 member of a religious order in the exercise of duties required by
664 such order; or

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

668 (i) As an elected official;

669 (ii) As a member of a legislative body, or a
670 member of the judiciary, of a state or political subdivision or a
671 member of an Indian tribal council;

672 (iii) As a member of the State National Guard
673 or Air National Guard;

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

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

680 1. A major nontenured policy-making or
681 advisory position, or

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

685 (d) In a facility conducted for the purpose of
686 carrying out a program of rehabilitation for individuals whose
687 earning capacity is impaired by age or physical or mental
688 deficiency or injury, or providing remunerative work for
689 individuals who because of their impaired physical or mental
690 capacity cannot be readily absorbed in the competitive labor
691 market, by an individual receiving such rehabilitation or
692 remunerative work; or

693 (e) By an inmate of a custodial or penal
694 institution; or

695 (f) As part of an unemployment work-relief or
696 work-training program assisted or financed in whole or in part by
697 any federal agency or agency of a state or political subdivision

698 thereof or of an Indian tribe, by an individual receiving such
699 work relief or work training, unless coverage of such service is
700 required by federal law or regulation.

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

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

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

708 (ii) For some portion of a day in each of
709 twenty (20) different calendar weeks, whether or not such weeks
710 were consecutive, in either the current or the preceding calendar
711 year, employed in agricultural labor ten (10) or more individuals,
712 regardless of whether they were employed at the same moment of
713 time.

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

718 (i) If such crew leader holds a valid
719 certificate of registration under the Farm Labor Contractor
720 Registration Act of 1963; or substantially all the members of such
721 crew operate or maintain tractors, mechanized harvesting or crop
722 dusting equipment, or any other mechanized equipment, which is
723 provided by such crew leader; and

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

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

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

733 (ii) Such other person shall be treated as
734 having paid cash remuneration to such individual in an amount
735 equal to the amount of cash remuneration paid to such individual
736 by the crew leader (either on his own behalf or on behalf of such
737 other person) for the service in agricultural labor performed for
738 such other person.

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

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

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

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

749 (7) The term "employment" shall include domestic
750 service in a private home, local college club or local chapter of
751 a college fraternity or sorority performed for an employing unit
752 which paid cash remuneration of One Thousand Dollars (\$1,000.00)
753 or more in any calendar quarter in the current or the preceding
754 calendar year to individuals employed in such domestic service.
755 For the purpose of this subsection, the term "employment" does not
756 apply to service performed as a "sitter" at a hospital in the
757 employ of an individual.

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

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

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

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

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

770 (9) Services not covered under paragraph (8) of this
771 subsection and performed entirely without this state, with respect
772 to no part of which contributions are required and paid under an
773 unemployment compensation law of any other state or of the federal
774 government, shall be deemed to be employment subject to this
775 chapter if the individual performing such services is a resident
776 of this state and the department approves the election of the
777 employing unit for whom such services are performed that the
778 entire service of such individual shall be deemed to be employment
779 subject to this chapter.

780 (10) Service shall be deemed to be localized within a
781 state if:

782 (a) The service is performed entirely within such
783 state; or

784 (b) The service is performed both within and
785 without such state, but the service performed without such state
786 is incidental to the individual's service within the state; for
787 example, is temporary or transitory in nature or consists of
788 isolated transactions.

789 (11) The services of an individual who is a citizen of
790 the United States, performed outside the United States (except in
791 Canada), in the employ of an American employer (other than service
792 which is deemed "employment" under the provisions of paragraph
793 (8), (9) or (10) of this subsection or the parallel provisions of
794 another state's law), if:

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

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

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

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

803 (iii) The employer is a partnership or a
804 trust and the number of the partners or trustees who are residents
805 of this state is greater than the number who are residents of any
806 one (1) other state; or

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

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

814 (i) An individual who is a resident of the
815 United States; or

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

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

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

822 (12) All services performed by an officer or member of
823 the crew of an American vessel on or in connection with such
824 vessel, if the operating office from which the operations of such
825 vessel operating on navigable waters within, or within and
826 without, the United States are ordinarily and regularly

827 supervised, managed, directed and controlled is within this state;
828 notwithstanding the provisions of subsection I(8).

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

836 (14) Services performed by an individual for wages
837 shall be deemed to be employment subject to this chapter unless
838 and until it is shown to the satisfaction of the department that
839 such individual has been and will continue to be free from control
840 and direction over the performance of such services both under his
841 contract of service and in fact; and the relationship of employer
842 and employee shall be determined in accordance with the principles
843 of the common law governing the relation of master and servant.

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

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

848 (i) On a farm or in a forest in the employ of
849 any employing unit in connection with cultivating the soil, in
850 connection with cutting, planting, deadening, marking or otherwise
851 improving timber, or in connection with raising or harvesting any
852 agricultural or horticultural commodity, including the raising,
853 shearing, feeding, caring for, training, and management of
854 livestock, bees, poultry, fur-bearing animals and wildlife;

855 (ii) In the employ of the owner or tenant or
856 other operator of a farm, in connection with the operation,
857 management, conservation, improvement or maintenance of such farm
858 and its tools and equipment, or in salvaging timber or clearing

859 land of brush and other debris left by a hurricane, if the major
860 part of such service is performed on a farm;

861 (iii) In connection with the production or
862 harvesting of naval stores products or any commodity defined in
863 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),
864 or in connection with the raising or harvesting of mushrooms, or
865 in connection with the ginning of cotton, or in connection with
866 the operation or maintenance of ditches, canals, reservoirs, or
867 waterways not owned or operated for profit, used exclusively for
868 supplying and storing water for farming purposes;

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

876 (B) In the employ of a group of
877 operators of farms (or a cooperative organization of which such
878 operators are members) in the performance of service described in
879 subparagraph (A), but only if such operators produced more than
880 one-half (1/2) of the commodity with respect to which such service
881 is performed;

882 (C) The provisions of subparagraphs (A)
883 and (B) shall not be deemed to be applicable with respect to
884 service performed in connection with commercial canning or
885 commercial freezing or in connection with any agricultural or
886 horticultural commodity after its delivery to a terminal market
887 for distribution for consumption;

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

890 (vi) As used in paragraph (15)(a) of this
891 subsection, the term "farm" includes stock, dairy, poultry, fruit,

892 fur-bearing animals, and truck farms, plantations, ranches,
893 nurseries, ranges, greenhouses, or other similar structures used
894 primarily for the raising of agricultural or horticultural
895 commodities, and orchards.

896 (b) Domestic service in a private home, local
897 college club, or local chapter of a college fraternity or
898 sorority, except as provided in subsection I(7) of this section,
899 or service performed as a "sitter" at a hospital in the employ of
900 an individual.

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

903 (d) Service performed by an individual in the
904 employ of his son, daughter, or spouse, and service performed by a
905 child under the age of twenty-one (21) in the employ of his father
906 or mother.

907 (e) Service performed in the employ of the United
908 States government or of an instrumentality wholly owned by the
909 United States; except that if the Congress of the United States
910 shall permit states to require any instrumentalities of the United
911 States to make payments into an unemployment fund under a state
912 unemployment compensation act, then to the extent permitted by
913 Congress and from and after the date as of which such permission
914 becomes effective, all of the provisions of this chapter shall be
915 applicable to such instrumentalities and to services performed by
916 employees for such instrumentalities in the same manner, to the
917 same extent, and on the same terms as to all other employers and
918 employing units. If this state should not be certified under the
919 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any
920 year, then the payment required by such instrumentality with
921 respect to such year shall be deemed to have been erroneously
922 collected and shall be refunded by the department from the fund in
923 accordance with the provisions of Section 71-5-383.

924 (f) Service performed in the employ of an
925 "employer" as defined by the Railroad Unemployment Insurance Act,
926 45 USCS Section 351(a), or as an "employee representative" as
927 defined by the Railroad Unemployment Insurance Act, 45 USCS
928 Section 351(f), and service with respect to which unemployment
929 compensation is payable under an unemployment compensation system
930 for maritime employees, or under any other unemployment
931 compensation system established by an act of Congress; however,
932 the department is * * * authorized and directed to enter into
933 agreements with the proper agencies under such act or acts of
934 Congress, which agreements shall become effective ten (10) days
935 after publication thereof in the manner provided in Section
936 71-5-117 for general rules, to provide reciprocal treatment to
937 individuals who have, after acquiring potential rights to benefits
938 under this chapter, acquired rights to unemployment compensation
939 under such act or acts of Congress or who have, after acquiring
940 potential rights to unemployment compensation under such act or
941 acts of Congress, acquired rights to benefits under this chapter.

942 (g) Service performed in any calendar quarter in
943 the employ of any organization exempt from income tax under the
944 Internal Revenue Code, 26 USCS Section 501(a) (other than an
945 organization described in 26 USCS Section 401(a)), or exempt from
946 income tax under 26 USCS Section 521 if the remuneration for such
947 service is less than Fifty Dollars (\$50.00).

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

950 (i) By a student who is enrolled and is
951 regularly attending classes at such school, college or university,
952 or

953 (ii) By the spouse of such a student if such
954 spouse is advised, at the time such spouse commences to perform
955 such service, that

956 (A) The employment of such spouse to
957 perform such service is provided under a program to provide
958 financial assistance to such student by such school, college, or
959 university, and

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

962 (i) Service performed by an individual under the
963 age of twenty-two (22) who is enrolled at a nonprofit or public
964 educational institution which normally maintains a regular faculty
965 and curriculum and normally has a regularly organized body of
966 students in attendance at the place where its educational
967 activities are carried on, as a student in a full-time program
968 taken for credit at such institution, which combines academic
969 instruction with work experience, if such service is an integral
970 part of such program and such institution has so certified to the
971 employer, except that this subparagraph shall not apply to service
972 performed in a program established for or on behalf of an employer
973 or group of employers.

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

977 (k) Service performed as a student nurse in the
978 employ of a hospital or a nurses' training school by an individual
979 who is enrolled and is regularly attending classes in a nurses'
980 training school chartered or approved pursuant to state law; and
981 services performed as an intern in the employ of a hospital by an
982 individual who has completed a four-year course in a medical
983 school chartered or approved pursuant to state law.

984 (l) Service performed by an individual as an
985 insurance agent or as an insurance solicitor, if all such service
986 performed by such individual is performed for remuneration solely
987 by way of commission.

988 (m) Service performed by an individual under the
989 age of eighteen (18) in the delivery or distribution of newspapers
990 or shopping news, not including delivery or distribution to any
991 point for subsequent delivery or distribution.

992 (n) If the services performed during one-half
993 (1/2) or more of any pay period by an employee for the employing
994 unit employing him constitute employment, all the services of such
995 employee for such period shall be deemed to be employment; but if
996 the services performed during more than one-half (1/2) of any such
997 pay period by an employee for the employing unit employing him do
998 not constitute employment, then none of the services of such
999 employee for such period shall be deemed to be employment. As
1000 used in this subsection the term "pay period" means a period (of
1001 not more than thirty-one (31) consecutive days) for which a
1002 payment of remuneration is ordinarily made to the employee by the
1003 employing unit employing him.

1004 * * *

1005 (o) Service performed by a barber or beautician
1006 whose work station is leased to him or her by the owner of the
1007 shop in which he or she works and who is compensated directly by
1008 the patrons he or she serves and who is free from direction and
1009 control by the lessor.

1010 K. "Employment office" means a free public employment office
1011 or branch thereof, operated by this state or maintained as a part
1012 of the state controlled system of public employment offices.

1013 L. "Public employment service" means the operation of a
1014 program that offers free placement and referral services to
1015 applicants and employers, including job development.

1016 M. "Fund" means the Unemployment Compensation Fund
1017 established by this chapter, to which all contributions required
1018 and from which all benefits provided under this chapter shall be
1019 paid.

1020 N. "Hospital" means an institution which has been licensed,
1021 certified, or approved by the State Department of Health as a
1022 hospital.

1023 O. "Institution of higher learning," for the purposes of
1024 this section, means an educational institution which:

1025 (1) Admits as regular students only individuals having
1026 a certificate of graduation from a high school, or the recognized
1027 equivalent of such a certificate;

1028 (2) Is legally authorized in this state to provide a
1029 program of education beyond high school;

1030 (3) Provides an educational program for which it awards
1031 a bachelor's or higher degree, or provides a program which is
1032 acceptable for full credit toward such a degree, a program of
1033 postgraduate or postdoctoral studies, or a program of training to
1034 prepare students for gainful employment in a recognized
1035 occupation;

1036 (4) Is a public or other nonprofit institution;

1037 (5) Notwithstanding any of the foregoing provisions of
1038 this subsection, all colleges and universities in this state are
1039 institutions of higher learning for purposes of this section.

1040 P. (1) "State" includes, in addition to the states of the
1041 United States of America, the District of Columbia, Commonwealth
1042 of Puerto Rico and the Virgin Islands.

1043 (2) The term "United States" when used in a
1044 geographical sense includes the states, the District of Columbia,
1045 Commonwealth of Puerto Rico and the Virgin Islands.

1046 (3) The provisions of subsections (1) and (2) of
1047 paragraph N, as including the Virgin Islands, shall become
1048 effective on the day after the day on which the United States
1049 Secretary of Labor approves for the first time under Section
1050 3304(a) of the Internal Revenue Code of 1954 an unemployment
1051 compensation law submitted to the secretary by the Virgin Islands
1052 for such approval.

1053 Q. "Unemployment."

1054 (1) An individual shall be deemed "unemployed" in any
1055 week during which he performs no services and with respect to
1056 which no wages are payable to him, or in any week of less than
1057 full-time work if the wages payable to him with respect to such
1058 week are less than his weekly benefit amount as computed and
1059 adjusted in Section 71-5-505. The department shall prescribe
1060 regulations applicable to unemployed individuals, making such
1061 distinctions in the procedure as to total unemployment, part-total
1062 unemployment, partial unemployment of individuals attached to
1063 their regular jobs, and other forms of short-time work, as the
1064 department deems necessary.

1065 (2) An individual's week of total unemployment shall be
1066 deemed to commence only after his registration at an employment
1067 office, except as the department may by regulation otherwise
1068 prescribe.

1069 R. (1) "Wages" means all remuneration for personal
1070 services, including commissions and bonuses and the cash value of
1071 all remuneration in any medium other than cash, except that
1072 "wages," for purposes of determining employer's coverage and
1073 payment of contributions for agricultural and domestic service
1074 means cash remuneration only. The reasonable cash value of
1075 remuneration in any medium other than cash shall be estimated and
1076 determined in accordance with rules prescribed by the department;
1077 however, that the term "wages" shall not include:

1078 (a) The amount of any payment made to, or on
1079 behalf of, an employee under a plan or system established by an
1080 employer which makes provision for his employees generally or for
1081 a class or classes of his employees (including any amount paid by
1082 an employer for insurance or annuities, or into a fund, to provide
1083 for any such payment), on account of:

1084 (i) Retirement, or

1085 (ii) Sickness or accident disability, or

1086 (iii) Medical or hospitalization expenses in
1087 connection with sickness or actual disability, or

1088 (iv) Death, provided the employee:

1089 (A) Has not the option to receive,
1090 instead of provision for such death benefit, any part of such
1091 payment or, if such death benefit is insured, any part of the
1092 premiums (or contributions to premiums) paid by his employer, and

1093 (B) Has not the right, under the
1094 provisions of the plan or system or policy of insurance providing
1095 for such death benefit, to assign such benefit or to receive a
1096 cash consideration in lieu of such benefit, either upon his
1097 withdrawal from the plan or system providing for such benefit or
1098 upon termination of such plan or system or policy of insurance or
1099 of his employment with such employer;

1100 (b) Dismissal payments which the employer is not
1101 legally required to make;

1102 (c) Payment by an employer (without deduction from
1103 the remuneration of an employee) of the tax imposed by the
1104 Internal Revenue Code, 26 USCS Section 3101;

1105 (d) From and after January 1, 1992, the amount of
1106 any payment made to or on behalf of an employee for a "cafeteria"
1107 plan, which meets the following requirements:

1108 (i) Qualifies under Section 125 of the
1109 Internal Revenue Code;

1110 (ii) Covers only employees;

1111 (iii) Covers only noncash benefits;

1112 (iv) Does not include deferred compensation
1113 plans.

1114 (2) [Not enacted].

1115 S. "Week" means calendar week or such period of seven (7)
1116 consecutive days as the department may by regulation prescribe.

1117 The department may by regulation prescribe that a week shall be

1118 deemed to be in, within, or during any benefit year which includes
1119 any part of such week.

1120 T. "Insured work" means "employment" for "employers."

1121 U. The term "includes" and "including," when used in a
1122 definition contained in this chapter, shall not be deemed to
1123 exclude other things otherwise within the meaning of the term
1124 defined.

1125 V. "Employee leasing arrangement" means any agreement
1126 between an employee leasing firm and a client, whereby specified
1127 client responsibilities such as payment of wages, reporting of
1128 wages for unemployment insurance purposes, payment of unemployment
1129 insurance contributions and other such administrative duties are
1130 to be performed by an employee leasing firm, on an ongoing basis.

1131 W. "Employee leasing firm" means any entity which provides
1132 specified duties for a client company such as payment of wages,
1133 reporting of wages for unemployment insurance purposes, payment of
1134 unemployment insurance contributions and other administrative
1135 duties, in connection with the client's employees, that are
1136 directed and controlled by the client and that are providing
1137 ongoing services for the client.

1138 X. "Temporary help firm" means an entity which hires its own
1139 employees and provides those employees to other individuals or
1140 organizations to perform some service, to support or supplement
1141 the existing work force in special situations such as employee
1142 absences, temporary skill shortages, seasonal workloads and
1143 special assignments and projects, with the expectation that the
1144 worker's position will be terminated upon the completion of the
1145 specified task or function.

1146 **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is
1147 amended as follows:

1148 71-5-19. (1) Whoever makes a false statement or
1149 representation knowing it to be false, or knowingly fails to
1150 disclose a material fact, to obtain or increase any benefit or

1151 other payment under this chapter or under an employment security
1152 law of any other state, of the federal government or of a foreign
1153 government, either for himself or for any other person, shall be
1154 punished by a fine of not less than One Hundred Dollars (\$100.00)
1155 nor more than Five Hundred Dollars (\$500.00), or by imprisonment
1156 for not longer than thirty (30) days, or by both such fine and
1157 imprisonment; and each such false statement or representation or
1158 failure to disclose a material fact shall constitute a separate
1159 offense.

1160 (2) Any employing unit, any officer or agent of an employing
1161 unit or any other person who makes a false statement or
1162 representation knowing it to be false, or who knowingly fails to
1163 disclose a material fact, to prevent or reduce the payment of
1164 benefits to any individual entitled thereto, or to avoid becoming
1165 or remaining subject hereto, or to avoid or reduce any
1166 contribution or other payment required from any employing unit
1167 under this chapter, or who willfully fails or refuses to make any
1168 such contribution or other payment, or to furnish any reports
1169 required hereunder or to produce or permit the inspection or
1170 copying of records as required hereunder, shall be punished by a
1171 fine of not less than One Hundred Dollars (\$100.00) nor more than
1172 One Thousand Dollars (\$1,000.00), or by imprisonment for not
1173 longer than sixty (60) days, or by both such fine and
1174 imprisonment; and each such false statement, or representation, or
1175 failure to disclose a material fact, and each day of such failure
1176 or refusal shall constitute a separate offense. In lieu of such
1177 fine and imprisonment, the employing unit or representative, or
1178 both employing unit and representative, if such representative is
1179 an employing unit in this state and is found to be a party to such
1180 violation, shall not be eligible for a contributions rate of less
1181 than five and four-tenths percent (5.4%) for the tax year in which
1182 such violation is discovered by the department and for the next
1183 two (2) succeeding tax years.

1184 (3) Any person who shall willfully violate any provision of
1185 this chapter or any other rule or regulation thereunder, the
1186 violation of which is made unlawful or the observance of which is
1187 required under the terms of this chapter and for which a penalty
1188 is neither prescribed herein nor provided by any other applicable
1189 statute, shall be punished by a fine of not less than One Hundred
1190 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),
1191 or by imprisonment for not longer than sixty (60) days, or by both
1192 such fine and imprisonment; and each day such violation continues
1193 shall be deemed to be a separate offense. In lieu of such fine
1194 and imprisonment, the employing unit or representative, or both
1195 employing unit and representative, if such representative is an
1196 employing unit in this state and is found to be a party to such
1197 violation, shall not be eligible for a contributions rate of less
1198 than five and four-tenths percent (5.4%) for the tax year in which
1199 the violation is discovered by the department and for the next two
1200 (2) succeeding tax years.

1201 (4) Any person who, by reason of the nondisclosure or
1202 misrepresentation by him or by another of a material fact,
1203 irrespective of whether such nondisclosure or misrepresentation
1204 was known or fraudulent, or who, for any other reason has received
1205 any such benefits under this chapter, while any conditions for the
1206 receipt of benefits imposed by this chapter were not fulfilled in
1207 his case, or while he was disqualified from receiving benefits,
1208 shall, in the discretion of the department, either be liable to
1209 have such sum deducted from any future benefits payable to him
1210 under this chapter or shall be liable to repay to the department
1211 for the Unemployment Compensation Fund a sum equal to the amount
1212 so received by him; and such sum shall be collectible in the
1213 manner provided in Sections 71-5-363 through 71-5-383 for the
1214 collection of past-due contributions. * * * However, * * * no such
1215 deduction shall be made, nor shall any action be taken for the
1216 collection of any such overpayments, after five (5) years have

1217 elapsed from the date of the receipt of the benefits at issue; and
1218 any such judgment against such person for collection of such
1219 overpayments shall not be a lien upon the property of the person
1220 for a longer period than five (5) years from the date of the
1221 filing of the lien, and any such notice of lien shall not be
1222 refiled by the department.

1223 (5) The department, by agreement with another state or the
1224 United States, as provided under Section 303(g) of the Social
1225 Security Act, may recover any overpayment of benefits paid to any
1226 individual under the laws of this state or of another state or
1227 under an unemployment benefit program of the United States. Any
1228 overpayments subject to this subsection may be deducted from any
1229 future benefits payable to the individual under the laws of this
1230 state or of another state or under an unemployment program of the
1231 United States.

1232 **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is
1233 amended as follows:

1234 71-5-101. There is established the Mississippi Department of
1235 Employment Security, Office of the Governor. The Department of
1236 Employment Security shall be the Mississippi Employment Security
1237 Commission and shall retain all powers and duties as granted to
1238 the Mississippi Employment Security Commission. Wherever the term
1239 "Employment Security Commission" appears in any law, the same
1240 shall mean the Mississippi Department of Employment Security,
1241 Office of the Governor. The Executive Director of the Department
1242 of Employment Security may assign to the appropriate offices such
1243 powers and duties deemed appropriate to carry out the lawful
1244 functions of the department.

1245 **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is
1246 amended as follows:

1247 71-5-107. The department shall administer this chapter
1248 through a full-time salaried executive director, to be appointed
1249 by the Governor, with the advice and consent of the Senate.

1250 He * * * shall be responsible for the administration of this
1251 chapter under authority delegated to him by the Governor.

1252 **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is
1253 amended as follows:

1254 71-5-109. There is * * * created a board of review
1255 consisting of three (3) members to be appointed by the executive
1256 director. The executive director shall designate one (1) member
1257 of the board of review as chairman. Each member shall be paid a
1258 salary or per diem at a rate to be determined by the executive
1259 director, and such expenses as may be allowed by the executive
1260 director. All salaries, per diem and expenses of the Board of
1261 Review shall be paid from the Employment Security Administration
1262 Fund.

1263 **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is
1264 amended as follows:

1265 71-5-111. There is * * * created in the State Treasury a
1266 special fund to be known as the Employment Security Administration
1267 Fund. All monies which are deposited or paid into this fund
1268 are * * * appropriated and made available to the department. All
1269 monies in this fund shall be expended solely for the purpose of
1270 defraying the cost of administration of this chapter, and for no
1271 other purpose whatsoever. The fund shall consist of all monies
1272 appropriated by this state and all monies received from the United
1273 States of America, or any agency thereof, or from any other source
1274 for such purpose. Notwithstanding any provision of this section,
1275 all monies requisitioned and deposited in this fund pursuant to
1276 Section 71-5-457 shall remain part of the Employment Security
1277 Administration Fund and shall be used only in accordance with the
1278 conditions specified in that section. All monies in this fund
1279 shall be deposited, administered and disbursed in the same manner
1280 and under the same conditions and requirements as is provided by
1281 law for other special funds in the State Treasury. The State
1282 Treasurer shall be liable on his official bond for the faithful

1283 performance of his duties in connection with the Employment
1284 Security Administration Fund under this chapter.

1285 **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is
1286 amended as follows:

1287 71-5-112. All funds received by the Mississippi Employment
1288 Security Commission shall clear through the State Treasury as
1289 provided and required by Sections 71-5-111 and 71-5-453. All
1290 expenditures from the administration fund of the department
1291 authorized by Section 71-5-111 shall be expended only pursuant to
1292 appropriation approved by the Legislature and as provided by law.

1293 **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is
1294 amended as follows:

1295 71-5-113. All monies received from the Social Security Board
1296 or its successors for the administration of this chapter shall be
1297 expended solely for the purposes and in the amounts found
1298 necessary by the Social Security Board or its successors for the
1299 proper and efficient administration of this chapter.

1300 It shall be the duty of the department to take appropriate
1301 action with respect to the replacement, within a reasonable time,
1302 of any monies received from the Social Security Board, or its
1303 successors, for the administration of this chapter, and monies
1304 used to match grants pursuant to the provisions of the
1305 Wagner-Peyser Act, which the board, or its successors, find,
1306 because of any action or contingency, have been lost or have been
1307 expended for purposes other than, or in amounts in excess of those
1308 found necessary by the Social Security Board, or its successors,
1309 for the proper administration of this chapter. Funds which have
1310 been expended by the department or its agents in accordance with
1311 the budget approved by the Social Security Board, or its
1312 successors, or in accordance with the general standards and
1313 limitations promulgated by the Social Security Board, or its
1314 successors, prior to such expenditure (where proposed expenditures
1315 have not been specifically disapproved by the Social Security

1316 Board, or its successors), shall not be deemed to require
1317 replacement. To effectuate the purposes of this paragraph, it
1318 shall be the duty of the department to take such action to
1319 safeguard the expenditure of the funds referred to herein as it
1320 deems necessary. In the event of a loss of such funds or an
1321 improper expenditure thereof as herein defined, it shall be the
1322 duty of the department to notify the Governor of any such loss or
1323 improper expenditure and submit to him a request for an
1324 appropriation in the amount thereof. The Governor shall transmit
1325 to the next regular session of the Legislature following such
1326 notification, the department's request for an appropriation in an
1327 amount necessary to replace funds which have been lost or
1328 improperly expended as defined above. Such request of the
1329 department for an appropriation shall not be subject to the
1330 provisions of Sections 27-103-101 through 27-103-139. The
1331 Legislature recognizes its obligation to replace such funds as may
1332 be necessary and shall make necessary appropriations in accordance
1333 with such requests.

1334 **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is
1335 amended as follows:

1336 71-5-114. There is * * * created in the State Treasury a
1337 special fund, to be known as the "Special Employment Security
1338 Administration Fund," into which shall be deposited or transferred
1339 all interest, penalties and damages collected on and after July 1,
1340 1982, pursuant to Sections 71-5-363 through 71-5-379. Interest,
1341 penalties and damages collected on delinquent payments deposited
1342 during any calendar quarter in the clearing account in the
1343 Unemployment Compensation Fund shall, as soon as practicable after
1344 the close of such calendar quarter, be transferred to the Special
1345 Employment Security Administration Fund. All monies in this fund
1346 shall be deposited, administered and disbursed in the same manner
1347 and under the same conditions and requirements as is provided by
1348 law for other special funds in the State Treasury. The State

1349 Treasurer shall be liable on his official bond for the faithful
1350 performance of his duties in connection with the Special
1351 Employment Security Administration Fund under this chapter. Those
1352 monies shall not be expended or made available for expenditure in
1353 any manner which would permit their substitution for (or permit a
1354 corresponding reduction in) federal funds which would, in the
1355 absence of those monies, be available to finance expenditures for
1356 the administration of the state unemployment compensation and
1357 employment service laws. Nothing in this section shall prevent
1358 those monies in this fund from being used as a revolving fund to
1359 cover expenditures necessary and proper under the law for which
1360 federal funds have been duly requested but not yet received,
1361 subject to the charging of such expenditures against such funds
1362 when necessary. The monies in this fund may be used by the
1363 department for the payment of costs of administration of the
1364 employment security laws of this state which are found not to be
1365 or not to have been properly and validly chargeable against funds
1366 obtained from federal sources. All monies in this Special
1367 Employment Security Administration Fund shall be continuously
1368 available to the department for expenditure in accordance with the
1369 provisions of this chapter, and shall not lapse at any time. The
1370 monies in this fund are * * * specifically made available to
1371 replace, as contemplated by Section 71-5-113, expenditures from
1372 the Employment Security Administration Fund established by Section
1373 71-5-111, which have been found, because of any action or
1374 contingency, to have been lost or improperly expended.

1375 The department, whenever it is of the opinion that the money
1376 in the Special Employment Security Administration Fund is more
1377 than ample to pay for all foreseeable needs for which such special
1378 fund is set up, may, by written order, order the transfer
1379 therefrom to the Unemployment Compensation Fund of such amount of
1380 money in the * * * Special Employment Security Administration Fund

1381 as it deems proper, and the same shall thereupon be immediately
1382 transferred to the Unemployment Compensation Fund.

1383 **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is
1384 amended as follows:

1385 71-5-115. It shall be the duty of the executive director to
1386 administer this chapter; and the executive director shall have the
1387 power and authority to adopt, amend or rescind such rules and
1388 regulations, to employ such persons, make such expenditures,
1389 require such reports, make such investigations, and take such
1390 other action as he deems necessary or suitable to that end. Such
1391 rules and regulations shall be effective upon publication in the
1392 manner, not inconsistent with the provisions of this chapter,
1393 which the executive director shall prescribe. The executive
1394 director shall determine the department's own organization and
1395 methods of procedure in accordance with the provisions of this
1396 chapter, and shall have an official seal which shall be judicially
1397 noticed. Not later than the first day of February in each year,
1398 the executive director shall submit to the Governor a report
1399 covering the administration and operation of this chapter during
1400 the preceding fiscal year and shall make such recommendations for
1401 amendments to this chapter as the executive director deems proper.
1402 Whenever the executive director believes that a change in
1403 contribution or benefit rates will become necessary to protect the
1404 solvency of the fund, he shall promptly so inform the Governor and
1405 the Legislature, and make recommendations with respect thereto.

1406 **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is
1407 amended as follows:

1408 71-5-117. General rules may be adopted, amended or rescinded
1409 by the executive director only after public hearing or opportunity
1410 to be heard thereon, of which proper notice has been given.
1411 General rules shall become effective ten (10) days after filing
1412 with the Secretary of State and publication in one or more
1413 newspapers of general circulation in this state. Regulations may

1414 be adopted, amended or rescinded by the executive director and
1415 shall become effective in the manner and at the time prescribed by
1416 the executive director.

1417 **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is
1418 amended as follows:

1419 71-5-119. The department shall cause to be printed for
1420 distribution to the public the text of this chapter, its
1421 regulations and general rules, its reports to the Governor, and
1422 any other material it deems relevant and suitable, and shall
1423 furnish the same to any person upon application therefor.

1424 **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is
1425 amended as follows:

1426 71-5-121. Subject to other provisions of this chapter, the
1427 executive director is authorized to appoint, fix the compensation,
1428 and prescribe the duties and powers of such officers, accountants,
1429 attorneys, experts and other persons as may be necessary in the
1430 performance of department duties; however, all personnel who were
1431 former members of the Armed Forces of the United States of America
1432 shall be given credit regardless of rate, rank or commission. All
1433 positions shall be filled by persons selected and appointed on a
1434 nonpartisan merit basis, in accordance with Section 25-9-101 et
1435 seq., that provides for a state service personnel system. The
1436 executive director shall not employ any person who is an officer
1437 or committee member of any political party organization. The
1438 executive director may delegate to any such person so appointed
1439 such power and authority as he deems reasonable and proper for the
1440 effective administration of this chapter, and may in his
1441 discretion bond any person handling monies or signing checks
1442 hereunder. The veteran status of an individual shall be
1443 considered and preference given in accordance with the provisions
1444 of the State Personnel Board.

1445 The department and its employees are exempt from Sections
1446 25-15-101 and 25-15-103.

1447 The department may use federal granted funds to provide such
1448 group health, life, accident and hospitalization insurance for its
1449 employees as may be agreed upon by the department and the federal
1450 granting authorities.

1451 The department shall adopt a "layoff formula" to be used
1452 wherever it is determined that, because of reduced workload,
1453 budget reductions or in order to effect a more economical
1454 operation, a reduction in force shall occur in any group.

1455 In establishing this formula, the department shall give
1456 effect to the principle of seniority and shall provide that
1457 seniority points may be added for disabled veterans and veterans,
1458 with due regard to the efficiency of the service. Any such layoff
1459 formula shall be implemented according to the policies, rules and
1460 regulations of the State Personnel Board.

1461 **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is
1462 amended as follows:

1463 71-5-123. The executive director shall retain all powers and
1464 duties as granted to the state advisory council appointed by the
1465 former Employment Security Commission. The executive director may
1466 appoint local advisory councils, composed in each case of an equal
1467 number of employer representatives and employee representatives
1468 who may fairly be regarded as representative because of their
1469 vocation, employment or affiliations, and of such members
1470 representing the general public as the executive director may
1471 designate. Such councils shall aid the department in formulating
1472 policies and discussing problems related to the administration of
1473 this chapter and in assuring impartiality and freedom from
1474 political influence in the solution of such problems. Members of
1475 the advisory councils shall receive a per diem in accordance with
1476 Section 25-3-69 for attendance upon meetings of the council, and
1477 shall be reimbursed for actual and necessary traveling expenses.
1478 The per diem and expenses herein authorized shall be paid from the
1479 Employment Security Administration Fund.

1480 **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is
1481 amended as follows:

1482 71-5-125. The department shall take all appropriate steps to
1483 reduce and prevent unemployment; to encourage and assist in the
1484 adoption of practical methods of vocational training, retraining
1485 and vocational guidance; to investigate, recommend, advise and
1486 assist in the establishment and operation, by municipalities,
1487 counties, school districts and the state, of reserves for public
1488 works to be used in times of business depression and unemployment;
1489 to promote the reemployment of unemployed workers throughout the
1490 state in every other way that may be feasible; and to these ends
1491 to carry on and publish the results of investigation and research
1492 studies.

1493 **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is
1494 amended as follows:

1495 71-5-127. Each employing unit shall keep true and accurate
1496 work records, containing such information as the department may
1497 prescribe. Such records shall be open to inspection and be
1498 subject to being copied by the department or its authorized
1499 representatives at any reasonable time and as often as may be
1500 necessary. The department, board of review and any referee may
1501 require from any employing unit any sworn or unsworn reports with
1502 respect to persons employed by it which they or any of them deem
1503 necessary for the effective administration of this chapter.
1504 Information thus obtained or obtained from any individual pursuant
1505 to the administration of this chapter shall, except to the extent
1506 necessary for the proper administration of this chapter, be held
1507 confidential and shall not be published or be opened to public
1508 inspection (other than to public employees in the performance of
1509 their public duties) in any manner revealing the individual's or
1510 employing unit's identity, but any claimant (or his legal
1511 representative) at a hearing before an appeal tribunal or the
1512 board of review shall be supplied with information from such

1513 records to the extent necessary for the proper presentation of his
1514 claim. Any employee or member of the board of review or any
1515 employee of the department who violates any provisions of this
1516 section shall be fined not less than Twenty Dollars (\$20.00) nor
1517 more than Two Hundred Dollars (\$200.00), or imprisoned for not
1518 longer than ninety (90) days, or both. The department may make
1519 the state's records relating to the administration of this chapter
1520 available to the Railroad Retirement Board, and may furnish the
1521 Railroad Retirement Board, at the expense of such board, such
1522 copies thereof as the Railroad Retirement Board deems necessary
1523 for its purposes. The department may afford reasonable
1524 cooperation with every agency of the United States charged with
1525 the administration of any unemployment insurance law.

1526 **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is
1527 amended as follows:

1528 71-5-129. Records hereinafter designated, which are found by
1529 the department to be useless, may be disposed of in accordance
1530 with approved records control schedules.

1531 (a) Records which have been preserved by it for not
1532 less than three (3) years:

- 1533 (1) Initial claims for benefits,
- 1534 (2) Continued claims for benefits,
- 1535 (3) Correspondence and master index cards in
1536 connection with such claims for benefits, and
- 1537 (4) Individual wage slips filed by employers
1538 subject to the provisions of the Unemployment Compensation Law.

1539 (b) Records which have been preserved by it for not
1540 less than six (6) months after becoming inactive:

- 1541 (1) Work applications,
- 1542 (2) Cross-index cards for work applications,
- 1543 (3) Test records,
- 1544 (4) Employer records,
- 1545 (5) Work orders,

- 1546 (6) Clearance records,
1547 (7) Counseling records,
1548 (8) Farm placement records, and
1549 (9) Correspondence relating to all such records.

1550 Nothing herein contained shall be construed as authorizing
1551 the destruction or disposal of basic fiscal records reflecting the
1552 financial operations of the department and no records may be
1553 destroyed without the approval of the Director of the Department
1554 of Archives and History.

1555 **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is
1556 amended as follows:

1557 71-5-131. All letters, reports, communications, or any other
1558 matters, either oral or written, from the employer or employee to
1559 each other or to the department or any of its agents,
1560 representatives or employees, which shall have been written, sent,
1561 delivered or made in connection with the requirements and
1562 administration of this chapter shall be absolutely privileged and
1563 shall not be made the subject matter or basis of any suit for
1564 slander or libel in any court of the State of Mississippi unless
1565 the same be false in fact and maliciously written, sent, delivered
1566 or made for the purpose of causing a denial of benefits under this
1567 chapter.

1568 **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is
1569 amended as follows:

1570 71-5-133. In any case where an employing unit or any
1571 officer, member or agent thereof, or any other person having
1572 possession of the records thereof, shall fail or refuse upon
1573 demand by the department or its duly appointed agents to produce
1574 or permit the examination or copying of any book, paper, account,
1575 record or other data pertaining to payrolls or employment or
1576 ownership of interests or stock in any employing unit, or bearing
1577 upon the correctness of any report, or for the purpose of making a
1578 report as required by this chapter where none has been made, then

1579 and in that event the department or its duly authorized agents
1580 may, by the issuance of a subpoena, require the attendance of such
1581 employing unit or any officer, member or agent thereof, or any
1582 other person having possession of the records thereof, and take
1583 testimony with respect to any such matter and may require any such
1584 person to produce any books or records specified in such subpoena.
1585 The department or its authorized agents at any such hearing shall
1586 have power to administer oaths to any such person or persons.
1587 When any person called as a witness by a subpoena signed by the
1588 department or its agents and served upon him by the sheriff of a
1589 county of which such person is a resident, or wherein is located
1590 the principal office of such employing unit or wherein such
1591 records are located or kept, shall fail to obey such subpoena to
1592 appear before the department or its authorized agent, or shall
1593 refuse to testify or to answer any questions or to produce any
1594 book, record, paper or other data when required to do so, such
1595 failure or refusal shall be reported to the Attorney General, who
1596 shall thereupon institute proceedings by the filing of a petition
1597 in the name of the State of Mississippi, on the relation of the
1598 department, in the circuit court or other court of competent
1599 jurisdiction of the county where such witness resides, or wherein
1600 such records are located or kept, to compel the obedience of such
1601 witness. Such petition shall set forth the facts and
1602 circumstances of the demand for and refusal or failure to permit
1603 the examination or copying of such records, or the failure or
1604 refusal of such witness to testify in answer to such subpoena or
1605 to produce the records so required by such subpoena. Such court,
1606 upon the filing and docketing of such petition, shall thereupon
1607 promptly issue an order to the defendants named in the petition to
1608 produce forthwith in such court, or at a place in such county
1609 designated in such order for the examination or copying by the
1610 department or its duly appointed agents, the records, books or
1611 documents so described, and to testify concerning matters

1612 described in such petition. Unless such defendants to such
1613 petition shall appear in the court upon a day specified in such
1614 order, which * * * day shall be not more than ten (10) days after
1615 the date of issuance of such order, and offer, under oath, good
1616 and sufficient reasons why such examination or copying should not
1617 be permitted, or why such subpoena should not be obeyed, such
1618 court shall thereupon deliver to the department or its agents, for
1619 examination or copying, the records, books and documents so
1620 described in the petition and so produced in such court, and shall
1621 order the defendants to appear in answer to the subpoena of the
1622 department or its agents, and to testify concerning matters
1623 inquired about by the department. Any employing unit or any
1624 officer, member or agent thereof, or any other person having
1625 possession of the records thereof, who shall willfully disobey
1626 such order of the court after the same shall have been served upon
1627 him shall be guilty of indirect contempt of such court from which
1628 such order shall have issued, and may be adjudged in contempt of
1629 the court and punished therefor as provided by law.

1630 **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is
1631 amended as follows:

1632 71-5-135. If any employing unit fails to make any report
1633 required by this chapter, the department or its authorized agents
1634 shall give written notice by mail to such employing unit to make
1635 and file such report within fifteen (15) days from the date of
1636 such notice. If such employing unit, by its proper members,
1637 officers or agents, shall fail or refuse to make and file such
1638 reports within such time, then and in that event such report shall
1639 be made by the department or its authorized agents from the best
1640 information available, and the amount of contributions due shall
1641 be computed thereon; and such report shall be prima facie correct
1642 for the purposes of this chapter.

1643 **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is
1644 amended as follows:

1645 71-5-137. In the discharge of the duties imposed by this
1646 chapter, the department, any referee, the members of the Board of
1647 Review, and any duly authorized representative of any of them
1648 shall have power to administer oaths and affirmations, to take
1649 depositions, certify to official acts, and issue subpoenas to
1650 compel the attendance of witnesses and the production of books,
1651 papers, correspondence, memoranda and other records deemed
1652 necessary as evidence in connection with a disputed claim or the
1653 administration of this chapter.

1654 **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is
1655 amended as follows:

1656 71-5-139. In case of contumacy or refusal to obey a subpoena
1657 issued to any person, any court in this state within the
1658 jurisdiction of which the inquiry is carried on, or within the
1659 jurisdiction of which the person guilty of contumacy or refusal to
1660 obey is found or resides or transacts business, upon application
1661 by the department, the Board of Review, any referee, or any duly
1662 authorized representative of any of them, shall have jurisdiction
1663 to issue to such person an order requiring such person to appear
1664 before the department, the Board of Review, any referee, or any
1665 duly authorized representative of any of them, there to produce
1666 evidence if so ordered or there to give testimony touching the
1667 matter under investigation or in question. Any failure to obey
1668 such order of the court may be punished by the court as a contempt
1669 thereof. Any person who shall, without just cause, fail or refuse
1670 to attend and testify or to answer any lawful inquiry or to
1671 produce books, papers, correspondence, memoranda and other records
1672 if it is in his power so to do, in obedience to a subpoena of the
1673 department, the Board of Review, any referee, or any duly
1674 authorized representative of any of them, shall be punished by a
1675 fine of not more than Two Hundred Dollars (\$200.00), or by
1676 imprisonment for not longer than sixty (60) days, or by both such

1677 fine and imprisonment; and each day such violation continues shall
1678 be deemed to be a separate offense.

1679 **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is
1680 amended as follows:

1681 71-5-141. No person shall be excused from attending and
1682 testifying or from producing books, papers, correspondence,
1683 memoranda and other records before the department, the Board of
1684 Review, any referee, or any duly authorized representative of any
1685 of them, or in obedience to the subpoena of any of them in any
1686 cause or proceeding before the department, the Board of Review or
1687 an appeal tribunal, on the ground that the testimony or evidence,
1688 documentary or otherwise, required of him may tend to incriminate
1689 him or subject him to a penalty or forfeiture; but no individual
1690 shall be prosecuted or subjected to any penalty or forfeiture for
1691 or on account of any transaction, matter or thing concerning which
1692 he is compelled, after having claimed his privilege against
1693 self-incrimination, to testify or produce evidence, documentary or
1694 otherwise, except that such individual so testifying shall not be
1695 exempt from prosecution and punishment for perjury committed in so
1696 testifying.

1697 **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is
1698 amended as follows:

1699 71-5-143. In the administration of this chapter, the
1700 department shall cooperate, to the fullest extent consistent with
1701 the provisions of this chapter, with the Social Security Board
1702 created by the Social Security Act, approved August 14, 1935, as
1703 amended; shall make such reports in such form and containing such
1704 information as the Social Security Board may from time to time
1705 require, and shall comply with such provisions as the Social
1706 Security Board may from time to time find necessary to assure the
1707 correctness and verification of such reports; and shall comply
1708 with the reasonable, valid and lawful regulations prescribed by
1709 the Social Security Board pursuant to and under the authority of

1710 the Social Security Act, governing the expenditures of such sums
1711 as may be allotted and paid to this state under Title III of the
1712 Social Security Act, as amended, for the purpose of assisting in
1713 the administration of this chapter.

1714 Upon request therefor, the department shall furnish to any
1715 agency of the United States charged with the administration of
1716 public works, or assistance through public employment, the name,
1717 address, ordinary occupation and employment status of each
1718 recipient of benefits, and such recipient's rights to further
1719 benefits under this chapter.

1720 **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is
1721 amended as follows:

1722 71-5-201. The Mississippi State Employment Service is * * *
1723 established in the Mississippi Department of Employment Security,
1724 Office of the Governor. The department, in the conduct of such
1725 service, shall establish and maintain free public employment
1726 offices in such number and in such places as may be necessary for
1727 the proper administration of this article and for the purpose of
1728 performing such functions as are within the purview of the act of
1729 Congress entitled "An act to provide for the establishment of a
1730 national employment system and for cooperation with the states in
1731 the promotion of such system, and for other purposes" (29 USCS
1732 Section 49 et seq.). Any existing free public employment offices
1733 maintained by the state but not heretofore under the jurisdiction
1734 of the department shall be transferred to the jurisdiction of the
1735 department, and upon such transfer all duties and powers conferred
1736 upon any other department, agency or officers of this state
1737 relating to the establishment, maintenance and operation of free
1738 public employment offices shall be vested in the department.
1739 The * * * Mississippi State Employment Service shall be
1740 administered by the department, which is charged with the duty to
1741 cooperate with any official or agency of the United States having
1742 powers or duties under the provisions of the act of Congress, as

1743 amended, and to do and perform all things necessary to secure to
1744 this state the benefits of that act of Congress, as amended, in
1745 the promotion and maintenance of a system of public employment
1746 offices. The provisions of that act of Congress, as amended,
1747 are * * * accepted by this state, in conformity with 29 USCS
1748 Section 49c, and this state will observe and comply with the
1749 requirements thereof. The department is * * * designated and
1750 constituted the agency of this state for the purposes of that act.
1751 The department may cooperate with or enter into agreements with
1752 the Railroad Retirement Board or veteran's organization with
1753 respect to the establishment, maintenance and use of free
1754 employment service facilities.

1755 **SECTION 34.** Section 71-5-357, Mississippi Code of 1972, is
1756 amended as follows:

1757 71-5-357. Benefits paid to employees of nonprofit
1758 organizations shall be financed in accordance with the provisions
1759 of this section. For the purpose of this section, a nonprofit
1760 organization is an organization (or group of organizations)
1761 described in Section 501(c)(3) of the Internal Revenue Code of
1762 1954 which is exempt from income tax under Section 501(a) of such
1763 code (26 USCS Section 501).

1764 (a) Any nonprofit organization which, under Section
1765 71-5-11, subsection I(3), is or becomes subject to this chapter
1766 shall pay contributions under the provisions of Sections 71-5-351
1767 through 71-5-355 unless it elects, in accordance with this
1768 paragraph, to pay to the department for the unemployment fund an
1769 amount equal to the amount of regular benefits and one-half (1/2)
1770 of the extended benefits paid, that is attributable to service in
1771 the employ of such nonprofit organization, to individuals for
1772 weeks of unemployment which begin during the effective period of
1773 such election.

1774 (i) Any nonprofit organization which becomes
1775 subject to this chapter may elect to become liable for payments in

1776 lieu of contributions for a period of not less than twelve (12)
1777 months, beginning with the date on which such subjectivity begins,
1778 by filing a written notice of its election with the department not
1779 later than thirty (30) days immediately following the date of the
1780 determination of such subjectivity.

1781 (ii) Any nonprofit organization which makes an
1782 election in accordance with subparagraph (i) of this paragraph
1783 will continue to be liable for payments in lieu of contributions
1784 unless it files with the department a written termination notice
1785 not later than thirty (30) days prior to the beginning of the tax
1786 year for which such termination shall first be effective.

1787 (iii) Any nonprofit organization which has been
1788 paying contributions under this chapter may change to a
1789 reimbursable basis by filing with the department, not later than
1790 thirty (30) days prior to the beginning of any tax year, a written
1791 notice of election to become liable for payments in lieu of
1792 contributions. Such election shall not be terminable by the
1793 organization for that and the next tax year.

1794 (iv) The department may for good cause extend the
1795 period within which a notice of election or a notice of
1796 termination must be filed, and may permit an election to be
1797 retroactive.

1798 (v) The department, in accordance with such
1799 regulations as it may prescribe, shall notify each nonprofit
1800 organization of any determination which it may make of its status
1801 as an employer, of the effective date of any election which it
1802 makes and of any termination of such election. Such
1803 determinations shall be subject to reconsideration, appeal and
1804 review in accordance with the provisions of Sections 71-5-351
1805 through 71-5-355.

1806 (b) Payments in lieu of contributions shall be made in
1807 accordance with the provisions of subparagraph (i) of this
1808 paragraph.

1809 (i) At the end of each calendar quarter, or at the
1810 end of any other period as determined by the department, the
1811 department shall bill each nonprofit organization (or group of
1812 such organizations) which has elected to make payments in lieu of
1813 contributions, for an amount equal to the full amount of regular
1814 benefits plus one-half (1/2) of the amount of extended benefits
1815 paid during such quarter or other prescribed period that is
1816 attributable to service in the employ of such organization.

1817 (ii) Payment of any bill rendered under
1818 subparagraph (i) of this paragraph shall be made not later than
1819 forty-five (45) days after such bill was mailed to the last known
1820 address of the nonprofit organization or was otherwise delivered
1821 to it, unless there has been an application for review and
1822 redetermination in accordance with subparagraph (v) of this
1823 paragraph.

1824 1. All of the enforcement procedures for the
1825 collection of delinquent contributions contained in Sections
1826 71-5-363 through 71-5-383 shall be applicable in all respects for
1827 the collection of delinquent payments due by nonprofit
1828 organizations who have elected to become liable for payments in
1829 lieu of contributions.

1830 2. If any nonprofit organization is
1831 delinquent in making payments in lieu of contributions, the
1832 department may terminate such organization's election to make
1833 payments in lieu of contributions as of the beginning of the next
1834 tax year, and such termination shall be effective for the balance
1835 of such tax year.

1836 (iii) Payments made by any nonprofit organization
1837 under the provisions of this paragraph shall not be deducted or
1838 deductible, in whole or in part, from the remuneration of
1839 individuals in the employ of the organization.

1840 (iv) Payments due by employers who elect to
1841 reimburse the fund in lieu of contributions as provided in this

1842 paragraph may not be noncharged under any condition. The
1843 reimbursement must be on a dollar-for-dollar basis (One Dollar
1844 (\$1.00) reimbursement for each dollar paid in benefits) in every
1845 case, so that the trust fund shall be reimbursed in full, such
1846 reimbursement to include, but not be limited to, benefits or
1847 payments erroneously or incorrectly paid, or paid as a result of a
1848 determination of eligibility which is subsequently reversed, or
1849 paid as a result of claimant fraud. However, political
1850 subdivisions who are reimbursing employers may elect to pay to the
1851 fund an amount equal to five-tenths percent (.5%) of the taxable
1852 wages paid during the calendar year with respect to employment,
1853 and those employers who so elect shall be relieved of liability
1854 for reimbursement of benefits paid under the same conditions that
1855 benefits are not charged to the experience rating record of a
1856 contributing employer as provided in Section 71-5-355(2)(b)(ii)
1857 other than Clause 5 thereof. Benefits paid in such circumstances
1858 for which reimbursing employers are relieved of liability for
1859 reimbursement shall not be considered attributable to service in
1860 the employment of such reimbursing employer.

1861 (v) The amount due specified in any bill from the
1862 department shall be conclusive on the organization unless, not
1863 later than fifteen (15) days after the bill was mailed to its last
1864 known address or otherwise delivered to it, the organization files
1865 an application for redetermination by the department, setting
1866 forth the grounds for such application or appeal. The department
1867 shall promptly review and reconsider the amount due specified in
1868 the bill and shall thereafter issue a redetermination in any case
1869 in which such application for redetermination has been filed. Any
1870 such redetermination shall be conclusive on the organization
1871 unless, not later than fifteen (15) days after the redetermination
1872 was mailed to its last known address or otherwise delivered to it,
1873 the organization files an appeal to the Circuit Court of the First
1874 Judicial District of Hinds County, Mississippi, in accordance with

1875 the provisions of law with respect to review of civil causes by
1876 certiorari.

1877 (vi) Past due payments of amounts in lieu of
1878 contributions shall be subject to the same interest and penalties
1879 that, pursuant to Section 71-5-363, apply to past due
1880 contributions.

1881 (c) Each employer that is liable for payments in lieu
1882 of contributions shall pay to the department for the fund the
1883 amount of regular benefits plus the amount of one-half (1/2) of
1884 extended benefits paid are attributable to service in the employ
1885 of such employer. If benefits paid to an individual are based on
1886 wages paid by more than one (1) employer and one or more of such
1887 employers are liable for payments in lieu of contributions, the
1888 amount payable to the fund by each employer that is liable for
1889 such payments shall be determined in accordance with the
1890 provisions of subparagraph (i) or subparagraph (ii) of this
1891 paragraph.

1892 (i) If benefits paid to an individual are based on
1893 wages paid by one or more employers that are liable for payment in
1894 lieu of contributions and on wages paid by one or more employers
1895 who are liable for contributions, the amount of benefits payable
1896 by each employer that is liable for payments in lieu of
1897 contributions shall be an amount which bears the same ratio to the
1898 total benefits paid to the individual as the total base-period
1899 wages paid to the individual by such employer bear to the total
1900 base-period wages paid to the individual by all of his base-period
1901 employers.

1902 (ii) If benefits paid to an individual are based
1903 on wages paid by two (2) or more employers that are liable for
1904 payments in lieu of contributions, the amount of benefits payable
1905 by each such employer shall be an amount which bears the same
1906 ratio to the total benefits paid to the individual as the total
1907 base-period wages paid to the individual by such employer bear to

1908 the total base-period wages paid to the individual by all of his
1909 base-period employers.

1910 (d) In the discretion of the department, any nonprofit
1911 organization that elects to become liable for payments in lieu of
1912 contributions shall be required, within thirty (30) days after the
1913 effective date of its election, to execute and file with the
1914 department a surety bond approved by the department, or it may
1915 elect instead to deposit with the department money or securities.
1916 The amount of such bond or deposit shall be determined in
1917 accordance with the provisions of this paragraph.

1918 (i) The amount of the bond or deposit required by
1919 paragraph (d) shall be equal to two and seven-tenths percent
1920 (2.7%) of the organization's taxable wages paid for employment as
1921 defined in Section 71-5-11, subsection J(4), for the four (4)
1922 calendar quarters immediately preceding the effective date of the
1923 election, the renewal date in the case of a bond, or the biennial
1924 anniversary of the effective date of election in the case of a
1925 deposit of money or securities, whichever date shall be most
1926 recent and applicable. If the nonprofit organization did not pay
1927 wages in each of such four (4) calendar quarters, the amount of
1928 the bond or deposit shall be as determined by the department.

1929 (ii) Any bond deposited under paragraph (d) shall
1930 be in force for a period of not less than two (2) tax years and
1931 shall be renewed with the approval of the department at such times
1932 as the department may prescribe, but not less frequently than at
1933 intervals of two (2) years as long as the organization continues
1934 to be liable for payments in lieu of contributions. The
1935 department shall require adjustments to be made in a previously
1936 filed bond as it deems appropriate. If the bond is to be
1937 increased, the adjusted bond shall be filed by the organization
1938 within thirty (30) days of the date notice of the required
1939 adjustment was mailed or otherwise delivered to it. Failure by
1940 any organization covered by such bond to pay the full amount of

1941 payments in lieu of contributions when due, together with any
1942 applicable interest and penalties provided in paragraph (b)(v) of
1943 this section, shall render the surety liable on the bond to the
1944 extent of the bond, as though the surety was such organization.

1945 (iii) Any deposit of money or securities in
1946 accordance with paragraph (d) shall be retained by the department
1947 in an escrow account until liability under the election is
1948 terminated, at which time it shall be returned to the
1949 organization, less any deductions as hereinafter provided. The
1950 department may deduct from the money deposited under paragraph (d)
1951 by a nonprofit organization, or sell the securities it has so
1952 deposited, to the extent necessary to satisfy any due and unpaid
1953 payments in lieu of contributions and any applicable interest and
1954 penalties provided for in paragraph (b)(v) of this section. The
1955 department shall require the organization, within thirty (30) days
1956 following any deduction from a money deposit or sale of deposited
1957 securities under the provisions hereof, to deposit sufficient
1958 additional money or securities to make whole the organization's
1959 deposit at the prior level. Any cash remaining from the sale of
1960 such securities shall be a part of the organization's escrow
1961 account. The department may, at any time, review the adequacy of
1962 the deposit made by any organization. If, as a result of such
1963 review, it determines that an adjustment is necessary, it shall
1964 require the organization to make additional deposit within thirty
1965 (30) days of written notice of its determination or shall return
1966 to it such portion of the deposit as it no longer considers
1967 necessary, whichever action is appropriate. Disposition of income
1968 from securities held in escrow shall be governed by the applicable
1969 provisions of the state law.

1970 (iv) If any nonprofit organization fails to file a
1971 bond or make a deposit, or to file a bond in an increased amount,
1972 or to increase or make whole the amount of a previously made
1973 deposit as provided under this subparagraph, the department may

1974 terminate such organization's election to make payments in lieu of
1975 contributions, and such termination shall continue for not less
1976 than the four (4) consecutive calendar-quarter periods beginning
1977 with the quarter in which such termination becomes effective;
1978 however, the department may extend for good cause the applicable
1979 filing, deposit or adjustment period by not more than thirty (30)
1980 days.

1981 (v) Group account shall be established according
1982 to regulations prescribed by the department.

1983 (e) Any employer which elects to make payments in lieu
1984 of contributions into the Unemployment Compensation Fund as
1985 provided in this paragraph shall not be liable to make such
1986 payments with respect to the benefits paid to any individual whose
1987 base-period wages include wages for previously uncovered services
1988 as defined in Section 71-5-511(e) to the extent that the
1989 Unemployment Compensation Fund is reimbursed for such benefits
1990 pursuant to Section 121 of Public Law 94-566.

1991 **SECTION 35.** Section 71-5-359, Mississippi Code of 1972, is
1992 amended as follows:

1993 71-5-359. (1) (a) Before January 1, 1978, each state board
1994 or other instrumentality of this state or one or more other states
1995 covered under Section 71-5-11, subsection I(3), shall pay
1996 contributions under the provisions of Sections 71-5-351 through
1997 71-5-355 for all of the hospitals or institutions of higher
1998 learning under its jurisdiction unless it elects, in the same
1999 manner and under the same conditions as provided for nonprofit
2000 organizations in subsections (a), (b) and (c) of Section 71-5-357,
2001 to pay to the department for the unemployment fund an amount equal
2002 to the regular benefits and one-half (1/2) of the extended
2003 benefits paid that are attributable to service in the employ of
2004 such hospitals or institutions. When an election is made, the
2005 amounts required to be paid in lieu of contributions shall be
2006 billed and payment made as provided in Section 71-5-357 with

2007 respect to similar payments by nonprofit organizations. A state
2008 board having jurisdiction over two (2) or more state-owned
2009 hospitals or state-owned institutions of higher learning shall be
2010 treated as a single employer for the employment in all of those
2011 hospitals or institutions of higher learning for purposes of
2012 computing contribution rates and payment of contributions, or for
2013 purposes of reimbursing the fund, unless it elects, in accordance
2014 with this section, to have one or more of those hospitals or
2015 institutions of higher learning treated as a separate employer.

2016 (b) A state board may elect to have one or more
2017 state-owned hospitals or one or more state-owned institutions of
2018 higher learning under its jurisdiction treated as a separate
2019 employer for the purposes of this section, provided it files with
2020 the department, not later than thirty (30) days prior to the
2021 beginning of any tax year, a written notice of such election. Any
2022 such election shall be effective throughout such tax year, and
2023 shall continue in effect unless the state board files with the
2024 department a written notice of termination of such election not
2025 less than thirty (30) days prior to the beginning of the tax year
2026 for which such termination is to be effective.

2027 (2) (a) From January 1, 1978, through December 31, 1978,
2028 the Commission of Budget and Accounting shall, in the manner
2029 provided in subsection (2)(c) of this section, pay, upon warrant
2030 issued by the State Auditor of Public Accounts, to the department
2031 for the Unemployment Compensation Fund an amount equal to the
2032 regular benefits and one-half (1/2) of the extended benefits paid
2033 that are attributable to service in the employ of a state agency.
2034 The amount required to be reimbursed by a certain agency shall be
2035 billed to the Commission of Budget and Accounting and shall be
2036 paid from the Employment Compensation Revolving Fund pursuant to
2037 subsection (2)(c) of this section not later than thirty (30) days
2038 after such bill was mailed, unless there has been an application

2039 for review and redetermination in accordance with Section
2040 71-5-357(b)(v).

2041 (b) The Department of Finance and Administration shall,
2042 in the manner provided in subsection (2)(c) of this section, pay,
2043 upon warrant issued by the State Auditor, or the successor to
2044 these duties, to the department for the Unemployment Compensation
2045 Fund an amount equal to the regular benefits and the extended
2046 benefits paid that are attributable to service in the employ of a
2047 state agency. The amount required to be reimbursed by a certain
2048 agency shall be billed to the Department of Finance and
2049 Administration and shall be paid from the Employment Compensation
2050 Revolving Fund pursuant to subsection (2)(c) of this section not
2051 later than thirty (30) days after such bill was mailed, unless
2052 there has been an application for review and redetermination in
2053 accordance with Section 71-5-357(b)(v).

2054 (c) Each agency of state government shall deposit
2055 monthly for a period of twenty-four (24) months an amount equal to
2056 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand
2057 Dollars (\$6,000.00) paid to each employee thereof during the next
2058 preceding year into the Employment Compensation Revolving Fund
2059 that is created in the State Treasury. The Department of Finance
2060 and Administration shall determine the percentage to be applied to
2061 the amount of covered wages paid in order to maintain a balance in
2062 the revolving fund of not less than two percent (2%) of the
2063 covered wages paid during the next preceding year. The State
2064 Treasurer shall invest all funds in the Employment Compensation
2065 Revolving Fund and all interest earned shall be credited to the
2066 Employment Compensation Revolving Fund.

2067 The reimbursement of benefits paid by the Mississippi
2068 Employment Security Commission shall be paid by the Department of
2069 Finance and Administration from the Employment Compensation
2070 Revolving Fund upon warrants issued by the State Auditor of Public
2071 Accounts, or the successor to these duties; and the * * * auditor

2072 shall issue his warrants upon requisitions signed by the
2073 Department of Finance and Administration. * * * However, * * * the
2074 Department of Finance and Administration may, if it so elects,
2075 contract for the performance of the duties prescribed by
2076 subsections (2)(b) and (c), and other duties necessarily related
2077 thereto.

2078 (d) From January 1, 1978, through December 31, 1978,
2079 any political subdivision of this state shall pay to the
2080 department for the unemployment fund an amount equal to the
2081 regular benefits and one-half (1/2) of the extended benefits paid
2082 that are attributable to service in the employ of such political
2083 subdivision unless it elects to make contributions to the
2084 unemployment fund as provided in subsection (2)(j) of this
2085 section. The amount required to be reimbursed shall be billed and
2086 shall be paid as provided in Section 71-5-357, with respect to
2087 similar payments for nonprofit organizations.

2088 (e) On and after January 1, 1979, any political
2089 subdivision of this state shall pay to the department for the
2090 unemployment fund an amount equal to the regular benefits and the
2091 extended benefits paid that are attributable to service in the
2092 employ of such political subdivision unless it elects to make
2093 contributions to the unemployment fund as provided in subsection
2094 (2)(j) of this section. The amount required to be reimbursed
2095 shall be billed and shall be paid as provided in Section 71-5-357,
2096 with respect to similar payments for nonprofit organizations.

2097 (f) Each political subdivision unless it elects to make
2098 contributions to the unemployment fund as provided in subsection
2099 (2)(j) of this section, shall establish a revolving fund and
2100 deposit therein monthly for a period of twenty-four (24) months an
2101 amount equal to one-twelfth of one percent (1/12 of 1%) of the
2102 first Six Thousand Dollars (\$6,000.00) paid to each employee
2103 thereof during the next preceding year plus an amount each month
2104 equal to one-third (1/3) of any reimbursement paid to the

2105 department for the next preceding quarter. After January 1, 1980,
2106 the balance in the revolving fund shall be maintained at an amount
2107 not less than two percent (2%) of the covered wages paid during
2108 the next preceding year. * * * However, * * * the department shall
2109 by regulation establish a procedure to allow reimbursing political
2110 subdivisions to elect to maintain the balance in the revolving
2111 fund as required under this paragraph or to annually execute a
2112 surety bond to be approved by the department in an amount not less
2113 than two percent (2%) of the covered wages paid during the next
2114 preceding year.

2115 (g) In the event any political subdivision becomes
2116 delinquent in payments due under this chapter, upon due notice,
2117 and upon certification of the delinquency by the department to the
2118 Department of Finance and Administration, the State Tax
2119 Commission, the Department of Environmental Quality and the
2120 Department of Insurance, or any of them, such agencies shall
2121 direct the issuance of warrants which in the aggregate shall be
2122 the amount of such delinquency payable to the department and drawn
2123 upon any funds in the State Treasury which may be available to
2124 such political subdivision in satisfaction of any such
2125 delinquency. This remedy shall be in addition to any other
2126 collection remedies in this chapter or otherwise provided by law.

2127 (h) Payments made by any political subdivision under
2128 the provisions of this section shall not be deducted or
2129 deductible, in whole or in part, from the remuneration of
2130 individuals in the employ of the organization.

2131 (i) Any governmental entity shall not be liable to make
2132 payments to the unemployment fund with respect to the benefits
2133 paid to any individual whose base-period wages include wages for
2134 previously uncovered services as defined in Section 71-5-511,
2135 subsection (e), to the extent that the Unemployment Compensation
2136 Fund is reimbursed for such benefits pursuant to Section 121 of
2137 Public Law 94-566.

2138 (j) Any political subdivision of this state may elect
2139 to make contributions to the unemployment fund instead of making
2140 reimbursement for benefits paid as provided in subsections (2)(d),
2141 (e) and (f) of this section. A political subdivision which makes
2142 this election shall so notify the department, not later than July
2143 1, 1978; and shall be subject to the provisions of Section
2144 71-5-351, with regard to the payment of contributions. A
2145 political subdivision which makes this election shall pay
2146 contributions equal to two percent (2%) of wages paid by it during
2147 each calendar quarter it is subject to this chapter. The
2148 department shall by regulation establish a procedure to allow
2149 political subdivisions the option periodically to elect either the
2150 reimbursement or the contribution method of financing unemployment
2151 compensation coverage.

2152 **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is
2153 amended as follows:

2154 71-5-451. There is * * * established as a special fund,
2155 separate and apart from all public monies or funds of this state,
2156 an Unemployment Compensation Fund, which shall be administered by
2157 the department exclusively for:

2158 (a) All contributions collected under this chapter;

2159 (b) Interest earned upon any monies in the fund;

2160 (c) Any property or securities acquired through the use
2161 of monies belonging to the fund;

2162 (d) All earnings of such property or securities;

2163 (e) All monies credited to this state's account in the
2164 Unemployment Trust Fund pursuant to the Social Security Act, 42
2165 USCS, Section 1104; and

2166 (f) By way of reimbursement in accordance with Section
2167 204 of the Federal-State Extended Unemployment Compensation Act of
2168 1970 (84 Stat. 711). All monies in the fund shall be mingled and
2169 undivided.

2170 **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is
2171 amended as follows:

2172 71-5-457. (1) Except as otherwise provided in subsection
2173 (5), money credited to the account of this state in the
2174 Unemployment Trust Fund by the Secretary of the Treasury of the
2175 United States of America pursuant to the Social Security Act, 42
2176 USCS Section 1103, may be requisitioned and used for the payment
2177 of expenses incurred for the administration of this law pursuant
2178 to a specific appropriation by the Legislature, provided that the
2179 expenses are incurred and the money is requisitioned after the
2180 enactment of an appropriation law which:

2181 (a) Specifies the purposes for which such money is
2182 appropriated and the amounts appropriated therefor;

2183 (b) Limits the period within which such money may be
2184 obligated to a period ending not more than two (2) years after the
2185 date of the enactment of the appropriation law; and

2186 (c) Limits the amount which may be obligated during a
2187 twelve-month period beginning on July 1 and ending on the next
2188 June 30 to an amount which does not exceed the amount by which:

2189 (i) The aggregate of the amounts credited to the
2190 account of this state pursuant to the Social Security Act, 42 USCS
2191 Section 1103, during the same twelve-month period and the
2192 thirty-four (34) preceding twelve-month periods exceeds.

2193 (ii) The aggregate of the amounts obligated
2194 pursuant to this section and charged against the amounts credited
2195 to the account of this state during such thirty-five (35)
2196 twelve-month periods.

2197 For the purposes of this section, amounts obligated during
2198 any such twelve-month period shall be charged against equivalent
2199 amounts which were first credited and which are not already so
2200 charged; except that no amount obligated for administration during
2201 any such twelve-month period may be charged against any amount

2202 credited during such a twelve-month period earlier than the
2203 thirty-fourth preceding such period.

2204 (2) Money credited to the account of this state pursuant to
2205 the Social Security Act, 42 USCS Section 1103, may not be
2206 withdrawn or used except for the payment of benefits and for the
2207 payment of expenses for the administration of this law and of
2208 public employment offices pursuant to this section.

2209 (3) Money appropriated as provided herein for the payment of
2210 expenses of administration shall be requisitioned as needed for
2211 the payment of obligations incurred under such appropriation and,
2212 upon requisition, shall be deposited in the Employment Security
2213 Administration Fund, from which such payments shall be made.
2214 Money so deposited shall, until expended, remain a part of the
2215 Unemployment Compensation Fund and, if it will not be expended,
2216 shall be returned promptly to the account of this state in the
2217 Unemployment Trust Fund.

2218 (4) The thirty-five-year limitation provided in this section
2219 is no longer in force, effective October 1, 1991.

2220 (5) Notwithstanding subsection (1), monies credited with
2221 respect to federal fiscal years 1999, 2000 and 2001 shall be used
2222 by the department solely for the administration of the
2223 unemployment compensation program.

2224 **SECTION 38.** Section 71-5-511, Mississippi Code of 1972, is
2225 amended as follows:

2226 71-5-511. An unemployed individual shall be eligible to
2227 receive benefits with respect to any week only if the department
2228 finds that:

2229 (a) (i) He has registered for work at and thereafter
2230 has continued to report to an employment office in accordance with
2231 such regulations as the department may prescribe; except that the
2232 department may, by regulation, waive or alter either or both of
2233 the requirements of this subparagraph as to such types of cases or
2234 situations with respect to which it finds that compliance with

2235 such requirements would be oppressive or would be inconsistent
2236 with the purposes of this chapter; and

2237 (ii) He participates in reemployment services,
2238 such as job search assistance services, if, in accordance with a
2239 profiling system established by the department, it has been
2240 determined that he is likely to exhaust regular benefits and needs
2241 reemployment services, unless the department determines that:

2242 1. The individual has completed such
2243 services; or

2244 2. There is justifiable cause for the
2245 claimant's failure to participate in such services.

2246 (b) He has made a claim for benefits in accordance with
2247 the provisions of Section 71-5-515 and in accordance with such
2248 regulations as the department may prescribe thereunder.

2249 (c) He is able to work and is available for work.

2250 (d) He has been unemployed for a waiting period of one
2251 (1) week. No week shall be counted as a week of unemployment for
2252 the purposes of this subsection:

2253 (i) Unless it occurs within the benefit year which
2254 includes the week with respect to which he claims payment of
2255 benefits;

2256 (ii) If benefits have been paid with respect
2257 thereto;

2258 (iii) Unless the individual was eligible for
2259 benefits with respect thereto, as provided in Sections 71-5-511
2260 and 71-5-513, except for the requirements of this subsection.

2261 (e) For weeks beginning on or before July 1, 1982, he
2262 has, during his base period, been paid wages for insured work
2263 equal to not less than thirty-six (36) times his weekly benefit
2264 amount; he has been paid wages for insured work during at least
2265 two (2) quarters of his base period; and he has, during that
2266 quarter of his base period in which his total wages were highest,
2267 been paid wages for insured work equal to not less than sixteen

2268 (16) times the minimum weekly benefit amount. For benefit years
2269 beginning after July 1, 1982, he has, during his base period, been
2270 paid wages for insured work equal to not less than forty (40)
2271 times his weekly benefit amount; he has been paid wages for
2272 insured work during at least two (2) quarters of his base period,
2273 and he has, during that quarter of his base period in which his
2274 total wages were highest, been paid wages for insured work equal
2275 to not less than twenty-six (26) times the minimum weekly benefit
2276 amount. For purposes of this subsection, wages shall be counted
2277 as "wages for insured work" for benefit purposes with respect to
2278 any benefit year only if such benefit year begins subsequent to
2279 the date on which the employing unit by which such wages were paid
2280 has satisfied the conditions of Section 71-5-11, subsection I, or
2281 Section 71-5-361, subsection (3), with respect to becoming an
2282 employer.

2283 (f) No individual may receive benefits in a benefit
2284 year unless, subsequent to the beginning of the next preceding
2285 benefit year during which he received benefits, he performed
2286 service in "employment" as defined in Section 71-5-11, subsection
2287 J, and earned remuneration for such service in an amount equal to
2288 not less than eight (8) times his weekly benefit amount applicable
2289 to his * * * next preceding benefit year.

2290 (g) Benefits based on service in employment defined in
2291 Section 71-5-11, subsection J(3) and J(4), and Section 71-5-361,
2292 subsection (4) shall be payable in the same amount, on the same
2293 terms, and subject to the same conditions as compensation payable
2294 on the basis of other service subject to this chapter, except that
2295 benefits based on service in an instructional, research or
2296 principal administrative capacity in an institution of higher
2297 learning (as defined in Section 71-5-11, subsection O) with
2298 respect to service performed prior to January 1, 1978, shall not
2299 be paid to an individual for any week of unemployment which begins
2300 during the period between two (2) successive academic years, or

2301 during a similar period between two (2) regular terms, whether or
2302 not successive, or during a period of paid sabbatical leave
2303 provided for in the individual's contract, if the individual has a
2304 contract or contracts to perform services in any such capacity for
2305 any institution or institutions of higher learning for both such
2306 academic years or both such terms.

2307 (h) Benefits based on service in employment defined in
2308 Section 71-5-11, subsection J(3) and J(4), shall be payable in the
2309 same amount, on the same terms and subject to the same conditions
2310 as compensation payable on the basis of other service subject to
2311 this chapter; except that:

2312 (i) With respect to service performed in an
2313 instructional, research or principal administrative capacity for
2314 an educational institution, benefits shall not be paid based on
2315 such services for any week of unemployment commencing during the
2316 period between two (2) successive academic years, or during a
2317 similar period between two (2) regular but not successive terms,
2318 or during a period of paid sabbatical leave provided for in the
2319 individual's contract, to any individual, if such individual
2320 performs such services in the first of such academic years or
2321 terms and if there is a contract or a reasonable assurance that
2322 such individual will perform services in any such capacity for any
2323 educational institution in the second of such academic years or
2324 terms, and provided that Section 71-5-511, subsection (g), shall
2325 apply with respect to such services prior to January 1, 1978. In
2326 no event shall benefits be paid unless the individual employee was
2327 terminated by the employer.

2328 (ii) With respect to services performed in any
2329 other capacity for an educational institution, benefits shall not
2330 be paid on the basis of such services to any individual for any
2331 week which commences during a period between two (2) successive
2332 academic years or terms, if such individual performs such services
2333 in the first of such academic years or terms and there is a

2334 reasonable assurance that such individual will perform such
2335 services in the second of such academic years or terms, except
2336 that if compensation is denied to any individual under this
2337 subparagraph and such individual was not offered an opportunity to
2338 perform such services for the educational institution for the
2339 second of such academic years or terms, such individual shall be
2340 entitled to a retroactive payment of compensation for each week
2341 for which the individual filed a timely claim for compensation and
2342 for which compensation was denied solely by reason of this clause.
2343 In no event shall benefits be paid unless the individual employee
2344 was terminated by the employer.

2345 (iii) With respect to services described in
2346 subsection (h)(i) and (ii), benefits shall not be payable on the
2347 basis of services in any such capacities to any individual for any
2348 week which commences during an established and customary vacation
2349 period or holiday recess if such individual performs such services
2350 in the first of such academic years or terms, or in the period
2351 immediately before such vacation period or holiday recess, and
2352 there is a reasonable assurance that such individual will perform
2353 such services in the period immediately following such vacation
2354 period or holiday recess.

2355 (iv) With respect to any services described in
2356 subsection (h)(i) and (ii), benefits shall not be payable on the
2357 basis of services in any such capacities as specified in
2358 subsection (h)(i), (ii) and (iii) to any individual who performed
2359 such services in an educational institution while in the employ of
2360 an educational service agency. For purposes of this subsection,
2361 the term "educational service agency" means a governmental agency
2362 or governmental entity which is established and operated
2363 exclusively for the purpose of providing such services to one or
2364 more educational institutions.

2365 (v) With respect to services to which Sections
2366 71-5-357 and 71-5-359 apply, if such services are provided to or

2367 on behalf of an educational institution, benefits shall not be
2368 payable under the same circumstances and subject to the same terms
2369 and conditions as described in subsection (h)(i), (ii), (iii) and
2370 (iv).

2371 (i) Subsequent to December 31, 1977, benefits shall not
2372 be paid to any individual on the basis of any services
2373 substantially all of which consist of participating in sports or
2374 athletic events or training or preparing to so participate, for
2375 any week which commences during the period between two (2)
2376 successive sports seasons (or similar periods) if such individual
2377 performs such services in the first of such seasons (or similar
2378 periods) and there is a reasonable assurance that such individual
2379 will perform such services in the later of such seasons (or
2380 similar periods).

2381 (j) (i) Subsequent to December 31, 1977, benefits
2382 shall not be payable on the basis of services performed by an
2383 alien, unless such alien is an individual who was lawfully
2384 admitted for permanent residence at the time such services were
2385 performed, was lawfully present for purposes of performing such
2386 services, or was permanently residing in the United States under
2387 color of law at the time such services were performed (including
2388 an alien who was lawfully present in the United States as a result
2389 of the application of the provisions of Section 203(a)(7) or
2390 Section 212(d)(5) of the Immigration and Nationality Act).

2391 (ii) Any data or information required of
2392 individuals applying for benefits to determine whether benefits
2393 are not payable to them because of their alien status shall be
2394 uniformly required from all applicants for benefits.

2395 (iii) In the case of an individual whose
2396 application for benefits would otherwise be approved, no
2397 determination that benefits to such individual are not payable
2398 because of his alien status shall be made, except upon a
2399 preponderance of the evidence.

2400 (k) An individual shall be deemed prima facie
2401 unavailable for work, and therefore ineligible to receive
2402 benefits, during any period which, with respect to his employment
2403 status, is found by the department to be a holiday or vacation
2404 period.

2405 **SECTION 39.** Section 71-5-513, Mississippi Code of 1972, is
2406 amended as follows:

2407 71-5-513. A. An individual shall be disqualified for
2408 benefits:

2409 (1) (a) For the week, or fraction thereof, which
2410 immediately follows the day on which he left work voluntarily
2411 without good cause, if so found by the department, and for each
2412 week thereafter until he has earned remuneration for personal
2413 services performed for an employer, as in this chapter defined,
2414 equal to not less than eight (8) times his weekly benefit amount,
2415 as determined in each case; however, marital, filial and domestic
2416 circumstances and obligations shall not be deemed good cause
2417 within the meaning of this subsection. Pregnancy shall not be
2418 deemed to be a marital, filial or domestic circumstance for the
2419 purpose of this subsection.

2420 (b) For the week, or fraction thereof, which
2421 immediately follows the day on which he was discharged for
2422 misconduct connected with his work, if so found by the department,
2423 and for each week thereafter until he has earned remuneration for
2424 personal services performed for an employer, as in this chapter
2425 defined, equal to not less than eight (8) times his weekly benefit
2426 amount, as determined in each case.

2427 (c) The burden of proof of good cause for leaving
2428 work shall be on the claimant, and the burden of proof of
2429 misconduct shall be on the employer.

2430 (2) For the week, or fraction thereof, with respect to
2431 which he willfully makes a false statement, a false representation
2432 of fact, or willfully fails to disclose a material fact for the

2433 purpose of obtaining or increasing benefits under the provisions
2434 of this law, if so found by the department, and such individual's
2435 maximum benefit allowance shall be reduced by the amount of
2436 benefits so paid to him during any such week of disqualification;
2437 and additional disqualification shall be imposed for a period not
2438 exceeding fifty-two (52) weeks, the length of such period of
2439 disqualification and the time when such period begins to be
2440 determined by the department, in its discretion, according to the
2441 circumstances in each case.

2442 (3) If the department finds that he has failed, without
2443 good cause, either to apply for available suitable work when so
2444 directed by the employment office or the department, to accept
2445 suitable work when offered him, or to return to his customary
2446 self-employment (if any) when so directed by the department, such
2447 disqualification shall continue for the week in which such failure
2448 occurred and for not more than the twelve (12) weeks which
2449 immediately follow such week, as determined by the department
2450 according to the circumstances in each case.

2451 (a) In determining whether or not any work is
2452 suitable for an individual, the department shall consider among
2453 other factors the degree of risk involved to his health, safety
2454 and morals, his physical fitness and prior training, his
2455 experience and prior earnings, his length of unemployment and
2456 prospects for securing local work in his customary occupation, and
2457 the distance of the available work from his residence; * * *
2458 however, * * * offered employment paying the minimum wage or
2459 higher, if such minimum or higher wage is that prevailing for his
2460 customary occupation or similar work in the locality, shall be
2461 deemed to be suitable employment after benefits have been paid to
2462 the individual for a period of eight (8) weeks.

2463 (b) Notwithstanding any other provisions of this
2464 chapter, no work shall be deemed suitable and benefits shall not
2465 be denied under this chapter to any otherwise eligible individual

2466 for refusing to accept new work under any of the following
2467 conditions:

2468 (i) If the position offered is vacant due
2469 directly to a strike, lockout or other labor dispute;

2470 (ii) If the wages, hours or other conditions
2471 of the work offered are substantially less favorable to the
2472 individual than those prevailing for similar work in the locality;

2473 (iii) If as a condition of being employed the
2474 individual would be required to join a company union or to resign
2475 from or refrain from joining any bona fide labor organization.

2476 (4) For any week with respect to which the department
2477 finds that his total unemployment is due to a stoppage of work
2478 which exists because of a labor dispute at a factory,
2479 establishment or other premises at which he is or was last
2480 employed; however, this subsection shall not apply if it is shown
2481 to the satisfaction of the department:

2482 (a) He is unemployed due to a stoppage of work
2483 occasioned by an unjustified lockout, if such lockout was not
2484 occasioned or brought about by such individual acting alone or
2485 with other workers in concert; or

2486 (b) He is not participating in or directly
2487 interested in the labor dispute which caused the stoppage of work;
2488 and

2489 (c) He does not belong to a grade or class of
2490 workers of which, immediately before the commencement of stoppage,
2491 there were members employed at the premises at which the stoppage
2492 occurs, any of whom are participating in or directly interested in
2493 the dispute.

2494 * * * If in any case separate branches of work which are
2495 commonly conducted as separate businesses in separate premises are
2496 conducted in separate departments of the same premises, each such
2497 department shall, for the purposes of this subsection, be deemed
2498 to be a separate factory, establishment or other premises.

2499 (5) For any week with respect to which he has received
2500 or is seeking unemployment compensation under an unemployment
2501 compensation law of another state or of the United States.
2502 However, if the appropriate agency of such other state or of the
2503 United States finally determines that he is not entitled to such
2504 unemployment compensation benefits, this disqualification shall
2505 not apply. Nothing in this subsection contained shall be
2506 construed to include within its terms any law of the United States
2507 providing unemployment compensation or allowances for honorably
2508 discharged members of the Armed Forces.

2509 (6) For any week with respect to which he is receiving
2510 or has received remuneration in the form of payments under any
2511 governmental or private retirement or pension plan, system or
2512 policy which a base-period employer is maintaining or contributing
2513 to or has maintained or contributed to on behalf of the
2514 individual; however, if the amount payable with respect to any
2515 week is less than the benefits which would otherwise be due under
2516 Section 71-5-501, he shall be entitled to receive for such week,
2517 if otherwise eligible, benefits reduced by the amount of such
2518 remuneration. However, on or after the first Sunday immediately
2519 following July 1, 2001, no social security payments, to which the
2520 employee has made contributions, shall be deducted from
2521 unemployment benefits paid for any period of unemployment
2522 beginning on or after the first Sunday following July 1, 2001.
2523 This one hundred percent (100%) exclusion shall not apply to any
2524 other governmental or private retirement or pension plan, system
2525 or policy. If benefits payable under this section, after being
2526 reduced by the amount of such remuneration, are not a multiple of
2527 One Dollar (\$1.00), they shall be adjusted to the next lower
2528 multiple of One Dollar (\$1.00).

2529 (7) For any week with respect to which he is receiving
2530 or has received remuneration in the form of a back pay award, or
2531 other compensation allocable to any week, whether by settlement or

2532 otherwise. Any benefits previously paid for weeks of unemployment
2533 with respect to which back pay awards, or other such compensation,
2534 are made shall constitute an overpayment and such amounts shall be
2535 deducted from the award by the employer prior to payment to the
2536 employee, and shall be transmitted promptly to the department by
2537 the employer for application against the overpayment and credit to
2538 the claimant's maximum benefit amount and prompt deposit into the
2539 fund; * * * however, the removal of any charges made against the
2540 employer as a result of such previously paid benefits shall be
2541 applied to the calendar year and the calendar quarter in which the
2542 overpayment is transmitted to the department, and no attempt shall
2543 be made to relate such a credit to the period to which the award
2544 applies. Any amount of overpayment so deducted by the employer
2545 and not transmitted to the department shall be subject to the same
2546 procedures for collection as is provided for contributions by
2547 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
2548 deducted by the employer shall be established as an overpayment
2549 against the claimant and collected as provided above. It is the
2550 purpose of this paragraph to assure equity in the situations to
2551 which it applies, and it shall be construed accordingly.

2552 B. Notwithstanding any other provision in this chapter, no
2553 otherwise eligible individual shall be denied benefits for any
2554 week because he is in training with the approval of the
2555 department; nor shall such individual be denied benefits with
2556 respect to any week in which he is in training with the approval
2557 of the department by reason of the application of provisions in
2558 Section 71-5-511, subsection (c), relating to availability for
2559 work, or the provisions of subsection A(3) of this section,
2560 relating to failure to apply for, or a refusal to accept, suitable
2561 work.

2562 C. Notwithstanding any other provisions of this chapter, no
2563 otherwise eligible individual shall be denied benefits for any
2564 week because he or she is in training approved under Section

2565 236(a)(1) of the Trade Act of 1974, nor shall such individual be
2566 denied benefits by reason of leaving work to enter such training,
2567 provided the work left is not suitable employment, or because of
2568 the application to any such week in training of provisions in this
2569 law (or any applicable federal unemployment compensation law),
2570 relating to availability for work, active search for work or
2571 refusal to accept work.

2572 For purposes of this section, the term "suitable employment"
2573 means with respect to an individual, work of a substantially equal
2574 or higher skill level than the individual's past adversely
2575 affected employment (as defined for purposes of the Trade Act of
2576 1974), and wages for such work at not less than eighty percent
2577 (80%) of the individual's average weekly wage as determined for
2578 the purposes of the Trade Act of 1974.

2579 **SECTION 40.** Section 71-5-517, Mississippi Code of 1972, is
2580 amended as follows:

2581 71-5-517. An examiner designated by the department shall
2582 take the claim. An initial determination thereon shall be made
2583 promptly and shall include a determination with respect to whether
2584 or not benefits are payable, the week with respect to which
2585 benefits shall commence, the weekly benefit amount payable and the
2586 maximum duration of benefits. In any case in which the payment or
2587 denial of benefits will be determined by the provisions of
2588 subsection A(4) of Section 71-5-513, the examiner shall promptly
2589 transmit all the evidence with respect to that subsection to the
2590 department, which, on the basis of evidence so submitted and such
2591 additional evidence as it may require, shall make an initial
2592 determination with respect thereto. An initial determination may
2593 for good cause be reconsidered. The claimant, his most recent
2594 employing unit and all employers whose experience-rating record
2595 would be charged with benefits pursuant to such determination
2596 shall be promptly notified of such initial determination or any
2597 amended initial determination and the reason therefor. Benefits

2598 shall be denied or, if the claimant is otherwise eligible,
2599 promptly paid in accordance with the initial determination or
2600 amended initial determination. The jurisdiction of the department
2601 over benefit claims which have not been appealed shall be
2602 continuous. The claimant or any party to the initial
2603 determination or amended initial determination may file an appeal
2604 from such initial determination or amended initial determination
2605 within fourteen (14) days after notification thereof, or after the
2606 date such notification was mailed to his last known address.

2607 Notwithstanding any other provision of this section, benefits
2608 shall be paid promptly in accordance with a determination or
2609 redetermination, or the decision of an appeal tribunal, the board
2610 of review or a reviewing court upon the issuance of such
2611 determination, redetermination or decision in favor of the
2612 claimant (regardless of the pendency of the period to apply for
2613 reconsideration, file an appeal, or petition for judicial review,
2614 as the case may be, or the pendency of any such application,
2615 filing or petition), unless and until such determination,
2616 redetermination or decision has been modified or reversed by a
2617 subsequent redetermination or decision, in which event benefits
2618 shall be paid or denied in accordance with such modifying or
2619 reversing redetermination or decision. Any benefits finally
2620 determined to have been erroneously paid shall be set up as an
2621 overpayment to the claimant and must be liquidated before any
2622 future benefits can be paid to the claimant. If, subsequent to
2623 such initial determination or amended initial determination,
2624 benefits with respect to any week for which a claim has been filed
2625 are denied for reasons other than matters included in the initial
2626 determination or amended initial determination, the claimant shall
2627 be promptly notified of the denial and the reason therefor and may
2628 appeal therefrom in accordance with the procedure herein described
2629 for appeals from initial determination or amended initial
2630 determination.

2631 **SECTION 41.** Section 71-5-519, Mississippi Code of 1972, is
2632 amended as follows:

2633 71-5-519. Unless such appeal is withdrawn, an appeal
2634 tribunal appointed by the executive director, after affording the
2635 parties reasonable opportunity for fair hearing, shall affirm,
2636 modify or reverse the findings of fact and initial determination
2637 or amended initial determination. The parties shall be duly
2638 notified of such tribunal's decision, together with its reasons
2639 therefor, which shall be deemed to be the final decision of the
2640 executive director unless, within fourteen (14) days after the
2641 date of notification or mailing of such decision, further appeal
2642 is initiated pursuant to Section 71-5-523.

2643 **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is
2644 amended as follows:

2645 71-5-523. The board of review may on its own motion affirm,
2646 modify, or set aside any decision of an appeal tribunal on the
2647 basis of the evidence previously submitted in such case, or direct
2648 the taking of additional evidence, or may permit any of the
2649 parties to such decision to initiate further appeals before it.
2650 The board of review shall permit such further appeal by any of the
2651 parties to a decision of an appeal tribunal which is not
2652 unanimous, and by the examiner whose decision has been overruled
2653 or modified by an appeal tribunal. The board of review may remove
2654 to itself or transfer to another appeal tribunal the proceedings
2655 on any claim pending before an appeal tribunal. Any proceedings
2656 so removed to the board of review shall be heard by a quorum
2657 thereof in accordance with the requirements of Section 71-5-519
2658 and within fifteen (15) days after notice of appeal has been
2659 received by the executive director. No notice of appeal shall be
2660 deemed to be received by the executive director, within the
2661 meaning of this section, until all prior appeals pending before
2662 the board of review have been heard. The board of review shall,

2663 within four (4) days after its decision, so notify the parties to
2664 any proceeding of its findings and decision. * * *

2665 **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is
2666 amended as follows:

2667 71-5-525. The manner in which appealed claims shall be
2668 presented and the conduct of hearings and appeals shall be in
2669 accordance with regulations prescribed by the board of review for
2670 determining the rights of the parties, whether or not such
2671 regulations conform to common law or statutory rules of evidence
2672 and other technical rules of procedure. A full and complete
2673 record shall be kept of all proceedings in connection with an
2674 appealed claim. The department's entire file relative to the
2675 appealed claim shall be a part of such record and shall be
2676 considered as evidence. All testimony at any hearing upon an
2677 appealed claim shall be recorded, but need not be transcribed
2678 unless the claim is further appealed.

2679 **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is
2680 amended as follows:

2681 71-5-529. Any decision of the board of review, in the
2682 absence of an appeal therefrom as herein provided, shall become
2683 final ten (10) days after the date of notification or mailing
2684 thereof; and judicial review thereof shall be permitted only after
2685 any party claiming to be aggrieved thereby has exhausted his
2686 administrative remedies as provided by this chapter. The
2687 department shall be deemed to be a party to any judicial action
2688 involving any such decision, and may be represented in any such
2689 judicial action by any qualified attorney employed by the
2690 department and designated by it for that purpose or, at the
2691 department's request, by the Attorney General.

2692 **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is
2693 amended as follows:

2694 71-5-531. Within ten (10) days after the decision of the
2695 Board of Review has become final, any party aggrieved thereby may

2696 secure judicial review thereof by commencing an action, in the
2697 circuit court of the county in which the plaintiff resides,
2698 against the department for the review of such decision, in which
2699 action any other party to the proceeding before the Board of
2700 Review shall be made a defendant. In cases wherein the plaintiff
2701 is not a resident of the State of Mississippi, such action may be
2702 filed in the circuit court of the county in which the employer
2703 resides, the county in which the cause of action arose, or in the
2704 county of employment. In such action, a petition which need not
2705 be verified, but which shall state the grounds upon which a review
2706 is sought, shall be served upon the department or upon such person
2707 as the department may designate, and such service shall be deemed
2708 completed service on all parties; but there shall be left with the
2709 party so served as many copies of the petition as there are
2710 defendants, and the department shall forthwith mail one (1) such
2711 copy to each such defendant. With its answer, the department
2712 shall certify and file with said court all documents and papers
2713 and a transcript of all testimony taken in the matter, together
2714 with the Board of Review's findings of fact and decision therein.
2715 The department may also, in its discretion, certify to such court
2716 questions of law involved in any decision. In any judicial
2717 proceedings under this section, the findings of the Board of
2718 Review as to the facts, if supported by evidence and in the
2719 absence of fraud, shall be conclusive, and the jurisdiction of the
2720 court shall be confined to questions of law. Such actions, and
2721 the questions so certified, shall be heard in a summary manner and
2722 shall be given precedence over all other civil cases. An appeal
2723 may be taken from the decision of the circuit court of the county
2724 in which the plaintiff resides to the Supreme Court of
2725 Mississippi, in the same manner, but not inconsistent with the
2726 provisions of this chapter, as is provided in civil cases. It
2727 shall not be necessary, in any judicial proceeding under this
2728 section, to enter exceptions to the rulings of the Board of

2729 Review, and no bond shall be required for entering such appeal.
2730 Upon the final determination of such judicial proceeding, the
2731 Board of Review shall enter an order in accordance with such
2732 determination. A petition for judicial review shall not act as a
2733 supersedeas or stay unless the Board of Review shall so order.

2734 **SECTION 46.** Section 71-5-541, Mississippi Code of 1972, is
2735 amended as follows:

2736 71-5-541. A. (1) In the administration of this chapter,
2737 the department shall cooperate with the Department of Labor to the
2738 fullest extent consistent with the provisions of this chapter and
2739 shall take such action, through the adoption of appropriate rules,
2740 regulations, administrative methods and standards, as may be
2741 necessary to secure to this state and its citizens all advantages
2742 available under the provisions of the Social Security Act that
2743 relate to unemployment compensation, the Federal Unemployment Tax
2744 Act, the Wagner-Peyser Act and the Federal-State Extended
2745 Unemployment Compensation Act of 1970, all as amended.

2746 (2) In the administration of the provisions of this
2747 section, which are enacted to conform with the requirements of the
2748 Federal-State Extended Unemployment Compensation Act of 1970, as
2749 amended, the department shall take such actions as may be
2750 necessary:

2751 (a) To ensure that the provisions are so
2752 interpreted and applied as to meet the requirements of such
2753 federal act as interpreted by the U.S. Department of Labor; and

2754 (b) To secure to this state the full reimbursement
2755 of the federal share of extended benefits paid under this chapter
2756 that are reimbursable under the federal act; and also

2757 (c) To limit the amount of extended benefits paid
2758 as may be necessary so that the reimbursement of the federal share
2759 of extended benefits paid shall remain at one-half (1/2) of the
2760 total extended benefits paid.

2761 B. As used in this section, unless the context clearly
2762 requires otherwise:

2763 (1) "Extended benefit period" means a period which:

2764 (a) Begins with the third week after a week for
2765 which there is a state "on" indicator; and

2766 (b) Ends with either of the following weeks,
2767 whichever occurs later:

2768 (i) The third week after the first week for
2769 which there is a state "off" indicator; or

2770 (ii) The thirteenth consecutive week of such
2771 period.

2772 No extended benefit period may begin by reason of a state
2773 "on" indicator before the fourteenth week following the end of a
2774 prior extended benefit period which was in effect with respect to
2775 this state.

2776 (2) For weeks beginning after September 25, 1982, there
2777 is a "state 'on' indicator" for a week if the rate of insured
2778 unemployment under this chapter for the period consisting of such
2779 week and the immediately preceding twelve (12) weeks:

2780 (a) Equalled or exceeded one hundred twenty percent
2781 (120%) of the average of such rates for the corresponding period
2782 of thirteen (13) weeks ending in each of the preceding two (2)
2783 calendar years; and

2784 (b) Equalled or exceeded five percent (5%).

2785 * * * The determination of whether there has been a state
2786 "on" or "off" indicator beginning or ending any extended benefit
2787 period shall be made under this subsection as if (i) paragraph (2)
2788 did not contain subparagraph (a) thereof, and (ii) the figure "5"
2789 contained in subparagraph (b) thereof were "6"; except that,
2790 notwithstanding any such provision of this subsection, any week
2791 for which there would otherwise be a "state 'on' indicator" shall
2792 continue to be such week and shall not be determined to be a week
2793 for which there is a "state 'off' indicator."

2794 (3) There is a "state 'off' indicator" for a week if,
2795 for the period consisting of such week and the immediately
2796 preceding twelve (12) weeks, either subparagraph (a) or (b) of
2797 paragraph (2) was not satisfied.

2798 (4) "Rate of insured unemployment," for purposes of
2799 paragraphs (2) and (3) of this subsection, means the percentage
2800 derived by dividing:

2801 (a) The average number of continued weeks claimed
2802 for regular state compensation in this state for weeks of
2803 unemployment with respect to the most recent period of thirteen
2804 (13) consecutive weeks, as determined by the department on the
2805 basis of its reports to the U.S. Secretary of Labor; by

2806 (b) The average monthly employment covered under
2807 this chapter for the first four (4) of the most recent six (6)
2808 completed calendar quarters ending before the end of such period
2809 of thirteen (13) weeks.

2810 (5) "Regular benefits" means benefits payable to an
2811 individual under this chapter or under any other state law
2812 (including benefits payable to federal civilian employees and to
2813 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than
2814 extended benefits.

2815 (6) "Extended benefits" means benefits (including
2816 benefits payable to federal civilian employees and to
2817 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an
2818 individual under the provisions of this section for weeks of
2819 unemployment in his eligibility period.

2820 (7) "Eligibility period" of an individual means the
2821 period consisting of the weeks in his benefit year which begin in
2822 an extended benefit period and, if his benefit year ends within
2823 such extended benefit period, any weeks thereafter which begin in
2824 such period.

2825 (8) "Exhaustee" means an individual who, with respect
2826 to any week of unemployment in his eligibility period:

2827 (a) Has received, prior to such week, all of the
2828 regular benefits that were available to him under this chapter or
2829 any other state law (including dependents' allowances and benefits
2830 payable to federal civilian employees and ex-servicemen under 5
2831 USCS Section 8501-8525) in his current benefit year that includes
2832 such week;

2833 For the purposes of this subparagraph, an individual shall be
2834 deemed to have received all of the regular benefits that were
2835 available to him although, as a result of a pending appeal with
2836 respect to wages that were not considered in the original monetary
2837 determination in his benefit year, he may subsequently be
2838 determined to be entitled to added regular benefits; or

2839 (b) Has no, or insufficient, wages on the basis of
2840 which he could establish a new benefit year that would include
2841 such week, his benefit year having expired prior to such week; and

2842 (c) (i) Has no right to unemployment benefits or
2843 allowances, as the case may be, under the Railroad Unemployment
2844 Insurance Act, the Trade Expansion Act of 1962, the Automotive
2845 Products Trade Act of 1965, and such other federal laws as are
2846 specified in regulations issued by the U.S. Secretary of Labor;
2847 and

2848 (ii) Has not received and is not seeking
2849 unemployment benefits under the Unemployment Compensation Law of
2850 the Virgin Islands or of Canada; but if he is seeking such
2851 benefits and the appropriate agency finally determines that he is
2852 not entitled to benefits under such law, he is considered an
2853 exhaustee; however, the reference in this subsection to the Virgin
2854 Islands shall be inapplicable effective on the day on which the
2855 United States Secretary of Labor approves under Section 3304(a) of
2856 the Internal Revenue Code of 1954, an unemployment compensation
2857 law submitted to the Secretary by the Virgin Islands for approval.

2858 (9) "State law" means the unemployment insurance law of
2859 any state, approved by the United States Secretary of Labor under

2860 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section
2861 3304).

2862 C. Except when the result would be inconsistent with the
2863 other provisions of this section, as provided in the regulations
2864 of the department, the provisions of this chapter which apply to
2865 claims for, or the payment of, regular benefits shall apply to
2866 claims for, and the payment of, extended benefits.

2867 D. An individual shall be eligible to receive extended
2868 benefits with respect to any week of unemployment in his
2869 eligibility period only if the department finds that with respect
2870 to such week:

2871 (1) He is an "exhaustee" as defined in subsection B(8)
2872 of this section.

2873 (2) He has satisfied the requirements of this chapter
2874 for the receipt of regular benefits that are applicable to
2875 individuals claiming extended benefits, including not being
2876 subject to a disqualification for the receipt of benefits.

2877 (3) For a week beginning after September 25, 1982, he
2878 has, during his base period, been paid wages for insured work
2879 equal to not less than forty (40) times his weekly benefit amount;
2880 he has been paid wages for insured work during at least two (2)
2881 quarters of his base period, and he has, during that quarter of
2882 his base period in which his total wages were highest, been paid
2883 wages for insured work equal to not less than twenty-six (26)
2884 times the minimum weekly benefit amount.

2885 E. The weekly extended benefit amount payable to an
2886 individual for a week of total unemployment in his eligibility
2887 period shall be an amount equal to the weekly benefit amount
2888 payable to him during his applicable benefit year; * * *
2889 however, * * * benefits paid to individuals during eligibility
2890 periods beginning before October 1, 1983, shall be computed to the
2891 next higher multiple of One Dollar (\$1.00), if not a multiple of
2892 One Dollar (\$1.00); and benefits paid to individuals during

2893 eligibility periods beginning on or after October 1, 1983, shall
2894 be computed to the next lower multiple of One Dollar (\$1.00), if
2895 not a multiple of One Dollar (\$1.00). * * * In no event shall the
2896 weekly extended benefit amount payable to an individual be more
2897 than two (2) times the amount of the reimbursement of the federal
2898 share of extended benefits paid.

2899 F. (1) The total extended benefit amount payable to any
2900 eligible individual with respect to his applicable benefit year
2901 shall be the least of the following amounts:

2902 (a) Fifty percent (50%) of the total amount of
2903 regular benefits which were payable to him under this chapter in
2904 his applicable benefit year; * * * however, * * * benefits paid to
2905 individuals during eligibility periods beginning before October 1,
2906 1983, shall be computed to the next higher multiple of One Dollar
2907 (\$1.00), if not a multiple of One Dollar (\$1.00), and benefits
2908 paid to individuals during eligibility periods beginning on or
2909 after October 1, 1983, shall be computed to the next lower
2910 multiple of One Dollar (\$1.00), if not a multiple of One Dollar
2911 (\$1.00); or

2912 (b) Thirteen (13) times his weekly benefit amount
2913 which was payable to him under this chapter for a week of total
2914 unemployment in the applicable benefit year.

2915 (2) The total extended benefits otherwise payable to an
2916 individual who is filing an interstate claim under the interstate
2917 benefit payment plan shall not exceed two (2) weeks whenever an
2918 extended benefit period is not in effect for such week in the
2919 state where the claim is filed.

2920 (3) * * * In no event shall the total extended benefit
2921 amount payable to any eligible individual with respect to his
2922 applicable benefit year be more than two (2) times the amount of
2923 the reimbursement of the federal share of extended benefits paid.

2924 G. (1) Whenever an extended benefit period is to become
2925 effective in this state as a result of a state "on" indicator, or

2926 an extended benefit period is to be terminated in this state as a
2927 result of state "off" indicators, the department shall make an
2928 appropriate public announcement.

2929 (2) Computations required by the provisions of
2930 subsection B(4) shall be made by the department, in accordance
2931 with regulations prescribed by the United States Secretary of
2932 Labor.

2933 H. Extended benefits paid under the provisions of this
2934 section which are not reimbursable from federal funds shall be
2935 charged to the experience-rating record of base period employers.

2936 I. (1) Notwithstanding the provisions of subsections C and
2937 D of this section, an individual shall be disqualified for receipt
2938 of extended benefits if the department finds that during any week
2939 of his eligibility period:

2940 (a) He has failed either to apply for or to accept
2941 an offer of suitable work (as defined under paragraph (3)) to
2942 which he was referred by the department; or

2943 (b) He has failed to furnish tangible evidence
2944 that he has actively engaged in a systematic and sustained effort
2945 to find work, unless such individual is not actively engaged in
2946 seeking work because such individual is:

2947 (i) Before any court of the United States or
2948 any state pursuant to a lawfully issued summons to appear for jury
2949 duty;

2950 (ii) Hospitalized for treatment of an
2951 emergency or a life-threatening condition.

2952 The entitlement to benefits of any individual who is
2953 determined not to be actively engaged in seeking work in any week
2954 for the foregoing reasons shall be decided pursuant to the able
2955 and available requirements in Section 71-5-511 without regard to
2956 the disqualification provisions otherwise applicable under Section
2957 71-5-541. The conditions prescribed in clauses (i) and (ii) of

2958 this subparagraph (b) must be applied in the same manner to
2959 individuals filing claims for regular benefits.

2960 (2) Such disqualification shall begin with the week in
2961 which such failure occurred and shall continue until he has been
2962 employed in each of eight (8) subsequent weeks (whether or not
2963 consecutive) and has earned remuneration for personal services
2964 performed for an employer, as in this chapter defined, equal to
2965 not less than eight (8) times his weekly extended benefit amount.

2966 (3) For the purpose of subparagraph (a) of paragraph
2967 (1) the term "suitable work" means any work which is within the
2968 individual's capabilities to perform, if:

2969 (a) The gross average weekly remuneration payable
2970 for the work exceeds the sum of the individual's weekly extended
2971 benefit amount plus the amount, if any, of supplemental
2972 unemployment benefits (as defined in Section 501(c)(17)(D) of the
2973 Internal Revenue Code of 1954) payable to such individual for such
2974 week;

2975 (b) The wages payable for the work equal the
2976 higher of the minimum wages provided by Section 6(a)(1) of the
2977 Fair Labor Standards Act of 1938 (without regard to any
2978 exemption), or the state or local minimum wage; and

2979 (c) The position was offered to the individual in
2980 writing or was listed with the state employment service; and

2981 (d) Such work otherwise meets the definition of
2982 "suitable work" for regular benefits contained in Section
2983 71-5-513A(4) to the extent that such criteria of suitability are
2984 not inconsistent with the provisions of this paragraph (3); and

2985 (e) The individual cannot furnish satisfactory
2986 evidence to the department that his prospects for obtaining work
2987 in his customary occupation within a reasonably short period are
2988 good. If such evidence is deemed satisfactory for this purpose,
2989 the determination of whether any work is suitable with respect to
2990 such individual shall be made in accordance with the definition of

2991 suitable work contained in Section 71-5-513A(4) without regard to
2992 the definition specified by this paragraph (3).

2993 (4) Notwithstanding any provisions of subsection I to
2994 the contrary, no work shall be deemed to be suitable work for an
2995 individual which does not accord with the labor standard
2996 provisions set forth herein under Section 71-5-513A(4).

2997 (5) The employment service shall refer any claimant
2998 entitled to extended benefits under this section to any suitable
2999 work which meets the criteria prescribed in paragraph (3).

3000 (6) An individual shall be disqualified for extended
3001 benefits for the week, or fraction thereof, which immediately
3002 follows the day on which he left work voluntarily without good
3003 cause (as defined in Section 71-5-513A(1)), was discharged for
3004 misconduct connected with his work, or refused suitable work
3005 (except as provided in subsection I of this section), and for each
3006 week thereafter until he has earned remuneration for personal
3007 services performed for an employer, as in this chapter defined,
3008 equal to not less than eight (8) times his weekly benefit amount,
3009 as determined in each case.

3010 (7) The provisions of paragraphs I(1) through (6) of
3011 this section shall not apply to claims for weeks of unemployment
3012 beginning after March 6, 1993, and before January 1, 1995, and
3013 during that period the provisions of this chapter applicable to
3014 claims for regular compensation shall apply.

3015 J. Notwithstanding any other provisions of this chapter, if
3016 the benefit year of any individual ends within an extended benefit
3017 period, the remaining balance of extended benefits that such
3018 individual would, but for this section, be entitled to receive in
3019 that extended benefit period, with respect to weeks of
3020 unemployment beginning after the end of the benefit year, shall be
3021 reduced (but not below zero) by the product of the number of weeks
3022 for which the individual received any amounts as trade

3023 readjustment allowances within that benefit year, multiplied by
3024 the individual's weekly benefit amount for extended benefits.

3025 **SECTION 47.** Section 73-30-25, Mississippi Code of 1972, is
3026 amended as follows:

3027 73-30-25. It is not the intent of this chapter to regulate
3028 against members of other duly regulated professions in this state
3029 who do counseling in the normal course of the practice of their
3030 own profession. This chapter does not apply to:

3031 (a) Any person registered, certified or licensed by the
3032 state to practice any other occupation or profession while
3033 rendering counseling services in the performance of the occupation
3034 or profession for which he is registered, certified or licensed;

3035 (b) Certified school counselors when they are
3036 practicing counseling within the scope of their employment;

3037 (c) Certified vocational counselors when they are
3038 practicing vocational counseling within the scope of their
3039 employment;

3040 (d) Counselors in post-secondary institutions when they
3041 are practicing within the scope of their employment;

3042 (e) Student interns or trainees in counseling pursuing
3043 a course of study in counseling in a regionally or nationally
3044 accredited institution of higher learning or training institution
3045 if activities and services constitute a part of the supervised
3046 course of study, provided that such persons be designated a
3047 counselor intern;

3048 (f) Professionals employed by regionally or nationally
3049 accredited post-secondary institutions as counselor educators when
3050 they are practicing counseling within the scope of their
3051 employment;

3052 (g) Professionals registered, certified or licensed by
3053 a recognized state or national professional association that has a
3054 published code of ethics and requires adherence to same;

3055 (h) Duly ordained ministers or clergy while functioning
3056 in their ministerial capacity and duly accredited Christian
3057 Science practitioners;

3058 (i) Professional employees of regional mental health
3059 centers, state mental hospitals, vocational rehabilitation
3060 institutions, youth court counselors and employees of the
3061 Mississippi Department of Employment Security or other
3062 governmental agency so long as they practice within the scope of
3063 their employment;

3064 (j) Professional employees of alcohol or drug abuse
3065 centers or treatment facilities, whether privately or publicly
3066 funded, so long as they practice within the scope of their
3067 employment;

3068 (k) Private employment counselors;

3069 (l) Any nonresident temporarily employed in this state
3070 to render counseling services for not more than thirty (30) days
3071 in any year, if in the opinion of the board the person would
3072 qualify for a license under this chapter and if the person holds
3073 any license required for counselors in his home state or country;
3074 and

3075 (m) Any social workers holding a master's degree in
3076 social work from a school accredited by the Council on Social Work
3077 Education and who do counseling in the normal course of the
3078 practice of their own profession.

3079 **SECTION 48.** Section 43-1-30, Mississippi Code of 1972, is
3080 amended as follows:

3081 43-1-30. (1) There is * * * created the Mississippi TANF
3082 Implementation Council. It shall serve as the independent, single
3083 state advisory and review council for assuring Mississippi's
3084 compliance with the federal Personal Responsibility and Work
3085 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as
3086 amended. The council shall further cooperation between
3087 government, education and the private sector in meeting the needs

3088 of the TANF program. It shall also further cooperation between
3089 the business and labor communities, education and training
3090 delivery systems, and between businesses in developing highly
3091 skilled workers for high skill, high paying jobs in Mississippi.

3092 (2) The council shall be comprised of thirteen (13) public
3093 members and certain ex officio nonvoting members. All public
3094 members of the council shall be appointed as follows by the
3095 Governor:

3096 Ten (10) members shall be representatives from business and
3097 industry, provided that no fewer than five (5) members are from
3098 the manufacturing and industry sector who are also serving as
3099 members of private industry councils established within the state,
3100 and one (1) member may be a representative of a nonprofit
3101 organization. Three (3) members shall be recipients or former
3102 recipients of TANF assistance appointed from the state at large.

3103 The ex officio nonvoting members of the council shall consist
3104 of the following, or their designees:

3105 (a) The Executive Director of the Mississippi
3106 Department of Human Services;

3107 (b) The Executive Director of the Mississippi
3108 Department of Employment Security;

3109 (c) The Executive Director of the Mississippi
3110 Development Authority;

3111 (d) The State Superintendent of Public Education;

3112 (e) The Director of the State Board for Community and
3113 Junior Colleges;

3114 (f) The Executive Director of the Division of Medicaid;

3115 (g) The Commissioner of the Mississippi Department of
3116 Corrections; and

3117 (h) The Director of the Mississippi Cooperative
3118 Extension Service.

3119 (3) The Governor shall designate one (1) public member to
3120 serve as chairman of the council for a term of two (2) years and
3121 until a successor as chairman is appointed and qualified.

3122 (4) The term of office for public members appointed by the
3123 Governor shall be four (4) years and until their successors are
3124 appointed and qualified.

3125 (5) Any vacancy shall be filled for the unexpired term by
3126 the Governor in the manner of the original appointment, unless
3127 otherwise specified in this section.

3128 (6) Public members shall receive a per diem as authorized in
3129 Section 25-3-69, for each day actually engaged in meetings of the
3130 council, and shall be reimbursed for mileage and necessary
3131 expenses incurred in the performance of their duties, as provided
3132 in Section 25-3-41.

3133 (7) The council shall:

3134 (a) Annually review and recommend policies and programs
3135 to the Governor and the Legislature that will implement and meet
3136 federal requirements under the TANF program.

3137 (b) Annually review and recommend policies and programs
3138 to the Governor and to the Legislature that will enable citizens
3139 of Mississippi to acquire the skills necessary to maximize their
3140 economic self-sufficiency.

3141 (c) Review the provision of services and the use of
3142 funds and resources under the TANF program, and under all
3143 state-financed job training and job retraining programs, and
3144 advise the Governor and the Legislature on methods of coordinating
3145 such provision of services and use of funds and resources
3146 consistent with the laws and regulations governing such programs.

3147 (d) Assist in developing outcome and output measures to
3148 measure the success of the Department of Human Services' efforts
3149 in implementing the TANF program. These recommendations shall be
3150 made to the Department of Human Services at such times as required

3151 in the event that the department implements new programs to comply
3152 with the TANF program requirements.

3153 (e) Collaborate with the Mississippi Development
3154 Authority, local planning and development districts and local
3155 industrial development boards, and shall develop an economic
3156 development plan for the creation of manufacturing jobs in each of
3157 the counties in the state that has an unemployment rate of ten
3158 percent (10%) or more, which shall include, but not be limited to,
3159 procedures for business development, entrepreneurship and
3160 financial and technical assistance.

3161 (8) A majority of the members of the council shall
3162 constitute a quorum for the conduct of meetings and all actions of
3163 the council shall be by a majority of the members present at a
3164 meeting.

3165 (9) The council shall adopt rules and regulations as it
3166 deems necessary to carry out its responsibilities under this
3167 section and under applicable federal human resources programs.

3168 (10) The council may make and enter into contracts and
3169 interagency agreements as may be necessary and proper.

3170 (11) The council is authorized to commit and expend monies
3171 appropriated to it by the Legislature for its authorized purposes.
3172 The council is authorized to solicit, accept and expend public and
3173 private gifts, grants, awards and contributions related to
3174 furtherance of its statutory duties.

3175 (12) Funds for the operations of the council shall be
3176 derived from federal funds for the operation of state councils
3177 pursuant to applicable federal human resources programs and from
3178 such other monies appropriated to it by the Legislature.

3179 **SECTION 49.** Section 43-17-5, Mississippi Code of 1972, is
3180 amended as follows:

3181 43-17-5. (1) The amount of Temporary Assistance for Needy
3182 Families (TANF) benefits which may be granted for any dependent
3183 child and a needy caretaker relative shall be determined by the

3184 county department with due regard to the resources and necessary
3185 expenditures of the family and the conditions existing in each
3186 case, and in accordance with the rules and regulations made by the
3187 Department of Human Services which shall not be less than the
3188 Standard of Need in effect for 1988, and shall be sufficient when
3189 added to all other income (except that any income specified in the
3190 federal Social Security Act, as amended, may be disregarded) and
3191 support available to the child to provide such child with a
3192 reasonable subsistence compatible with decency and health. The
3193 first family member in the dependent child's budget may receive an
3194 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;
3195 the second family member in the dependent child's budget may
3196 receive an amount not to exceed Thirty-six Dollars (\$36.00) per
3197 month; and each additional family member in the dependent child's
3198 budget an amount not to exceed Twenty-four Dollars (\$24.00) per
3199 month. The maximum for any individual family member in the
3200 dependent child's budget may be exceeded for foster or medical
3201 care or in cases of mentally retarded or physically handicapped
3202 children. TANF benefits granted shall be specifically limited
3203 only (a) to children existing or conceived at the time the
3204 caretaker relative initially applies and qualifies for such
3205 assistance, unless this limitation is specifically waived by the
3206 department, or (b) to a child born following a twelve (12)
3207 consecutive month period of discontinued benefits by the caretaker
3208 relative.

3209 (2) TANF cash benefits in Mississippi shall be provided by
3210 monthly checks mailed to the recipient family until such time as
3211 an on-line electronic benefits transfer system for TANF benefit
3212 payments is implemented pursuant to Section 43-1-28.

3213 (3) The Department of Human Services shall deny TANF
3214 benefits to the following categories of individuals, except for
3215 individuals and families specifically exempt or excluded for good
3216 cause as allowed by federal statute or regulation:

3217 (a) Families without a minor child residing with the
3218 custodial parent or other adult caretaker relative of the child;

3219 (b) Families which include an adult who has received
3220 TANF assistance for sixty (60) months after the commencement of
3221 the Mississippi TANF program, whether or not such period of time
3222 is consecutive;

3223 (c) Families not assigning to the state any rights a
3224 family member may have, on behalf of the family member or of any
3225 other person for whom the family member has applied for or is
3226 receiving such assistance, to support from any other person, as
3227 required by law;

3228 (d) Families who fail to cooperate in establishing
3229 paternity or obtaining child support, as required by law;

3230 (e) Any individual who has not attained eighteen (18)
3231 years of age, is not married to the head of household, has a minor
3232 child at least twelve (12) weeks of age in his or her care, and
3233 has not successfully completed a high school education or its
3234 equivalent, if such individual does not participate in educational
3235 activities directed toward the attainment of a high school diploma
3236 or its equivalent, or an alternative educational or training
3237 program approved by the department;

3238 (f) Any individual who has not attained eighteen (18)
3239 years of age, is not married, has a minor child in his or her
3240 care, and does not reside in a place or residence maintained by a
3241 parent, legal guardian or other adult relative or the individual
3242 as such parent's, guardian's or adult relative's own home;

3243 (g) Any minor child who has been, or is expected by a
3244 parent or other caretaker relative of the child to be, absent from
3245 the home for a period of more than thirty (30) days;

3246 (h) Any individual who is a parent or other caretaker
3247 relative of a minor child who fails to notify the department of
3248 the absence of the minor child from the home for the thirty-day
3249 period specified in paragraph (g), by the end of the five-day

3250 period that begins with the date that it becomes clear to the
3251 individual that the minor child will be absent for the thirty-day
3252 period;

3253 (i) Any individual who fails to comply with the
3254 provisions of the Employability Development Plan signed by the
3255 individual which prescribe those activities designed to help the
3256 individual become and remain employed, or to participate
3257 satisfactorily in the assigned work activity, as authorized under
3258 subsections (6)(c) and (d);

3259 (j) A parent or caretaker relative who has not engaged
3260 in an allowable work activity once the department determines the
3261 parent or caretaker relative is ready to engage in work, or once
3262 the parent or caretaker relative has received TANF assistance
3263 under the program for twenty-four (24) months, whether or not
3264 consecutive, whichever is earlier;

3265 (k) Any individual who is fleeing to avoid prosecution,
3266 or custody or confinement after conviction, under the laws of the
3267 jurisdiction from which the individual flees, for a crime, or an
3268 attempt to commit a crime, which is a felony under the laws of the
3269 place from which the individual flees, or who is violating a
3270 condition of probation or parole imposed under federal or state
3271 law;

3272 (l) Aliens who are not qualified under federal law;

3273 (m) For a period of ten (10) years following
3274 conviction, individuals convicted in federal or state court of
3275 having made a fraudulent statement or representation with respect
3276 to the individual's place of residence in order to receive TANF,
3277 food stamps or Supplemental Security Income (SSI) assistance under
3278 Title XVI or Title XIX simultaneously from two (2) or more states;
3279 and

3280 (n) Individuals who are recipients of federal
3281 Supplemental Security Income (SSI) assistance.

3282 (4) (a) Any person who is otherwise eligible for TANF
3283 benefits, including custodial and noncustodial parents, shall be
3284 required to attend school and meet the monthly attendance
3285 requirement as provided in this subsection if all of the following
3286 apply:

3287 (i) The person is under age twenty (20);

3288 (ii) The person has not graduated from a public or
3289 private high school or obtained a GED equivalent;

3290 (iii) The person is physically able to attend
3291 school and is not excused from attending school; and

3292 (iv) If the person is a parent or caretaker
3293 relative with whom a dependent child is living, child care is
3294 available for the child.

3295 The monthly attendance requirement under this subsection
3296 shall be attendance at the school in which the person is enrolled
3297 for each day during a month that the school conducts classes in
3298 which the person is enrolled, with not more than two (2) absences
3299 during the month for reasons other than the reasons listed in
3300 paragraph (e)(iv) of this subsection. Persons who fail to meet
3301 participation requirements in this subsection shall be subject to
3302 sanctions as provided in paragraph (f) of this subsection.

3303 (b) As used in this subsection, "school" means any one
3304 (1) of the following:

3305 (i) A school as defined in Section 37-13-91(2);

3306 (ii) A vocational, technical and adult education
3307 program; or

3308 (iii) A course of study meeting the standards
3309 established by the State Department of Education for the granting
3310 of a declaration of equivalency of high school graduation.

3311 (c) If any compulsory-school-age child, as defined in
3312 Section 37-13-91(2), to which TANF eligibility requirements apply
3313 is not in compliance with the compulsory school attendance
3314 requirements of Section 37-13-91(6), the superintendent of schools

3315 of the school district in which the child is enrolled or eligible
3316 to attend shall notify the county department of human services of
3317 the child's noncompliance. The Department of Human Services shall
3318 review school attendance information as provided under this
3319 paragraph at all initial eligibility determinations and upon
3320 subsequent report of unsatisfactory attendance.

3321 (d) The signature of a person on an application for
3322 TANF benefits constitutes permission for the release of school
3323 attendance records for that person or for any child residing with
3324 that person. The department shall request information from the
3325 child's school district about the child's attendance in the school
3326 district's most recently completed semester of attendance. If
3327 information about the child's previous school attendance is not
3328 available or cannot be verified, the department shall require the
3329 child to meet the monthly attendance requirement for one (1)
3330 semester or until the information is obtained. The department
3331 shall use the attendance information provided by a school district
3332 to verify attendance for a child. The department shall review
3333 with the parent or caretaker relative a child's claim that he or
3334 she has a good cause for not attending school.

3335 A school district shall provide information to the department
3336 about the attendance of a child who is enrolled in a public school
3337 in the district within five (5) working days of the receipt of a
3338 written request for such information from the department. The
3339 school district shall define how many hours of attendance count as
3340 a full day and shall provide that information, upon request, to
3341 the department. In reporting attendance, the school district may
3342 add partial days' absence together to constitute a full day's
3343 absence.

3344 (e) A child who is required to attend school to meet
3345 the requirements under this subsection shall comply except when
3346 there is good cause, which shall be demonstrated by any of the
3347 following circumstances:

3348 (i) The minor parent is the caretaker of a child
3349 less than twelve (12) weeks old; or

3350 (ii) The department determines that child care
3351 services are necessary for the minor parent to attend school and
3352 there is no child care available; or

3353 (iii) The child is prohibited by the school
3354 district from attending school and an expulsion is pending. This
3355 exemption no longer applies once the teenager has been expelled;
3356 however, a teenager who has been expelled and is making
3357 satisfactory progress towards obtaining a GED equivalent shall be
3358 eligible for TANF benefits; or

3359 (iv) The child failed to attend school for one or
3360 more of the following reasons:

- 3361 1. Illness, injury or incapacity of the child
3362 or the minor parent's child;
- 3363 2. Court-required appearances or temporary
3364 incarceration;
- 3365 3. Medical or dental appointments for the
3366 child or minor parent's child;
- 3367 4. Death of a close relative;
- 3368 5. Observance of a religious holiday;
- 3369 6. Family emergency;
- 3370 7. Breakdown in transportation;
- 3371 8. Suspension; or
- 3372 9. Any other circumstance beyond the control
3373 of the child, as defined in regulations of the department.

3374 (f) Upon determination that a child has failed without
3375 good cause to attend school as required, the department shall
3376 provide written notice to the parent or caretaker relative
3377 (whoever is the primary recipient of the TANF benefits) that
3378 specifies:

3379 (i) That the family will be sanctioned in the next
3380 possible payment month because the child who is required to attend

3381 school has failed to meet the attendance requirement of this
3382 subsection;

3383 (ii) The beginning date of the sanction, and the
3384 child to whom the sanction applies;

3385 (iii) The right of the child's parents or
3386 caretaker relative (whoever is the primary recipient of the TANF
3387 benefits) to request a fair hearing under this subsection.

3388 The child's parent or caretaker relative (whoever is the
3389 primary recipient of the TANF benefits) may request a fair hearing
3390 on the department's determination that the child has not been
3391 attending school. If the child's parents or caretaker relative
3392 does not request a fair hearing under this subsection, or if,
3393 after a fair hearing has been held, the hearing officer finds that
3394 the child without good cause has failed to meet the monthly
3395 attendance requirement, the department shall discontinue or deny
3396 TANF benefits to the child thirteen (13) years old, or older, in
3397 the next possible payment month. The department shall discontinue
3398 or deny twenty-five percent (25%) of the family grant when a child
3399 six (6) through twelve (12) years of age without good cause has
3400 failed to meet the monthly attendance requirement. Both the child
3401 and family sanction may apply when children in both age groups
3402 fail to meet the attendance requirement without good cause. A
3403 sanction applied under this subsection shall be effective for one
3404 (1) month for each month that the child failed to meet the monthly
3405 attendance requirement. In the case of a dropout, the sanction
3406 shall remain in force until the parent or caretaker relative
3407 provides written proof from the school district that the child has
3408 reenrolled and met the monthly attendance requirement for one (1)
3409 calendar month. Any month in which school is in session for at
3410 least ten (10) days during the month may be used to meet the
3411 attendance requirement under this subsection. This includes
3412 attendance at summer school. The sanction shall be removed the
3413 next possible payment month.

3414 (5) All parents or caretaker relatives shall have their
3415 dependent children receive vaccinations and booster vaccinations
3416 against those diseases specified by the State Health Officer
3417 pursuant to Section 41-23-37 in accordance with the vaccination
3418 and booster vaccination schedule prescribed by the State Health
3419 Officer for children of that age, in order for the parents or
3420 caretaker relatives to be eligible or remain eligible to receive
3421 TANF benefits. Proof of having received such vaccinations and
3422 booster vaccinations shall be given by presenting the certificates
3423 of vaccination issued by any health care provider licensed to
3424 administer vaccinations, and submitted on forms specified by the
3425 State Board of Health. If the parents without good cause do not
3426 have their dependent children receive the vaccinations and booster
3427 vaccinations as required by this subsection and they fail to
3428 comply after thirty (30) days' notice, the department shall
3429 sanction the family's TANF benefits by twenty-five percent (25%)
3430 for the next payment month and each subsequent payment month until
3431 the requirements of this subsection are met.

3432 (6) (a) If the parent or caretaker relative applying for
3433 TANF assistance is an employable person, as determined by the
3434 Department of Human Services, the person shall be required to
3435 engage in an allowable work activity once the department
3436 determines the parent or caretaker relative is ready to engage in
3437 work, or once the parent or caretaker relative has received TANF
3438 assistance under the program for twenty-four (24) months, whether
3439 or not consecutive, whichever is earlier. No TANF benefits shall
3440 be given to any person to whom this section applies who fails
3441 without good cause to comply with the Employability Development
3442 Plan prepared by the department for the person, or who has refused
3443 to accept a referral or offer of employment, training or education
3444 in which he or she is able to engage, subject to the penalties
3445 prescribed in subsection (6)(e). A person shall be deemed to have

3446 refused to accept a referral or offer of employment, training or
3447 education if he or she:

3448 (i) Willfully fails to report for an interview
3449 with respect to employment when requested to do so by the
3450 department; or

3451 (ii) Willfully fails to report to the department
3452 the result of a referral to employment; or

3453 (iii) Willfully fails to report for allowable work
3454 activities as prescribed in subsections (6)(c) and (d).

3455 (b) The Department of Human Services shall operate a
3456 statewide work program for TANF recipients to provide work
3457 activities and supportive services to enable families to become
3458 self-sufficient and improve their competitive position in the work
3459 force in accordance with the requirements of the federal Personal
3460 Responsibility and Work Opportunity Reconciliation Act of 1996
3461 (Public Law 104-193), as amended, and the regulations promulgated
3462 thereunder. All adults who are not specifically exempt shall be
3463 referred by the department for allowable work activities. An
3464 adult may be exempt from the mandatory work activity requirement
3465 for the following reasons:

3466 (i) Incapacity;

3467 (ii) Temporary illness or injury, verified by
3468 physician's certificate;

3469 (iii) Is in the third trimester of pregnancy,
3470 verified by physician's certificate;

3471 (iv) Caretaker of a child under twelve (12)
3472 months, for not more than twelve (12) months of the sixty-month
3473 maximum benefit period;

3474 (v) Caretaker of an ill or incapacitated person,
3475 as verified by physician's certificate;

3476 (vi) Age, if over sixty (60) or under eighteen
3477 (18) years of age;

3478 (vii) Receiving treatment for substance abuse, if
3479 the person is in compliance with the substance abuse treatment
3480 plan;

3481 (viii) In a two-parent family, the caretaker of a
3482 severely disabled child, as verified by a physician's certificate;
3483 or

3484 (ix) History of having been a victim of domestic
3485 violence, which has been reported as required by state law and is
3486 substantiated by police reports or court records, and being at
3487 risk of further domestic violence, shall be exempt for a period as
3488 deemed necessary by the department but not to exceed a total of
3489 twelve (12) months, which need not be consecutive, in the
3490 sixty-month maximum benefit period. For the purposes of this
3491 paragraph (ix), "domestic violence" means that an individual has
3492 been subjected to:

3493 1. Physical acts that resulted in, or
3494 threatened to result in, physical injury to the individual;

3495 2. Sexual abuse;

3496 3. Sexual activity involving a dependent
3497 child;

3498 4. Being forced as the caretaker relative of
3499 a dependent child to engage in nonconsensual sexual acts or
3500 activities;

3501 5. Threats of, or attempts at, physical or
3502 sexual abuse;

3503 6. Mental abuse; or

3504 7. Neglect or deprivation of medical care.

3505 (c) For all families, all adults who are not
3506 specifically exempt shall be required to participate in work
3507 activities for at least the minimum average number of hours per
3508 week specified by federal law or regulation, not fewer than twenty
3509 (20) hours per week (thirty-five (35) hours per week for

3510 two-parent families) of which are attributable to the following
3511 allowable work activities:

- 3512 (i) Unsubsidized employment;
- 3513 (ii) Subsidized private employment;
- 3514 (iii) Subsidized public employment;
- 3515 (iv) Work experience (including work associated
3516 with the refurbishing of publicly assisted housing), if sufficient
3517 private employment is not available;
- 3518 (v) On-the-job training;
- 3519 (vi) Job search and job readiness assistance
3520 consistent with federal TANF regulations;
- 3521 (vii) Community service programs;
- 3522 (viii) Vocational educational training (not to
3523 exceed twelve (12) months with respect to any individual);
- 3524 (ix) The provision of child care services to an
3525 individual who is participating in a community service program;
- 3526 (x) Satisfactory attendance at high school or in a
3527 course of study leading to a high school equivalency certificate,
3528 for heads of household under age twenty (20) who have not
3529 completed high school or received such certificate;
- 3530 (xi) Education directly related to employment, for
3531 heads of household under age twenty (20) who have not completed
3532 high school or received such equivalency certificate.

3533 (d) The following are allowable work activities which
3534 may be attributable to hours in excess of the minimum specified in
3535 subsection (6)(c):

- 3536 (i) Job skills training directly related to
3537 employment;
- 3538 (ii) Education directly related to employment for
3539 individuals who have not completed high school or received a high
3540 school equivalency certificate;
- 3541 (iii) Satisfactory attendance at high school or in
3542 a course of study leading to a high school equivalency, for

3543 individuals who have not completed high school or received such
3544 equivalency certificate;

3545 (iv) Job search and job readiness assistance
3546 consistent with federal TANF regulations.

3547 (e) If any adult or caretaker relative refuses to
3548 participate in allowable work activity as required under this
3549 subsection (6), the following full family TANF benefit penalty
3550 will apply, subject to due process to include notification,
3551 conciliation and a hearing if requested by the recipient:

3552 (i) For the first violation, the department shall
3553 terminate the TANF assistance otherwise payable to the family for
3554 a two-month period or until the person has complied with the
3555 required work activity, whichever is longer;

3556 (ii) For the second violation, the department
3557 shall terminate the TANF assistance otherwise payable to the
3558 family for a six-month period or until the person has complied
3559 with the required work activity, whichever is longer;

3560 (iii) For the third violation, the department
3561 shall terminate the TANF assistance otherwise payable to the
3562 family for a twelve-month period or until the person has complied
3563 with the required work activity, whichever is longer;

3564 (iv) For the fourth violation, the person shall be
3565 permanently disqualified.

3566 For a two-parent family, unless prohibited by state or
3567 federal law, Medicaid assistance shall be terminated only for the
3568 person whose failure to participate in allowable work activity
3569 caused the family's TANF assistance to be sanctioned under this
3570 subsection (6)(e), unless an individual is pregnant, but shall not
3571 be terminated for any other person in the family who is meeting
3572 that person's applicable work requirement or who is not required
3573 to work. Minor children shall continue to be eligible for
3574 Medicaid benefits regardless of the disqualification of their

3575 parent or caretaker relative for TANF assistance under this
3576 subsection (6), unless prohibited by state or federal law.

3577 (f) Any person enrolled in a two-year or four-year
3578 college program who meets the eligibility requirements to receive
3579 TANF benefits, and who is meeting the applicable work requirements
3580 and all other applicable requirements of the TANF program, shall
3581 continue to be eligible for TANF benefits while enrolled in the
3582 college program for as long as the person meets the requirements
3583 of the TANF program, unless prohibited by federal law.

3584 (g) No adult in a work activity required under this
3585 subsection (6) shall be employed or assigned (i) when any other
3586 individual is on layoff from the same or any substantially
3587 equivalent job within six (6) months before the date of the TANF
3588 recipient's employment or assignment; or (ii) if the employer has
3589 terminated the employment of any regular employee or otherwise
3590 caused an involuntary reduction of its work force in order to fill
3591 the vacancy so created with an adult receiving TANF assistance.
3592 The Mississippi Department of Employment Security, established
3593 under Section 71-5-101, shall appoint one or more impartial
3594 hearing officers to hear and decide claims by employees of
3595 violations of this paragraph (f). The hearing officer shall hear
3596 all the evidence with respect to any claim made hereunder and such
3597 additional evidence as he may require and shall make a
3598 determination and the reason therefor. The claimant shall be
3599 promptly notified of the decision of the hearing officer and the
3600 reason therefor. Within ten (10) days after the decision of the
3601 hearing officer has become final, any party aggrieved thereby may
3602 secure judicial review thereof by commencing an action, in the
3603 circuit court of the county in which the claimant resides, against
3604 the department for the review of such decision, in which action
3605 any other party to the proceeding before the hearing officer shall
3606 be made a defendant. Any such appeal shall be on the record which
3607 shall be certified to the court by the department in the manner

3608 provided in Section 71-5-531, and the jurisdiction of the court
3609 shall be confined to questions of law which shall render its
3610 decision as provided in that section.

3611 (7) The Department of Human Services may provide child care
3612 for eligible participants who require such care so that they may
3613 accept employment or remain employed. The department may also
3614 provide child care for those participating in the TANF program
3615 when it is determined that they are satisfactorily involved in
3616 education, training or other allowable work activities. The
3617 department may contract with Head Start agencies to provide child
3618 care services to TANF recipients. The department may also arrange
3619 for child care by use of contract or vouchers, provide vouchers in
3620 advance to a caretaker relative, reimburse a child care provider,
3621 or use any other arrangement deemed appropriate by the department,
3622 and may establish different reimbursement rates for child care
3623 services depending on the category of the facility or home. Any
3624 center-based or group home child care facility under this
3625 paragraph shall be licensed by the State Department of Health
3626 pursuant to law. When child care is being provided in the child's
3627 own home, in the home of a relative of the child, or in any other
3628 unlicensed setting, the provision of such child care may be
3629 monitored on a random basis by the Department of Human Services or
3630 the State Department of Health. Transitional child care
3631 assistance may be continued if it is necessary for parents to
3632 maintain employment once support has ended, unless prohibited
3633 under state or federal law. Transitional child care assistance
3634 may be provided for up to twenty-four (24) months after the last
3635 month during which the family was eligible for TANF assistance, if
3636 federal funds are available for such child care assistance.

3637 (8) The Department of Human Services may provide
3638 transportation or provide reasonable reimbursement for
3639 transportation expenses that are necessary for individuals to be

3640 able to participate in allowable work activity under the TANF
3641 program.

3642 (9) Medicaid assistance shall be provided to a family of
3643 TANF program participants for up to twenty-four (24) consecutive
3644 calendar months following the month in which the participating
3645 family would be ineligible for TANF benefits because of increased
3646 income, expiration of earned income disregards, or increased hours
3647 of employment of the caretaker relative; however, Medicaid
3648 assistance for more than twelve (12) months may be provided only
3649 if a federal waiver is obtained to provide such assistance for
3650 more than twelve (12) months and federal and state funds are
3651 available to provide such assistance.

3652 (10) The department shall require applicants for and
3653 recipients of public assistance from the department to sign a
3654 personal responsibility contract that will require the applicant
3655 or recipient to acknowledge his or her responsibilities to the
3656 state.

3657 (11) The department shall enter into an agreement with the
3658 State Personnel Board and other state agencies that will allow
3659 those TANF participants who qualify for vacant jobs within state
3660 agencies to be placed in state jobs. State agencies participating
3661 in the TANF work program shall receive any and all benefits
3662 received by employers in the private sector for hiring TANF
3663 recipients. This subsection (11) shall be effective only if the
3664 state obtains any necessary federal waiver or approval and if
3665 federal funds are available therefor.

3666 (12) No new TANF program requirement or restriction
3667 affecting a person's eligibility for TANF assistance, or allowable
3668 work activity, which is not mandated by federal law or regulation
3669 may be implemented by the Department of Human Services after the
3670 effective date of this act, unless such is specifically authorized
3671 by an amendment to this section by the Legislature.

3672 **SECTION 50.** Section 43-19-45, Mississippi Code of 1972, is
3673 amended as follows:

3674 43-19-45. (1) The Child Support Unit shall establish a
3675 state parent locator service for the purpose of locating absent
3676 and nonsupporting parents and alleged parents, which will utilize
3677 all appropriate public and private locator sources. In order to
3678 carry out the responsibilities imposed under Sections 43-19-31
3679 through 43-19-53, the Child Support Unit may secure by
3680 administrative subpoena from the customer records of public
3681 utilities and cable television companies the names and addresses
3682 of individuals and the names and addresses of employers of such
3683 individuals that would enable the location of parents or alleged
3684 parents who have a duty to provide support and maintenance for
3685 their children. The Child Support Unit may also administratively
3686 subpoena any and all financial information, including account
3687 numbers, names and social security numbers of record for assets,
3688 accounts, and account balances from any individual, financial
3689 institution, business or other entity, public or private, needed
3690 to establish, modify or enforce a support order. No entity
3691 complying with an administrative subpoena to supply the requested
3692 information of whatever nature shall be liable in any civil action
3693 or proceeding on account of such compliance. Full faith and
3694 credit shall be given to all uniform administrative subpoenas
3695 issued by other state child support units. The recipient of an
3696 administrative subpoena shall supply the Child Support Unit, other
3697 state and federal IV-D agencies, its attorneys, investigators,
3698 probation officers, county or district attorneys in this state,
3699 all information relative to the location, employment, employment
3700 related benefits including, but not limited to, availability of
3701 medical insurance, income and property of such parents and alleged
3702 parents and with all information on hand relative to the location
3703 and prosecution of any person who has, by means of a false
3704 statement or misrepresentation or by impersonation or other

3705 fraudulent device, obtained Temporary Assistance for Needy
3706 Families (TANF) to which he or she was not entitled,
3707 notwithstanding any provision of law making such information
3708 confidential. The Mississippi Department of Information
3709 Technology Services and any other agency in this state using the
3710 facilities of the Mississippi Department of Information Technology
3711 Services are directed to permit the Child Support Unit access to
3712 their files, inclusive of those maintained for other state
3713 agencies, for the purpose of locating absent and nonsupporting
3714 parents and alleged parents, except to the extent that any such
3715 access would violate any valid federal statute or regulation
3716 issued pursuant thereto. The Child Support Unit, other state and
3717 federal IV-D agencies, its attorneys, investigators, probation
3718 officers, or county or district attorneys, shall use such
3719 information only for the purpose of investigating or enforcing the
3720 support liability of such absent parents or alleged parents or for
3721 the prosecution of other persons mentioned herein. Neither the
3722 Child Support Unit nor those authorities shall use the
3723 information, or disclose it, for any other purpose. All records
3724 maintained pursuant to the provisions of Sections 43-19-31 through
3725 43-19-53 shall be confidential and shall be available only to the
3726 Child Support Unit, other state and federal IV-D agencies, the
3727 attorneys, investigators and other staff employed or under
3728 contract under Sections 43-19-31 through 43-19-53, district or
3729 county attorneys, probation departments, child support units in
3730 other states, and courts having jurisdiction in paternity, support
3731 or abandonment proceedings. The Child Support Unit may release to
3732 the public the name, photo, last known address, arrearage amount
3733 and other necessary information of a parent who has a judgment
3734 against him for child support and is currently in arrears in the
3735 payment of this support. Such release may be included in a "Most
3736 Wanted List" or other media in order to solicit assistance.

3737 (2) The Child Support Unit shall have the authority to
3738 secure information from the records of the Mississippi Department
3739 of Employment Security that may be necessary to locate absent and
3740 nonsupporting parents and alleged parents under the provisions of
3741 Sections 43-19-31 through 43-19-53. Upon request of the Child
3742 Support Unit, all departments, boards, bureaus and agencies of the
3743 state shall provide to the Child Support Unit verification of
3744 employment or payment and the address and social security number
3745 of any person designated as an absent or nonsupporting parent or
3746 alleged parent. In addition, upon request of the Child Support
3747 Unit, the Mississippi Department of Employment Security, or any
3748 private employer or payor of any income to a person designated as
3749 an absent or nonsupporting parent or alleged parent, shall provide
3750 to the Child Support Unit verification of employment or payment
3751 and the address and social security number of the person so
3752 designated. Full faith and credit shall be given to such notices
3753 issued by child support units in other states. All such records
3754 and information shall be confidential and shall not be used for
3755 any purposes other than those specified by Sections 43-19-31
3756 through 43-19-53. The violation of the provisions of this
3757 subsection shall be unlawful and any person convicted of violating
3758 the provisions of this subsection shall be guilty of a misdemeanor
3759 and shall pay a fine of not more than Two Hundred Dollars
3760 (\$200.00).

3761 (3) Federal and state IV-D agencies shall have access to the
3762 state parent locator service and any system used by the Child
3763 Support Unit to locate an individual for purposes relating to
3764 motor vehicles or law enforcement. No employer or other source of
3765 income who complies with this section shall be liable in any civil
3766 action or proceeding brought by the obligor or obligee on account
3767 of such compliance.

3768 **SECTION 51.** Section 43-19-46, Mississippi Code of 1972, is
3769 amended as follows:

3770 43-19-46. (1) Each employer, as defined in Section
3771 93-11-101, doing business in Mississippi shall report to the
3772 Directory of New Hires within the Mississippi Department of Human
3773 Services:

3774 (a) The hiring of any person who resides or works in
3775 this state to whom the employer anticipates paying wages; and

3776 (b) The hiring or return to work of any employee who
3777 was laid off, furloughed, separated, granted leave without pay or
3778 was terminated from employment.

3779 (2) Employers shall report, by mailing or by other means
3780 authorized by the Department of Human Services, a copy of the
3781 employee's W-4 form or its equivalent which will result in timely
3782 reporting. Each employer shall submit reports within fifteen (15)
3783 days of the hiring, rehiring or return to work of the employee.
3784 The report shall contain:

3785 (a) The employee's name, address, social security
3786 number and the date of birth;

3787 (b) The employer's name, address, and federal and state
3788 withholding tax identification numbers; and

3789 (c) The date upon which the employee began or resumed
3790 employment, or is scheduled to begin or otherwise resume
3791 employment.

3792 (3) The department shall retain the information, which shall
3793 be forwarded to the federal registry of new hires.

3794 (4) The Department of Human Services may operate the
3795 program, may enter into a mutual agreement with the Mississippi
3796 Department of Employment Security or the State Tax Commission, or
3797 both, for the operation of the Directory of New Hires Program, or
3798 the Department of Human Services may contract for such service, in
3799 which case the department shall maintain administrative control of
3800 the program.

3801 (5) In cases in which an employer fails to report
3802 information, as required by this section, an administratively

3803 levied civil penalty in an amount not to exceed Five Hundred
3804 Dollars (\$500.00) shall apply if the failure is the result of a
3805 conspiracy between the employer and employee to not supply the
3806 required report or to supply a false or incomplete report. The
3807 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).
3808 Appeal shall be as provided in Section 43-19-58.

3809 **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is
3810 amended as follows:

3811 57-62-5. As used in this chapter, the following words and
3812 phrases shall have the meanings ascribed in this section unless
3813 the context clearly indicates otherwise:

3814 (a) "Qualified business or industry" means any
3815 corporation, limited liability company, partnership, sole
3816 proprietorship, business trust or other legal entity and subunits
3817 or affiliates thereof, pursuant to rules and regulations of the
3818 MDA, which provides an average annual salary, excluding benefits
3819 which are not subject to Mississippi income taxes, of at least one
3820 hundred twenty-five percent (125%) of the most recently published
3821 state average annual wage or the most recently published average
3822 annual wage of the county in which the qualified business or
3823 industry is located as determined by the Mississippi Department of
3824 Employment Security, whichever is the lesser. An establishment
3825 shall not be considered to be a qualified business or industry
3826 unless it offers, or will offer within one hundred eighty (180)
3827 days of the date it receives the first incentive payment pursuant
3828 to the provisions of this chapter, a basic health benefits plan to
3829 the individuals it employs in new direct jobs in this state which
3830 is approved by the MDA. Qualified business or industry does not
3831 include retail business or gaming business;

3832 (b) "New direct job" means full-time employment in this
3833 state in a qualified business or industry that has qualified to
3834 receive an incentive payment pursuant to this chapter, which
3835 employment did not exist in this state before the date of approval

3836 by the MDA of the application of the qualified business or
3837 industry pursuant to the provisions of this chapter. "New direct
3838 job" shall include full-time employment in this state of employees
3839 who are employed by an entity other than the establishment that
3840 has qualified to receive an incentive payment and who are leased
3841 to the qualified business or industry, if such employment did not
3842 exist in this state before the date of approval by the MDA of the
3843 application of the establishment;

3844 (c) "Full-time job" means a job of at least thirty-five
3845 (35) hours per week;

3846 (d) "Estimated direct state benefits" means the tax
3847 revenues projected by the MDA to accrue to the state as a result
3848 of the qualified business or industry;

3849 (e) "Estimated direct state costs" means the costs
3850 projected by the MDA to accrue to the state as a result of the
3851 qualified business or industry;

3852 (f) "Estimated net direct state benefits" means the
3853 estimated direct state benefits less the estimated direct state
3854 costs;

3855 (g) "Net benefit rate" means the estimated net direct
3856 state benefits computed as a percentage of gross payroll, provided
3857 that:

3858 (i) Except as otherwise provided in this paragraph
3859 (g), the net benefit rate may be variable and shall not exceed
3860 four percent (4%) of the gross payroll; and shall be set in the
3861 sole discretion of the MDA;

3862 (ii) In no event shall incentive payments,
3863 cumulatively, exceed the estimated net direct state benefits;

3864 (h) "Gross payroll" means wages for new direct jobs of
3865 the qualified business or industry; and

3866 (i) "MDA" means the Mississippi Development Authority.

3867 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is
3868 amended as follows:

3869 57-62-9. (1) Except as otherwise provided in this section,
3870 a qualified business or industry that meets the qualifications
3871 specified in the Mississippi Advantage Jobs Act may receive
3872 quarterly incentive payments for a period not to exceed ten (10)
3873 years from the State Tax Commission pursuant to the provisions of
3874 the Mississippi Advantage Jobs Act in an amount which shall be
3875 equal to the net benefit rate multiplied by the actual gross
3876 payroll of new direct jobs for a calendar quarter as verified by
3877 the Mississippi Department of Employment Security, but not to
3878 exceed the amount of money previously paid into the fund by the
3879 employer. A qualified business or industry that is a project as
3880 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
3881 the ten-year period will begin. Such date may not be later than
3882 sixty (60) months after the date the business or industry applied
3883 for incentive payments.

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

3889 (i) The qualified business or industry creates at
3890 least three thousand (3,000) new direct jobs within five (5) years
3891 after the date the business or industry commences commercial
3892 production;

3893 (ii) Within five (5) years after the date the
3894 business or industry commences commercial production, the average
3895 annual wage of the jobs is at least one hundred fifty percent
3896 (150%) of the most recently published state average annual wage or
3897 the most recently published average annual wage of the county in
3898 which the qualified business or industry is located as determined
3899 by the Mississippi Department of Employment Security, whichever is
3900 the lesser. The criteria for the average annual wage requirement
3901 shall be based upon the state average annual wage or the average

3902 annual wage of the county whichever is appropriate, at the time of
3903 creation of the minimum number of jobs, and the threshold
3904 established at that time will remain constant for the duration of
3905 the additional period; and

3906 (iii) The qualified business or industry meets and
3907 maintains the job and wage requirements of subparagraphs (i) and
3908 (ii) of this paragraph (a) for four (4) consecutive calendar
3909 quarters.

3910 (b) A qualified business or industry that is a project
3911 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
3912 incentive payments for the additional period provided in paragraph
3913 (a) of this subsection (2) may apply to the MDA to receive
3914 incentive payments for an additional period not to exceed ten (10)
3915 years beyond the expiration date of the additional period provided
3916 in paragraph (a) of this subsection (2) if:

3917 (i) The qualified business or industry creates at
3918 least four thousand (4,000) new direct jobs after qualifying for
3919 the additional incentive period provided in paragraph (a) of this
3920 subsection (2) but before the expiration of the additional period.
3921 For purposes of determining whether the business or industry meets
3922 the minimum jobs requirement of this subparagraph (i), the number
3923 of jobs the business or industry created in order to meet the
3924 minimum jobs requirement of paragraph (a) of this subsection (2)
3925 shall be subtracted from the minimum jobs requirement of this
3926 subparagraph (i);

3927 (ii) The average annual wage of the jobs is at
3928 least one hundred fifty percent (150%) of the most recently
3929 published state average annual wage or the most recently published
3930 average annual wage of the county in which the qualified business
3931 or industry is located as determined by the Mississippi Department
3932 of Employment Security, whichever is the lesser. The criteria for
3933 the average annual wage requirement shall be based upon the state
3934 average annual wage or the average annual wage of the county

3935 whichever is appropriate, at the time of creation of the minimum
3936 number of jobs, and the threshold established at that time will
3937 remain constant for the duration of the additional period; and

3938 (iii) The qualified business or industry meets and
3939 maintains the job and wage requirements of subparagraphs (i) and
3940 (ii) of this paragraph (b) for four (4) consecutive calendar
3941 quarters.

3942 (3) In order to receive incentive payments, an establishment
3943 shall apply to the MDA. The application shall be on a form
3944 prescribed by the MDA and shall contain such information as may be
3945 required by the MDA to determine if the applicant is qualified.

3946 (4) In order to qualify to receive such payments, the
3947 establishment applying shall be required to:

3948 (a) Be engaged in a qualified business or industry;

3949 (b) Provide an average salary, excluding benefits which
3950 are not subject to Mississippi income taxes, of at least one
3951 hundred twenty-five percent (125%) of the most recently published
3952 state average annual wage or the most recently published average
3953 annual wage of the county in which the qualified business or
3954 industry is located as determined by the Mississippi Department of
3955 Employment Security, whichever is the lesser. The criteria for
3956 this requirement shall be based upon the state average annual wage
3957 or the average annual wage of the county whichever is appropriate,
3958 at the time of application, and the threshold established upon
3959 application will remain constant for the duration of the project;

3960 (c) The business or industry must create and maintain a
3961 minimum of ten (10) full-time jobs in counties that have an
3962 average unemployment rate over the previous twelve-month period
3963 which is at least one hundred fifty percent (150%) of the most
3964 recently published state unemployment rate, as determined by the
3965 Mississippi Department of Employment Security or in Tier Three
3966 counties as determined under Section 57-73-21. In all other
3967 counties, the business or industry must create and maintain a

3968 minimum of twenty-five (25) full-time jobs. The criteria for this
3969 requirement shall be based on the designation of the county at the
3970 time of the application. The threshold established upon the
3971 application will remain constant for the duration of the project.
3972 The business or industry must meet its job creation commitment
3973 within twenty-four (24) months of the application approval.
3974 However, if the qualified business or industry is applying for
3975 incentive payments for an additional period under subsection (2)
3976 of this section, the business or industry must comply with the
3977 applicable job and wage requirements of subsection (2) of this
3978 section.

3979 (5) The MDA shall determine if the applicant is qualified to
3980 receive incentive payments. If the applicant is determined to be
3981 qualified by the MDA, the MDA shall conduct a cost/benefit
3982 analysis to determine the estimated net direct state benefits and
3983 the net benefit rate applicable for a period not to exceed ten
3984 (10) years and to estimate the amount of gross payroll for the
3985 period. If the applicant is determined to be qualified to receive
3986 incentive payments for an additional period under subsection (2)
3987 of this section, the MDA shall conduct a cost/benefit analysis to
3988 determine the estimated net direct state benefits and the net
3989 benefit rate applicable for the appropriate additional period and
3990 to estimate the amount of gross payroll for the additional period.
3991 In conducting such cost/benefit analysis, the MDA shall consider
3992 quantitative factors, such as the anticipated level of new tax
3993 revenues to the state along with the cost to the state of the
3994 qualified business or industry, and such other criteria as deemed
3995 appropriate by the MDA, including the adequacy of retirement
3996 benefits that the business or industry provides to individuals it
3997 employs in new direct jobs in this state. In no event shall
3998 incentive payments, cumulatively, exceed the estimated net direct
3999 state benefits. Once the qualified business or industry is
4000 approved by the MDA, an agreement shall be deemed to exist between

4001 the qualified business or industry and the State of Mississippi,
4002 requiring the continued incentive payment to be made as long as
4003 the qualified business or industry retains its eligibility.

4004 (6) Upon approval of such an application, the MDA shall
4005 notify the State Tax Commission and shall provide it with a copy
4006 of the approved application and the estimated net direct state
4007 benefits. The State Tax Commission may require the qualified
4008 business or industry to submit such additional information as may
4009 be necessary to administer the provisions of this chapter. The
4010 qualified business or industry shall report to the State Tax
4011 Commission periodically to show its continued eligibility for
4012 incentive payments. The qualified business or industry may be
4013 audited by the State Tax Commission to verify such eligibility.

4014 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is
4015 amended as follows:

4016 57-75-5. Words and phrases used in this chapter shall have
4017 meanings as follows, unless the context clearly indicates a
4018 different meaning:

4019 (a) "Act" means the Mississippi Major Economic Impact
4020 Act as originally enacted or as hereafter amended.

4021 (b) "Authority" means the Mississippi Major Economic
4022 Impact Authority created pursuant to the act.

4023 (c) "Bonds" means general obligation bonds, interim
4024 notes and other evidences of debt of the State of Mississippi
4025 issued pursuant to this chapter.

4026 (d) "Facility related to the project" means and
4027 includes any of the following, as the same may pertain to the
4028 project within the project area: (i) facilities to provide
4029 potable and industrial water supply systems, sewage and waste
4030 disposal systems and water, natural gas and electric transmission
4031 systems to the site of the project; (ii) airports, airfields and
4032 air terminals; (iii) rail lines; (iv) port facilities; (v)
4033 highways, streets and other roadways; (vi) public school

4034 buildings, classrooms and instructional facilities, training
4035 facilities and equipment, including any functionally related
4036 facilities; (vii) parks, outdoor recreation facilities and
4037 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
4038 art centers, cultural centers, folklore centers and other public
4039 facilities; (ix) health care facilities, public or private; and
4040 (x) fire protection facilities, equipment and elevated water
4041 tanks.

4042 (e) "Person" means any natural person, corporation,
4043 association, partnership, receiver, trustee, guardian, executor,
4044 administrator, fiduciary, governmental unit, public agency,
4045 political subdivision, or any other group acting as a unit, and
4046 the plural as well as the singular.

4047 (f) "Project" means:

4048 (i) Any industrial, commercial, research and
4049 development, warehousing, distribution, transportation,
4050 processing, mining, United States government or tourism enterprise
4051 together with all real property required for construction,
4052 maintenance and operation of the enterprise with an initial
4053 capital investment of not less than Three Hundred Million Dollars
4054 (\$300,000,000.00) from private or United States government sources
4055 together with all buildings, and other supporting land and
4056 facilities, structures or improvements of whatever kind required
4057 or useful for construction, maintenance and operation of the
4058 enterprise; or with an initial capital investment of not less than
4059 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
4060 or United States government sources together with all buildings
4061 and other supporting land and facilities, structures or
4062 improvements of whatever kind required or useful for construction,
4063 maintenance and operation of the enterprise and which creates at
4064 least one thousand (1,000) net new full-time jobs; or which
4065 creates at least one thousand (1,000) net new full-time jobs which
4066 provides an average salary, excluding benefits which are not

4067 subject to Mississippi income taxation, of at least one hundred
4068 twenty-five percent (125%) of the most recently published average
4069 annual wage of the state as determined by the Mississippi
4070 Employment Security Commission. "Project" shall include any
4071 addition to or expansion of an existing enterprise if such
4072 addition or expansion has an initial capital investment of not
4073 less than Three Hundred Million Dollars (\$300,000,000.00) from
4074 private or United States government sources, or has an initial
4075 capital investment of not less than One Hundred Fifty Million
4076 Dollars (\$150,000,000.00) from private or United States government
4077 sources together with all buildings and other supporting land and
4078 facilities, structures or improvements of whatever kind required
4079 or useful for construction, maintenance and operation of the
4080 enterprise and which creates at least one thousand (1,000) net new
4081 full-time jobs; or which creates at least one thousand (1,000) net
4082 new full-time jobs which provides an average salary, excluding
4083 benefits which are not subject to Mississippi income taxation, of
4084 at least one hundred twenty-five percent (125%) of the most
4085 recently published average annual wage of the state as determined
4086 by the Mississippi Department of Employment Security. "Project"
4087 shall also include any ancillary development or business resulting
4088 from the enterprise, of which the authority is notified, within
4089 three (3) years from the date that the enterprise entered into
4090 commercial production, that the project area has been selected as
4091 the site for the ancillary development or business.

4092 (ii) Any major capital project designed to
4093 improve, expand or otherwise enhance any active duty United States
4094 Air Force or Navy training bases or naval stations, their support
4095 areas or their military operations, upon designation by the
4096 authority that any such base was or is at risk to be recommended
4097 for closure or realignment pursuant to the Defense Base Closure
4098 and Realignment Act of 1990; or any major development project
4099 determined by the authority to be necessary to acquire base

4100 properties and to provide employment opportunities through
4101 construction of projects as defined in Section 57-3-5, which shall
4102 be located on or provide direct support service or access to such
4103 military installation property as such property exists on July 1,
4104 1993, in the event of closure or reduction of military operations
4105 at the installation. From and after July 1, 1997, projects
4106 described in this subparagraph (ii) shall not be considered to be
4107 within the meaning of the term "project" for purposes of this
4108 section, unless such projects are commenced before July 1, 1997,
4109 and shall not be eligible for any funding provided under the
4110 Mississippi Major Economic Impact Act.

4111 (iii) Any enterprise to be maintained, improved or
4112 constructed in Tishomingo County by or for a National Aeronautics
4113 and Space Administration facility in such county.

4114 (iv) 1. Any major capital project with an initial
4115 capital investment from private sources of not less than Seven
4116 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
4117 at least three thousand (3,000) jobs meeting criteria established
4118 by the Mississippi Development Authority.

4119 2. "Project" shall also include any ancillary
4120 development or business resulting from an enterprise operating a
4121 project as defined in item 1 of this paragraph (f)(iv), of which
4122 the authority is notified, within three (3) years from the date
4123 that the enterprise entered into commercial production, that the
4124 state has been selected as the site for the ancillary development
4125 or business.

4126 (v) Any manufacturing, processing or industrial
4127 project determined by the authority, in its sole discretion, to
4128 contribute uniquely and significantly to the economic growth and
4129 development of the state, and which meets the following criteria:

4130 1. The project shall create at least two
4131 thousand (2,000) net new full-time jobs meeting criteria
4132 established by the authority, which criteria shall include, but

4133 not be limited to, the requirement that such jobs must be held by
4134 persons eligible for employment in the United States under
4135 applicable state and federal law.

4136 2. The project and any facility related to
4137 the project shall include a total investment from private sources
4138 of not less than Sixty Million Dollars (\$60,000,000.00), or from
4139 any combination of sources of not less than Eighty Million Dollars
4140 (\$80,000,000.00).

4141 (vi) Any real property owned or controlled by the
4142 National Aeronautics and Space Administration, the United States
4143 government, or any agency thereof, which is legally conveyed to
4144 the State of Mississippi or to the State of Mississippi for the
4145 benefit of the Mississippi Major Economic Impact Authority, its
4146 successors and assigns pursuant to Section 212 of Public Law
4147 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4148 (vii) Any major capital project related to the
4149 establishment, improvement, expansion and/or other enhancement of
4150 any active duty military installation and having a minimum capital
4151 investment from any source or combination of sources other than
4152 the State of Mississippi of at least Forty Million Dollars
4153 (\$40,000,000.00), and which will create at least four hundred
4154 (400) military installation related full-time jobs, which jobs may
4155 be military jobs, civilian jobs or a combination of military and
4156 civilian jobs. The authority shall require that binding
4157 commitments be entered into requiring that the minimum
4158 requirements for the project provided for in this subparagraph
4159 shall be met not later than July 1, 2008.

4160 (viii) Any major capital project with an initial
4161 capital investment from any source or combination of sources of
4162 not less than Ten Million Dollars (\$10,000,000.00) which will
4163 create at least eighty (80) full-time jobs which provide an
4164 average annual salary, excluding benefits which are not subject to
4165 Mississippi income taxes, of at least one hundred thirty-five

4166 percent (135%) of the most recently published average annual wage
4167 of the state or the most recently published average annual wage of
4168 the county in which the project is located as determined by the
4169 Mississippi Employment Security Commission, whichever is the
4170 lesser. The authority shall require that binding commitments be
4171 entered into requiring that:

4172 1. The minimum requirements for the project
4173 provided for in this subparagraph shall be met, and

4174 2. That if such commitments are not met, all
4175 or a portion of the funds provided by the state for the project as
4176 determined by the authority shall be repaid.

4177 (ix) Any regional retail shopping mall with an
4178 initial capital investment from private sources in excess of One
4179 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
4180 footage in excess of eight hundred thousand (800,000) square feet,
4181 which will create at least seven hundred (700) full-time jobs with
4182 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
4183 authority shall require that binding commitments be entered into
4184 requiring that:

4185 1. The minimum requirements for the project
4186 provided for in this subparagraph shall be met, and

4187 2. That if such commitments are not met, all
4188 or a portion of the funds provided by the state for the project as
4189 determined by the authority shall be repaid.

4190 (x) Any major capital project with an initial
4191 capital investment from any source or combination of sources of
4192 not less than Seventy-five Million Dollars (\$75,000,000.00) which
4193 will create at least one hundred twenty-five (125) full-time jobs
4194 which provide an average annual salary, excluding benefits which
4195 are not subject to Mississippi income taxes, of at least one
4196 hundred thirty-five percent (135%) of the most recently published
4197 average annual wage of the state or the most recently published
4198 average annual wage of the county in which the project is located

4199 as determined by the Mississippi Department of Employment
4200 Security, whichever is the greater. The authority shall require
4201 that binding commitments be entered into requiring that:

4202 1. The minimum requirements for the project
4203 provided for in this subparagraph shall be met; and

4204 2. That if such commitments are not met, all
4205 or a portion of the funds provided by the state for the project as
4206 determined by the authority shall be repaid.

4207 (xi) Any potential major capital project that the
4208 authority has determined is feasible to recruit.

4209 (g) "Project area" means the project site, together
4210 with any area or territory within the state lying within
4211 sixty-five (65) miles of any portion of the project site whether
4212 or not such area or territory be contiguous; * * * however, * * *
4213 for the project defined in paragraph (f)(iv) of this section the
4214 term "project area" means any area or territory within the state.
4215 The project area shall also include all territory within a county
4216 if any portion of such county lies within sixty-five (65) miles of
4217 any portion of the project site. "Project site" means the real
4218 property on which the principal facilities of the enterprise will
4219 operate.

4220 (h) "Public agency" means:

4221 (i) Any department, board, commission, institution
4222 or other agency or instrumentality of the state;

4223 (ii) Any city, town, county, political
4224 subdivision, school district or other district created or existing
4225 under the laws of the state or any public agency of any such city,
4226 town, county, political subdivision or district or any other
4227 public entity created or existing under local and private
4228 legislation;

4229 (iii) Any department, commission, agency or
4230 instrumentality of the United States of America; and

4231 (iv) Any other state of the United States of
4232 America which may be cooperating with respect to location of the
4233 project within the state, or any agency thereof.

4234 (i) "State" means State of Mississippi.

4235 (j) "Fee-in-lieu" means a negotiated fee to be paid by
4236 the project in lieu of any franchise taxes imposed on the project
4237 by Chapter 13, Title 27, Mississippi Code of 1972. The
4238 fee-in-lieu shall not be less than Twenty-five Thousand Dollars
4239 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an
4240 enterprise operating an existing project defined in Section
4241 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated
4242 for other existing enterprises that fall within the definition of
4243 the term "project."

4244 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is
4245 amended as follows:

4246 57-80-7. (1) From and after December 31, 2000, and until
4247 December 31, 2005, the following counties may apply to the MDA for
4248 the issuance of a certificate of public convenience and necessity:

4249 (a) Any county of this state which has an annualized
4250 unemployment rate that is at least two hundred percent (200%) of
4251 the state's unemployment rate as of December 31 of any year from
4252 2000 through 2005, as determined by the Mississippi Department of
4253 Employment Security's most recently published data;

4254 (b) Any county of this state in which thirty percent
4255 (30%) or more of the population of the county is at or below the
4256 federal poverty level according to the official data compiled by
4257 the United States Census Bureau as of August 30, 2000, for
4258 counties that apply before December 31, 2002, or the most recent
4259 official data compiled by the United States Census Bureau for
4260 counties that apply from and after December 31, 2002; or

4261 (c) Any county of this state having an eligible
4262 supervisors district.

4263 (2) The application, at a minimum, must contain (a) the
4264 Mississippi Department of Employment Security's most recently
4265 published figures that reflect the annualized unemployment rate of
4266 the applying county as of December 31 or the most recent official
4267 data by the United States Census Bureau required by subsection (1)
4268 of this section, as the case may be, and (b) an order or
4269 resolution of the county consenting to the designation of the
4270 county as a growth and prosperity county.

4271 (3) Any municipality of a designated growth and prosperity
4272 county or within an eligible supervisors district and not more
4273 than eight (8) miles from the boundary of the county that meets
4274 the criteria of subsection (1)(b) of this section may by order or
4275 resolution of the municipality consent to participation in the
4276 Growth and Prosperity Program.

4277 (4) No incentive or tax exemption shall be given under this
4278 chapter without the consent of the affected county or
4279 municipality.

4280 **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is
4281 amended as follows:

4282 69-2-5. (1) The Mississippi Cooperative Extension Service
4283 shall act as a clearinghouse for the dissemination of information
4284 regarding programs and services which may be available to help
4285 those persons and businesses which have been adversely affected by
4286 the present emergency in the agricultural community. The
4287 Cooperative Extension Service shall develop a plan of assistance
4288 which shall identify all programs and services available within
4289 the state which can be of assistance to those affected by the
4290 present emergency. The Department of Agriculture and Commerce,
4291 the Department of Finance and Administration, Department of Human
4292 Services, Department of Mental Health, State Department of Health,
4293 Board of Trustees of State Institutions of Higher Learning, State
4294 Board for Community and Junior Colleges, Research and Development
4295 Center, Mississippi Development Authority, Department of

4296 Employment Security, Office of the Governor, Board of Vocational
4297 and Technical Education, Mississippi Authority for Educational
4298 Television, and other agencies of the state which have programs
4299 and services that can be of assistance to those affected by the
4300 present emergency, shall provide information regarding their
4301 programs and services to the Cooperative Extension Service for use
4302 in the clearinghouse. The types of programs and services shall
4303 include, but not be limited to, financial counseling, farm and
4304 small business management, employment services, labor market
4305 information, job re-training, vocational and technical training,
4306 food stamp programs, personal counseling, health services, and
4307 free or low cost legal services. The clearinghouse shall provide
4308 a single contact point to provide program information and referral
4309 services to individuals interested or needing services from state
4310 funded assistance programs affecting agriculture, horticulture,
4311 aquaculture and other agribusinesses or related industries. Such
4312 assistance information shall identify all monies available under
4313 the Small Business Financing Act, the Business Investment Act, the
4314 Emerging Crop Fund legislation and any other sources which may be
4315 used singularly or combined, to provide a comprehensive financing
4316 package. The provisions of this section in establishing a single
4317 contact point for information and referral services shall not be
4318 construed to authorize the hiring of additional personnel.

4319 (2) The Cooperative Extension Service may accept monetary or
4320 in-kind contributions, gifts and grants for the establishment or
4321 operation of the clearinghouse.

4322 (3) The Cooperative Extension Service shall establish a
4323 method for the dissemination of information to those who can be
4324 benefited by the existing programs and services of the state.

4325 (4) The Cooperative Extension Service shall file an annual
4326 report with the Governor, Lieutenant Governor and Speaker of the
4327 House of Representatives regarding the efforts which have been
4328 made in the clearinghouse operation. The report shall also

4329 recommend any additional measures, including legislation, which
4330 may be needed or desired in providing programs and benefits to
4331 those affected by the agricultural emergency.

4332 **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is
4333 amended as follows:

4334 7-1-355. (1) The Mississippi Development Authority,
4335 is * * * designated as the sole administrator of all programs for
4336 which the state is the prime sponsor under Title 1(B) of Public
4337 Law 105-220, Workforce Investment Act of 1998, and the regulations
4338 promulgated thereunder, and may take all necessary action to
4339 secure to this state the benefits of that legislation. The
4340 Mississippi Development Authority may receive and disburse funds
4341 for those programs that become available to it from any source.

4342 (2) The Mississippi Development Authority shall establish
4343 guidelines on the amount and/or percentage of indirect and/or
4344 administrative expenses by the local fiscal agent or the Workforce
4345 Development Center operator. The Mississippi Development
4346 Authority shall develop an accountability system and make an
4347 annual report to the Legislature before December 31 of each year
4348 on Workforce Investment Act activities. The report shall include,
4349 but is not limited to, the following:

4350 (a) The total number of individuals served through the
4351 Workforce Development Centers and the percentage and number of
4352 individuals for which a quarterly follow up is provided;

4353 (b) The number of individuals who receive core services
4354 by center;

4355 (c) The number of individuals who receive intensive
4356 services by each center;

4357 (d) The number of Workforce Investment Act vouchers
4358 issued by the Workforce Development Centers including:

4359 (i) A list of schools and colleges to which these
4360 vouchers were issued and the average cost per school of the
4361 vouchers; and

4362 (ii) A list of the types of programs for which
4363 these vouchers were issued;

4364 (e) The number of individuals placed in a job through
4365 Workforce Development Centers;

4366 (f) The monies and the amount retained for
4367 administrative and other costs received from Workforce Investment
4368 Act funds for each agency or organization that Workforce
4369 Investment Act funds flow through as a percentage and actual
4370 dollar amount of all Workforce Investment Act funds received.

4371 **SECTION 58.** Sections 37-151-69, 37-151-71 and 37-151-73,
4372 Mississippi Code of 1972, which authorize a Mississippi Workforce
4373 Development Council, local district councils and workforce
4374 development centers, are repealed.

4375 **SECTION 59.** Sections 71-5-103 and 71-5-105, Mississippi Code
4376 of 1972, which provide for the organization and compensation of
4377 members of the Mississippi Employment Security Commission, are
4378 repealed.

4379 **SECTION 60.** This act shall stand repealed on July 1, 2008.

4380 **SECTION 61.** Sections 1 through 4 of this act shall take
4381 effect and be in force from and after the passage of this act,
4382 this act shall take effect and be in force from and after July 1,
4383 2004.