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To: Finance

COMMITTEE SUBSTITUTE
 FOR
 SENATE BILL NO. 2539

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 SUCH PROGRAMS PURSUANT TO
 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 THERETO; TO AMEND
 28 SECTION 7-1-355, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
 29 MISSISSIPPI DEVELOPMENT AUTHORITY TO MAKE AN ANNUAL REPORT TO THE
 30 LEGISLATURE ON WORKFORCE INVESTMENT ACTIVITIES; TO REPEAL SECTIONS
 31 37-151-69, 37-151-71 AND 37-151-73, MISSISSIPPI CODE OF 1972,
 32 WHICH AUTHORIZE A MISSISSIPPI WORKFORCE DEVELOPMENT COUNCIL, LOCAL
 33 DISTRICT COUNCILS AND WORKFORCE DEVELOPMENT CENTERS; TO REPEAL
 34 SECTIONS 71-5-103 AND 71-5-105, MISSISSIPPI CODE OF 1972, WHICH
 35 PROVIDE FOR THE ORGANIZATION AND COMPENSATION OF MEMBERS OF THE
 36 MISSISSIPPI EMPLOYMENT SECURITY COMMISSION; TO AMEND SECTION
 37 57-73-25, MISSISSIPPI CODE OF 1972, TO INCREASE AND REDEFINE THE
 38 TAX CREDIT FOR EMPLOYERS PROVIDING CERTAIN SKILLS TRAINING; TO
 39 REMOVE THE JULY 1, 2004, REPEAL DATE ON THIS TAX CREDIT; AND FOR
 40 RELATED PURPOSES.

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

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

44 37-153-1. This chapter shall be known and may be cited as
 45 the "Mississippi Comprehensive Workforce Training and Education
 46 Consolidation Act of 2004."

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

49 37-153-3. It is the intent of the Legislature by the passage
50 of this act to establish one (1) comprehensive workforce training
51 system in the State of Mississippi that is focused on achieving
52 results, using resources efficiently and ensuring that workers and
53 employers can easily access needed training services. This system
54 shall reflect a consolidation of the Mississippi Workforce
55 Development Advisory Council and the Workforce Investment Act
56 Board. The purpose of this act is to provide workforce training
57 activities, through a statewide system which maximizes cooperation
58 among state agencies, that increase the employment, retention and
59 earnings of participants, and increase occupational skill
60 attainment by participants and as a result, improve the quality of
61 the workforce, reduce welfare dependency and enhance the
62 productivity and competitiveness of the State of Mississippi.

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

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

68 (a) "State board" means the Mississippi Workforce
69 Investment Board; and

70 (b) "District councils" means the Local Workforce
71 Development Councils.

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

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

79 (a) The Governor shall appoint the following members to
80 serve concurrent with the Governor's term:

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

83 (ii) One (1) elected county supervisor, who shall
84 serve in a nonvoting capacity;

85 (iii) The Executive Director of the Mississippi
86 Municipal League, or his designee;

87 (iv) One (1) elected mayor or member of the
88 legislative body of a municipality, who shall serve in a nonvoting
89 capacity;

90 (v) One (1) representative of a labor
91 organization, who shall have been nominated by the organization;

92 (vi) One (1) representative of a youth activities
93 organization, who shall have been nominated by the organization;

94 (vii) One (1) representative from each of the four
95 (4) workforce areas in the state, who shall have been nominated by
96 the community colleges in each respective area, with the consent
97 of the local elected supervisors within the respective workforce
98 area;

99 (viii) The Executive Director of the Mississippi
100 Development Authority;

101 (ix) Seventeen (17) representatives of business
102 owners nominated by business and industry organizations, which may
103 include representatives of the various planning and development
104 districts in Mississippi;

105 (x) The State Superintendent of Education;

106 (xi) The Executive Director of the State
107 Department of Rehabilitation Services;

108 (xii) A representative of the state planning and
109 development districts appointed by the Governor;

110 (xiii) The Executive Director of the State Board
111 for Community and Junior Colleges;

112 (xiv) The Director of the Department of Employment
113 Security, Office of the Governor; and

114 (xv) The Executive Director of the Department of
115 Human Services.

116 (b) The Governor, or his designee, shall serve as a
117 member.

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

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

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

131 (f) The Mississippi Development Authority shall
132 establish limits on administrative costs for each portion of
133 Mississippi's Workforce Development System consistent with the
134 Federal Workforce Investment Act or any future federal workforce
135 legislation. 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 Workforce Investment Board shall have
140 the following duties:

141 (a) Develop and submit to the Governor a strategic plan
142 for an integrated state workforce development system that aligns
143 resources and structures the system to more effectively and
144 efficiently meet the demands of Mississippi's employers and job

145 seekers. This plan will comply with the Federal Workforce
146 Investment Act of 1998, as amended;

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

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

152 (ii) Review local training plans that reflect the
153 use of funds from the Federal Workforce Investment Act,
154 Wagner-Peyser Act and the Mississippi Comprehensive Workforce
155 Training and Education Consolidation Act of 2004;

156 (c) Recommend the designation of local workforce
157 investment areas as required in Section 116 of the Federal
158 Workforce Investment Act of 1998. There shall be four (4) areas
159 that are aligned with the planning and development district
160 structure in Mississippi. Planning and development districts will
161 serve as the fiscal agents to fund, oversee and support the local
162 workforce investment boards aligned with the area and the local
163 programs and activities as delivered by the one-stop employment
164 and training system. The planning and development districts will
165 perform this function through the provisions of the Cooperative
166 Service District, Sections 19-3-101 through 19-3-115, Mississippi
167 Code of 1972;

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

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

175 (f) Assist the Governor in the establishment and
176 management of a one-stop employment and training delivery system
177 conforming to the requirements of the Federal Workforce Investment

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

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

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

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

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

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

195 (g) Assist the Governor in reducing duplication of
196 services by urging the Local Workforce Investment Boards to
197 designate the local community/junior college as the operator of
198 the WIN Job Center. The board shall be authorized to utilize
199 Federal Workforce Investment Act funds to award incentive grants
200 of Two Hundred Thousand Dollars (\$200,000.00) to each workforce
201 area in the state which designates the local community/junior
202 college as the operator of the WIN Job Center. These grants will
203 be used for the implementation and coordination of this combined
204 approach for specialized training programs and advanced
205 technology;

206 (h) To provide a forum for developing the necessary
207 collaboration among state agencies at the highest level for
208 accomplishing the purposes of this chapter;

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

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

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

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

224 (m) To assist the Governor in carrying out any other
225 responsibility required by the federal Workforce Investment Act of
226 1998, as amended.

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

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

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

244 37-153-9. (1) In accordance with the Federal Workforce
245 Investment Act of 1998, there will be established, for each of the
246 four (4) state workforce areas prescribed in Section 37-153-3
247 (2)(c) a Local Workforce Investment Board appointed by the local
248 elected county supervisors from the respective workforce areas as
249 required by the Federal Workforce Investment Act to set policy for
250 the portion of the statewide workforce investment system within
251 the local area, which shall have the following advisory duties:

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

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

256 (ii) Sets short-term and long-term goals for
257 industry-specific training and upgrading and for general
258 development of the workforce; and

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

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

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

267 (d) To encourage continuous improvement through
268 evaluation and assessment; and

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

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

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

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

290 37-153-11. (1) There are created One-Stop Career Centers to
291 provide assessment, training and placement services to individuals
292 needing retraining, training and upgrading for local industry.
293 Each career center shall be affiliated with a separate public
294 community or junior college district.

295 (2) Each career center shall be staffed and organized
296 locally by the affiliated community college. The career center
297 shall serve as staff to the affiliated district council.

298 (3) Each career center, working in concert with its
299 affiliated district council, shall offer and arrange services to
300 accomplish the purposes of this act, including, but not limited
301 to, the following:

302 (a) For individuals needing training and retraining:

303 (i) Recruiting, assessing, counseling and
304 referring to training or jobs;

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

307 (iii) Basic literacy skills training and high
308 school equivalency education;

309 (iv) Vocational and technical training, full-time
310 or part-time; and

311 (v) Short-term skills training for educationally
312 and economically disadvantaged adults in cooperation with
313 federally established employment and training programs;

314 (b) For specific industries or firms within the
315 district:

316 (i) Job analysis, testing and curriculum
317 development;

318 (ii) Development of specific long-range training
319 plans;

320 (iii) Industry or firm-related preemployment
321 training;

322 (iv) Workplace basic skills and literacy training;

323 (v) Customized skills training;

324 (vi) Assistance in developing the capacity for
325 Total Quality Management training; and

326 (vii) Technology transfer information and referral
327 services to business of local applications of new research in
328 cooperation with the University Research Center, the state's
329 universities and other laboratories;

330 (c) For public schools within the district technical
331 assistance to secondary schools in curriculum coordination,
332 development of tech prep programs, instructional development and
333 resource coordination; and

334 (d) For economic development, a local forum and
335 resource center for all local industrial development groups to
336 meet and promote regional economic development.

337 (4) Each career center shall compile and make accessible to
338 the Mississippi Workforce Investment Board necessary information
339 for use in evaluating outcomes of its efforts and in improving the
340 quality of programs at each community college, and shall include
341 information on literacy initiatives. Each career center shall,

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

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

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

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

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

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

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

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

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

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

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

370 (vi) Developing data for strategic planning;

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

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

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

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

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

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

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

391 71-5-5. The Legislature hereby finds and declares that the
392 existence and continued operation of a federal tax upon employers,
393 against which some portion of the contributions required under
394 this chapter may be credited, will protect Mississippi employers
395 from undue disadvantages in their competition with employers in
396 other states. If at any time, upon a formal complaint to the
397 Governor, he shall find that Title IX of the Social Security Act
398 has been amended or repealed by Congress or has been held
399 unconstitutional by the Supreme Court of the United States, and
400 that, as a result thereof, the provisions of this chapter
401 requiring Mississippi employers to pay contributions will subject
402 them to a serious competitive disadvantage in relation to
403 employers in other states, he shall publish such findings and
404 proclaim that the operation of the provisions of this chapter
405 requiring the payment of contributions and benefits shall be
406 suspended for a period of not more than six (6) months. The

407 Department of Employment Security shall thereupon requisition from
408 the Unemployment Trust Fund all monies therein standing to its
409 credit, and shall direct the State Treasurer to deposit such
410 monies, together with any other monies in the Unemployment
411 Compensation Fund, as a special fund in any banks or public
412 depositories in this state in which general funds of the state may
413 be deposited.

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

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

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

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

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

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

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

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

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

464 F. "Department" or "commission" means the Mississippi
465 Department of Employment Security, Office of the Governor.
466 "Executive director" means the Executive Director of the
467 Mississippi Department of Employment Security, Office of the
468 Governor, appointed pursuant to Section 71-5-107.

469 G. "Employing unit" means this state or another state or any
470 instrumentalities or any political subdivisions thereof or any of
471 their instrumentalities or any instrumentality of more than one

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

505 disbursed by it to such individual and shall not be considered to
506 have paid as remuneration to such individual such amounts actually
507 disbursed to such individual by another of such corporations.

508 H. "Employer" means:

509 (1) Any employing unit which,

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

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

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

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

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

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

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

534 (6) Any individual or employing unit which acquired its
535 organization, trade, business, or substantially all the assets
536 thereof, from another employing unit, if the employment record of
537 the acquiring individual or employing unit subsequent to such

538 acquisition, together with the employment record of the acquired
539 organization, trade, or business prior to such acquisition, both
540 within the same calendar year, would be sufficient to constitute
541 an employing unit an employer subject to this chapter under
542 paragraph (1) or (3) of this subsection;

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

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

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

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

563 (10) All entities utilizing the services of any
564 employee leasing firm shall be considered the employer of the
565 individuals leased from the employee leasing firm. Temporary help
566 firms shall be considered the employer of the individuals they
567 provide to perform services for other individuals or
568 organizations.

569 I. "Employment" means and includes:

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

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

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

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

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

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

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

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

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

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

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

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

627 (a) In the employ of:

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

630 (ii) An organization which is operated
631 primarily for religious purposes and which is operated,
632 supervised, controlled, or principally supported by a church or
633 convention or association of churches; or

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

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

641 (i) As an elected official;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

762 (11) The services of an individual who is a citizen of
763 the United States, performed outside the United States (except in

764 Canada), in the employ of an American employer (other than service
765 which is deemed "employment" under the provisions of paragraph
766 (8), (9) or (10) of this subsection or the parallel provisions of
767 another state's law), if:

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

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

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

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

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

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

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

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

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

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

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

795 (12) All services performed by an officer or member of
796 the crew of an American vessel on or in connection with such

797 vessel, if the operating office from which the operations of such
798 vessel operating on navigable waters within, or within and
799 without, the United States are ordinarily and regularly
800 supervised, managed, directed and controlled is within this state;
801 notwithstanding the provisions of subsection I(8).

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

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

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

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

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

828 (ii) In the employ of the owner or tenant or
829 other operator of a farm, in connection with the operation,

830 management, conservation, improvement or maintenance of such farm
831 and its tools and equipment, or in salvaging timber or clearing
832 land of brush and other debris left by a hurricane, if the major
833 part of such service is performed on a farm;

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

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

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

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

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

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

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

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

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

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

895 collected and shall be refunded by the department from the fund in
896 accordance with the provisions of Section 71-5-383.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

977 (o) Service performed by an individual who is a
978 CETA/PSE (Comprehensive Employment Training Act/Public Service
979 Employment) participant unless coverage of such service is
980 required by federal law or regulation.

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

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

989 "Public employment service" means the operation of a program
990 that offers free placement and referral services to applicants and
991 employers, including job development.

992 K. "Fund" means the Unemployment Compensation Fund
993 established by this chapter, to which all contributions required
994 and from which all benefits provided under this chapter shall be
995 paid.

996 L. "Hospital" means an institution which has been licensed,
997 certified, or approved by the Mississippi Commission on Hospital
998 Care as a hospital.

999 M. "Institution of higher learning," for the purposes of
1000 this section, means an educational institution which:

1001 (1) Admits as regular students only individuals having
1002 a certificate of graduation from a high school, or the recognized
1003 equivalent of such a certificate;

1004 (2) Is legally authorized in this state to provide a
1005 program of education beyond high school;

1006 (3) Provides an educational program for which it awards
1007 a bachelor's or higher degree, or provides a program which is
1008 acceptable for full credit toward such a degree, a program of
1009 postgraduate or postdoctoral studies, or a program of training to
1010 prepare students for gainful employment in a recognized
1011 occupation;

1012 (4) Is a public or other nonprofit institution;

1013 (5) Notwithstanding any of the foregoing provisions of
1014 this subsection, all colleges and universities in this state are
1015 institutions of higher learning for purposes of this section.

1016 N. (1) "State" includes, in addition to the states of the
1017 United States of America, the District of Columbia, Commonwealth
1018 of Puerto Rico and the Virgin Islands.

1019 (2) The term "United States" when used in a
1020 geographical sense includes the states, the District of Columbia,
1021 Commonwealth of Puerto Rico and the Virgin Islands.

1022 (3) The provisions of subsections (1) and (2) of
1023 paragraph N, as including the Virgin Islands, shall become
1024 effective on the day after the day on which the United States

1025 Secretary of Labor approves for the first time under Section
1026 3304(a) of the Internal Revenue Code of 1954 an unemployment
1027 compensation law submitted to the secretary by the Virgin Islands
1028 for such approval.

1029 O. "Unemployment."

1030 (1) An individual shall be deemed "unemployed" in any
1031 week during which he performs no services and with respect to
1032 which no wages are payable to him, or in any week of less than
1033 full-time work if the wages payable to him with respect to such
1034 week are less than his weekly benefit amount as computed and
1035 adjusted in Section 71-5-505. The department shall prescribe
1036 regulations applicable to unemployed individuals, making such
1037 distinctions in the procedure as to total unemployment, part-total
1038 unemployment, partial unemployment of individuals attached to
1039 their regular jobs, and other forms of short-time work, as the
1040 department deems necessary.

1041 (2) An individual's week of total unemployment shall be
1042 deemed to commence only after his registration at an employment
1043 office, except as the department may by regulation otherwise
1044 prescribe.

1045 P. (1) "Wages" means all remuneration for personal
1046 services, including commissions and bonuses and the cash value of
1047 all remuneration in any medium other than cash, except that
1048 "wages," for purposes of determining employer's coverage and
1049 payment of contributions for agricultural and domestic service
1050 means cash remuneration only. The reasonable cash value of
1051 remuneration in any medium other than cash shall be estimated and
1052 determined in accordance with rules prescribed by the department;
1053 provided, that the term "wages" shall not include:

1054 (a) The amount of any payment made to, or on
1055 behalf of, an employee under a plan or system established by an
1056 employer which makes provision for his employees generally or for
1057 a class or classes of his employees (including any amount paid by

1058 an employer for insurance or annuities, or into a fund, to provide
1059 for any such payment), on account of:

1060 (i) Retirement, or

1061 (ii) Sickness or accident disability, or

1062 (iii) Medical or hospitalization expenses in
1063 connection with sickness or actual disability, or

1064 (iv) Death, provided the employee:

1065 (A) Has not the option to receive,
1066 instead of provision for such death benefit, any part of such
1067 payment or, if such death benefit is insured, any part of the
1068 premiums (or contributions to premiums) paid by his employer, and

1069 (B) Has not the right, under the
1070 provisions of the plan or system or policy of insurance providing
1071 for such death benefit, to assign such benefit or to receive a
1072 cash consideration in lieu of such benefit, either upon his
1073 withdrawal from the plan or system providing for such benefit or
1074 upon termination of such plan or system or policy of insurance or
1075 of his employment with such employer;

1076 (b) Dismissal payments which the employer is not
1077 legally required to make;

1078 (c) Payment by an employer (without deduction from
1079 the remuneration of an employee) of the tax imposed by the
1080 Internal Revenue Code, 26 USCS Section 3101;

1081 (d) From and after January 1, 1992, the amount of
1082 any payment made to or on behalf of an employee for a "cafeteria"
1083 plan, which meets the following requirements:

1084 (i) Qualifies under Section 125 of the
1085 Internal Revenue Code;

1086 (ii) Covers only employees;

1087 (iii) Covers only noncash benefits;

1088 (iv) Does not include deferred compensation
1089 plans.

1090 (2) [Not enacted].

1091 Q. "Week" means calendar week or such period of seven (7)
1092 consecutive days as the department may by regulation prescribe.
1093 The department may by regulation prescribe that a week shall be
1094 deemed to be in, within, or during any benefit year which includes
1095 any part of such week.

1096 R. "Insured work" means "employment" for "employers."

1097 S. The term "includes" and "including," when used in a
1098 definition contained in this chapter, shall not be deemed to
1099 exclude other things otherwise within the meaning of the term
1100 defined.

1101 T. "Employee leasing arrangement" means any agreement
1102 between an employee leasing firm and a client, whereby specified
1103 client responsibilities such as payment of wages, reporting of
1104 wages for unemployment insurance purposes, payment of unemployment
1105 insurance contributions and other such administrative duties are
1106 to be performed by an employee leasing firm, on an ongoing basis.

1107 U. "Employee leasing firm" means any entity which provides
1108 specified duties for a client company such as payment of wages,
1109 reporting of wages for unemployment insurance purposes, payment of
1110 unemployment insurance contributions and other administrative
1111 duties, in connection with the client's employees, that are
1112 directed and controlled by the client and that are providing
1113 ongoing services for the client.

1114 V. "Temporary help firm" means an entity which hires its own
1115 employees and provides those employees to other individuals or
1116 organizations to perform some service, to support or supplement
1117 the existing work force in special situations such as employee
1118 absences, temporary skill shortages, seasonal workloads and
1119 special assignments and projects, with the expectation that the
1120 worker's position will be terminated upon the completion of the
1121 specified task or function.

1122 **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is
1123 amended as follows:

1124 71-5-19. (1) Whoever makes a false statement or
1125 representation knowing it to be false, or knowingly fails to
1126 disclose a material fact, to obtain or increase any benefit or
1127 other payment under this chapter or under an employment security
1128 law of any other state, of the federal government or of a foreign
1129 government, either for himself or for any other person, shall be
1130 punished by a fine of not less than One Hundred Dollars (\$100.00)
1131 nor more than Five Hundred Dollars (\$500.00), or by imprisonment
1132 for not longer than thirty (30) days, or by both such fine and
1133 imprisonment; and each such false statement or representation or
1134 failure to disclose a material fact shall constitute a separate
1135 offense.

1136 (2) Any employing unit, any officer or agent of an employing
1137 unit or any other person who makes a false statement or
1138 representation knowing it to be false, or who knowingly fails to
1139 disclose a material fact, to prevent or reduce the payment of
1140 benefits to any individual entitled thereto, or to avoid becoming
1141 or remaining subject hereto, or to avoid or reduce any
1142 contribution or other payment required from any employing unit
1143 under this chapter, or who willfully fails or refuses to make any
1144 such contribution or other payment, or to furnish any reports
1145 required hereunder or to produce or permit the inspection or
1146 copying of records as required hereunder, shall be punished by a
1147 fine of not less than One Hundred Dollars (\$100.00) nor more than
1148 One Thousand Dollars (\$1,000.00), or by imprisonment for not
1149 longer than sixty (60) days, or by both such fine and
1150 imprisonment; and each such false statement, or representation, or
1151 failure to disclose a material fact, and each day of such failure
1152 or refusal shall constitute a separate offense. In lieu of such
1153 fine and imprisonment, the employing unit or representative, or
1154 both employing unit and representative, if such representative is
1155 an employing unit in this state and is found to be a party to such
1156 violation, shall not be eligible for a contributions rate of less

1157 than five and four-tenths percent (5.4%) for the tax year in which
1158 such violation is discovered by the department and for the next
1159 two (2) succeeding tax years.

1160 (3) Any person who shall willfully violate any provision of
1161 this chapter or any other rule or regulation thereunder, the
1162 violation of which is made unlawful or the observance of which is
1163 required under the terms of this chapter and for which a penalty
1164 is neither prescribed herein nor provided by any other applicable
1165 statute, shall be punished by a fine of not less than One Hundred
1166 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),
1167 or by imprisonment for not longer than sixty (60) days, or by both
1168 such fine and imprisonment; and each day such violation continues
1169 shall be deemed to be a separate offense. In lieu of such fine
1170 and imprisonment, the employing unit or representative, or both
1171 employing unit and representative, if such representative is an
1172 employing unit in this state and is found to be a party to such
1173 violation, shall not be eligible for a contributions rate of less
1174 than five and four-tenths percent (5.4%) for the tax year in which
1175 the violation is discovered by the department and for the next two
1176 (2) succeeding tax years.

1177 (4) Any person who, by reason of the nondisclosure or
1178 misrepresentation by him or by another of a material fact,
1179 irrespective of whether such nondisclosure or misrepresentation
1180 was known or fraudulent, or who, for any other reason has received
1181 any such benefits under this chapter, while any conditions for the
1182 receipt of benefits imposed by this chapter were not fulfilled in
1183 his case, or while he was disqualified from receiving benefits,
1184 shall, in the discretion of the department, either be liable to
1185 have such sum deducted from any future benefits payable to him
1186 under this chapter or shall be liable to repay to the department
1187 for the unemployment compensation fund a sum equal to the amount
1188 so received by him; and such sum shall be collectible in the
1189 manner provided in Sections 71-5-363 through 71-5-383 for the

1190 collection of past-due contributions. Provided, however, that no
1191 such deduction shall be made, nor shall any action be taken for
1192 the collection of any such overpayments, after five (5) years have
1193 elapsed from the date of the receipt of the benefits at issue;
1194 provided further that any such judgment against such person for
1195 collection of such overpayments shall not be a lien upon the
1196 property of the person for a longer period than five (5) years
1197 from the date of the filing of the lien, and any such notice of
1198 lien shall not be refiled by the department.

1199 (5) The department, by agreement with another state or the
1200 United States, as provided under Section 303(g) of the Social
1201 Security Act, may recover any overpayment of benefits paid to any
1202 individual under the laws of this state or of another state or
1203 under an unemployment benefit program of the United States. Any
1204 overpayments subject to this subsection may be deducted from any
1205 future benefits payable to the individual under the laws of this
1206 state or of another state or under an unemployment program of the
1207 United States.

1208 **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is
1209 amended as follows:

1210 71-5-101. There is hereby established the Mississippi
1211 Department of Employment Security, Office of the Governor. The
1212 Department of Employment Security shall be the Mississippi
1213 Employment Security Commission and shall retain all powers and
1214 duties as granted to the Mississippi Employment Security
1215 Commission. Wherever the term "Employment Security Commission"
1216 appears in any law, the same shall mean the Mississippi Department
1217 of Employment Security, Office of the Governor. The Executive
1218 Director of the Department of Employment Security may assign to
1219 the appropriate offices such powers and duties deemed appropriate
1220 to carry out the lawful functions of the department.

1221 **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is
1222 amended as follows:

1223 71-5-107. The Mississippi Department of Employment Security,
1224 Office of the Governor, shall administer this chapter through a
1225 full-time salaried executive director, to be appointed by the
1226 Governor, with the advice and consent of the Senate. He * * *
1227 shall be responsible for the administration of this chapter under
1228 authority delegated to him by the Governor.

1229 **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is
1230 amended as follows:

1231 71-5-109. There is hereby created a board of review
1232 consisting of three (3) members to be appointed by the Executive
1233 Director of the Department of Employment Security. The executive
1234 director shall designate one (1) member of the board of review as
1235 chairman. Each member shall be paid a salary or per diem at a
1236 rate to be determined by the executive director, and such expenses
1237 as may be allowed by the executive director. All salaries, per
1238 diem and expenses of the Board of Review shall be paid from the
1239 Employment Security Administration Fund.

1240 **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is
1241 amended as follows:

1242 71-5-111. There is hereby created in the State Treasury a
1243 special fund to be known as the Employment Security Administration
1244 Fund. All monies which are deposited or paid into this fund are
1245 hereby appropriated and made available to the department. All
1246 monies in this fund shall be expended solely for the purpose of
1247 defraying the cost of administration of this chapter, and for no
1248 other purpose whatsoever. The fund shall consist of all monies
1249 appropriated by this state and all monies received from the United
1250 States of America, or any agency thereof, or from any other source
1251 for such purpose. Notwithstanding any provision of this section,
1252 all monies requisitioned and deposited in this fund pursuant to
1253 Section 71-5-457 shall remain part of the Employment Security
1254 Administration Fund and shall be used only in accordance with the
1255 conditions specified in said section. All monies in this fund

1256 shall be deposited, administered and disbursed in the same manner
1257 and under the same conditions and requirements as is provided by
1258 law for other special funds in the State Treasury. The State
1259 Treasurer shall be liable on his official bond for the faithful
1260 performance of his duties in connection with the employment
1261 Security Administration Fund under this chapter.

1262 **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is
1263 amended as follows:

1264 71-5-112. All funds received by the Mississippi Employment
1265 Security Commission shall clear through the State Treasury as
1266 provided and required by Sections 71-5-111 and 71-5-453. All
1267 expenditures from the administration fund of said department
1268 authorized by Section 71-5-111 shall be expended only pursuant to
1269 appropriation approved by the Legislature and as provided by law.

1270 **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is
1271 amended as follows:

1272 71-5-113. All monies received from the Social Security Board
1273 or its successors for the administration of this chapter shall be
1274 expended solely for the purposes and in the amounts found
1275 necessary by the Social Security Board or its successors for the
1276 proper and efficient administration of this chapter.

1277 It shall be the duty of the department to take appropriate
1278 action with respect to the replacement, within a reasonable time,
1279 of any monies received from the Social Security Board, or its
1280 successors, for the administration of this chapter, and monies
1281 used to match grants pursuant to the provisions of the
1282 Wagner-Peyser Act, which the board, or its successors, find,
1283 because of any action or contingency, have been lost or have been
1284 expended for purposes other than, or in amounts in excess of those
1285 found necessary by the Social Security Board, or its successors,
1286 for the proper administration of this chapter. Funds which have
1287 been expended by the department or its agents in accordance with
1288 the budget approved by the Social Security Board, or its

1289 successors, or in accordance with the general standards and
1290 limitations promulgated by the Social Security Board, or its
1291 successors, prior to such expenditure (where proposed expenditures
1292 have not been specifically disapproved by the Social Security
1293 Board, or its successors), shall not be deemed to require
1294 replacement. To effectuate the purposes of this paragraph, it
1295 shall be the duty of the department to take such action to
1296 safeguard the expenditure of the funds referred to herein as it
1297 deems necessary. In the event of a loss of such funds or an
1298 improper expenditure thereof as herein defined, it shall be the
1299 duty of the department to notify the Governor of any such loss or
1300 improper expenditure and submit to him a request for an
1301 appropriation in the amount thereof. The Governor shall transmit
1302 to the next regular session of the Legislature following such
1303 notification, the department's request for an appropriation in an
1304 amount necessary to replace funds which have been lost or
1305 improperly expended as defined above. Such request of the
1306 department for an appropriation shall not be subject to the
1307 provisions of Sections 27-103-1 through 27-103-75. The
1308 Legislature recognizes its obligation to replace such funds as may
1309 be necessary and shall make necessary appropriations in accordance
1310 with such requests.

1311 **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is
1312 amended as follows:

1313 71-5-114. There is hereby created in the State Treasury a
1314 special fund, to be known as the "Special Employment Security
1315 Administration Fund," into which shall be deposited or transferred
1316 all interest, penalties and damages collected on and after July 1,
1317 1982, pursuant to Sections 71-5-363 through 71-5-379. Interest,
1318 penalties and damages collected on delinquent payments deposited
1319 during any calendar quarter in the clearing account in the
1320 Unemployment Compensation Fund shall, as soon as practicable after
1321 the close of such calendar quarter, be transferred to the Special

1322 Employment Security Administration Fund. All monies in this fund
1323 shall be deposited, administered and disbursed in the same manner
1324 and under the same conditions and requirements as is provided by
1325 law for other special funds in the State Treasury. The State
1326 Treasurer shall be liable on his official bond for the faithful
1327 performance of his duties in connection with the Special
1328 Employment Security Administration Fund under this chapter. Said
1329 monies shall not be expended or made available for expenditure in
1330 any manner which would permit their substitution for (or permit a
1331 corresponding reduction in) federal funds which would, in the
1332 absence of said monies, be available to finance expenditures for
1333 the administration of the state unemployment compensation and
1334 employment service laws. Nothing in this section shall prevent
1335 said monies in this fund from being used as a revolving fund to
1336 cover expenditures necessary and proper under the law for which
1337 federal funds have been duly requested but not yet received,
1338 subject to the charging of such expenditures against such funds
1339 when necessary. The monies in this fund may be used by the
1340 department for the payment of costs of administration of the
1341 employment security laws of this state which are found not to be
1342 or not to have been properly and validly chargeable against funds
1343 obtained from federal sources. All monies in this Special
1344 Employment Security Administration Fund shall be continuously
1345 available to the department for expenditure in accordance with the
1346 provisions of this chapter, and shall not lapse at any time. The
1347 monies in this fund are hereby specifically made available to
1348 replace, as contemplated by Section 71-5-113, expenditures from
1349 the Employment Security Administration Fund established by Section
1350 71-5-111, which have been found, because of any action or
1351 contingency, to have been lost or improperly expended.

1352 The department, whenever it is of the opinion that the money
1353 in the Special Employment Security Administration Fund is more
1354 than ample to pay for all foreseeable needs for which such special

1355 fund is set up, may, by written order, order the transfer
1356 therefrom to the Unemployment Compensation Fund of such amount of
1357 money in the said Special Employment Security Administration Fund
1358 as it deems proper, and the same shall thereupon be immediately
1359 transferred to the Unemployment Compensation Fund.

1360 **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is
1361 amended as follows:

1362 71-5-115. It shall be the duty of the Executive Director of
1363 the Mississippi Department of Employment Security, Office of the
1364 Governor, to administer this chapter; and the director shall have
1365 the power and authority to adopt, amend or rescind such rules and
1366 regulations, to employ such persons, make such expenditures,
1367 require such reports, make such investigations, and take such
1368 other action as he deems necessary or suitable to that end. Such
1369 rules and regulations shall be effective upon publication in the
1370 manner, not inconsistent with the provisions of this chapter,
1371 which the director shall prescribe. The director shall determine
1372 the department's own organization and methods of procedure in
1373 accordance with the provisions of this chapter, and shall have an
1374 official seal which shall be judicially noticed. Not later than
1375 the first day of February in each year, the director shall submit
1376 to the Governor a report covering the administration and operation
1377 of this chapter during the preceding fiscal year and shall make
1378 such recommendations for amendments to this chapter as the
1379 director deems proper. Whenever the director believes that a
1380 change in contribution or benefit rates will become necessary to
1381 protect the solvency of the fund, he shall promptly so inform the
1382 Governor and the Legislature, and make recommendations with
1383 respect thereto.

1384 **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is
1385 amended as follows:

1386 71-5-117. General rules may be adopted, amended or rescinded
1387 by the director only after public hearing or opportunity to be

1388 heard thereon, of which proper notice has been given. General
1389 rules shall become effective ten (10) days after filing with the
1390 Secretary of State and publication in one or more newspapers of
1391 general circulation in this state. Regulations may be adopted,
1392 amended or rescinded by the director and shall become effective in
1393 the manner and at the time prescribed by the director.

1394 **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is
1395 amended as follows:

1396 71-5-119. The department shall cause to be printed for
1397 distribution to the public the text of this chapter, its
1398 regulations and general rules, its reports to the Governor, and
1399 any other material it deems relevant and suitable, and shall
1400 furnish the same to any person upon application therefor.

1401 **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is
1402 amended as follows:

1403 71-5-121. Subject to other provisions of this chapter, the
1404 Executive Director of the Mississippi Department of Employment
1405 Security, Office of the Governor, is authorized to appoint, fix
1406 the compensation, and prescribe the duties and powers of such
1407 officers, accountants, attorneys, experts and other persons as may
1408 be necessary in the performance of department duties, provided
1409 that all personnel who were former members of the Armed Forces of
1410 the United States of America shall be given credit regardless of
1411 rate, rank or commission. All positions shall be filled by
1412 persons selected and appointed on a nonpartisan merit basis, in
1413 accordance with Section 25-9-101 et seq., that provides for a
1414 state service personnel system. The director shall not employ any
1415 person who is an officer or committee member of any political
1416 party organization. The director may delegate to any such person
1417 so appointed such power and authority as he deems reasonable and
1418 proper for the effective administration of this chapter, and may
1419 in his discretion bond any person handling monies or signing
1420 checks hereunder. The veteran status of an individual shall be

1421 considered and preference given in accordance with the provisions
1422 of the State Personnel Board.

1423 The department and its employees are exempt from Sections
1424 25-15-101 and 25-15-103.

1425 The department may use federal granted funds to provide such
1426 group health, life, accident and hospitalization insurance for its
1427 employees as may be agreed upon by the department and the federal
1428 granting authorities.

1429 The department shall adopt a "layoff formula" to be used
1430 wherever it is determined that, because of reduced workload,
1431 budget reductions or in order to effect a more economical
1432 operation, a reduction in force shall occur in any group.

1433 In establishing this formula, the department shall give
1434 effect to the principle of seniority and shall provide that
1435 seniority points may be added for disabled veterans and veterans,
1436 with due regard to the efficiency of the service. Any such layoff
1437 formula shall be implemented according to the policies, rules and
1438 regulations of the State Personnel Board.

1439 **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is
1440 amended as follows:

1441 71-5-123. The Executive Director of the Mississippi
1442 Department of Employment Security, Office of the Governor, shall
1443 retain all powers and duties as granted to the state advisory
1444 council appointed by the former Employment Security Commission.

1445 The director * * * may appoint local advisory councils, composed
1446 in each case of an equal number of employer representatives and
1447 employee representatives who may fairly be regarded as
1448 representative because of their vocation, employment or
1449 affiliations, and of such members representing the general public
1450 as the director may designate. Such councils shall aid the
1451 department in formulating policies and discussing problems related
1452 to the administration of this chapter and in assuring impartiality
1453 and freedom from political influence in the solution of such

1454 problems. Members of the advisory councils shall receive a per
1455 diem in accordance with Section 25-3-69 for attendance upon
1456 meetings of the council, and shall be reimbursed for actual and
1457 necessary traveling expenses. The per diem and expenses herein
1458 authorized shall be paid from the Employment Security
1459 Administration Fund.

1460 **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is
1461 amended as follows:

1462 71-5-125. The department * * * shall take all appropriate
1463 steps to reduce and prevent unemployment; to encourage and assist
1464 in the adoption of practical methods of vocational training,
1465 retraining and vocational guidance; to investigate, recommend,
1466 advise and assist in the establishment and operation, by
1467 municipalities, counties, school districts and the state, of
1468 reserves for public works to be used in times of business
1469 depression and unemployment; to promote the reemployment of
1470 unemployed workers throughout the state in every other way that
1471 may be feasible; and to these ends to carry on and publish the
1472 results of investigation and research studies.

1473 **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is
1474 amended as follows:

1475 71-5-127. Each employing unit shall keep true and accurate
1476 work records, containing such information as the department may
1477 prescribe. Such records shall be open to inspection and be
1478 subject to being copied by the department or its authorized
1479 representatives at any reasonable time and as often as may be
1480 necessary. The department, board of review and any referee may
1481 require from any employing unit any sworn or unsworn reports with
1482 respect to persons employed by it which they or any of them deem
1483 necessary for the effective administration of this chapter.
1484 Information thus obtained or obtained from any individual pursuant
1485 to the administration of this chapter shall, except to the extent
1486 necessary for the proper administration of this chapter, be held

1487 confidential and shall not be published or be opened to public
1488 inspection (other than to public employees in the performance of
1489 their public duties) in any manner revealing the individual's or
1490 employing unit's identity, but any claimant (or his legal
1491 representative) at a hearing before an appeal tribunal or the
1492 board of review shall be supplied with information from such
1493 records to the extent necessary for the proper presentation of his
1494 claim. Any employee or member of the board of review or any
1495 employee of the department who violates any provisions of this
1496 section shall be fined not less than Twenty Dollars (\$20.00) nor
1497 more than Two Hundred Dollars (\$200.00), or imprisoned for not
1498 longer than ninety (90) days, or both. The department may make
1499 the state's records relating to the administration of this chapter
1500 available to the Railroad Retirement Board, and may furnish the
1501 Railroad Retirement Board, at the expense of such board, such
1502 copies thereof as the railroad retirement board deems necessary
1503 for its purposes. The department may afford reasonable
1504 cooperation with every agency of the United States charged with
1505 the administration of any unemployment insurance law.

1506 **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is
1507 amended as follows:

1508 71-5-129. Records hereinafter designated, which are found by
1509 the department to be useless, may be disposed of in accordance
1510 with approved records control schedules.

1511 (a) Records which have been preserved by it for not
1512 less than three (3) years:

1513 (1) Initial claims for benefits,
1514 (2) Continued claims for benefits,
1515 (3) Correspondence and master index cards in
1516 connection with such claims for benefits, and

1517 (4) Individual wage slips filed by employers
1518 subject to the provisions of the Unemployment Compensation Law.

1519 (b) Records which have been preserved by it for not
1520 less than six (6) months after becoming inactive:

- 1521 (1) Work applications,
- 1522 (2) Cross-index cards for work applications,
- 1523 (3) Test records,
- 1524 (4) Employer records,
- 1525 (5) Work orders,
- 1526 (6) Clearance records,
- 1527 (7) Counseling records,
- 1528 (8) Farm placement records, and
- 1529 (9) Correspondence relating to all such records.

1530 Nothing herein contained shall be construed as authorizing
1531 the destruction or disposal of basic fiscal records reflecting the
1532 financial operations of the said department and no records may be
1533 destroyed without the approval of the Director of the Department
1534 of Archives and History.

1535 **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is
1536 amended as follows:

1537 71-5-131. All letters, reports, communications, or any other
1538 matters, either oral or written, from the employer or employee to
1539 each other or to the department or any of its agents,
1540 representatives or employees, which shall have been written, sent,
1541 delivered or made in connection with the requirements and
1542 administration of this chapter shall be absolutely privileged and
1543 shall not be made the subject matter or basis of any suit for
1544 slander or libel in any court of the State of Mississippi unless
1545 the same be false in fact and maliciously written, sent, delivered
1546 or made for the purpose of causing a denial of benefits under this
1547 chapter.

1548 **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is
1549 amended as follows:

1550 71-5-133. In any case where an employing unit or any
1551 officer, member or agent thereof, or any other person having

1552 possession of the records thereof, shall fail or refuse upon
1553 demand by the department or its duly appointed agents to produce
1554 or permit the examination or copying of any book, paper, account,
1555 record or other data pertaining to payrolls or employment or
1556 ownership of interests or stock in any employing unit, or bearing
1557 upon the correctness of any report, or for the purpose of making a
1558 report as required by this chapter where none has been made, then
1559 and in that event the department or its duly authorized agents
1560 may, by the issuance of a subpoena, require the attendance of such
1561 employing unit or any officer, member or agent thereof, or any
1562 other person having possession of the records thereof, and take
1563 testimony with respect to any such matter and may require any such
1564 person to produce any books or records specified in such subpoena.
1565 The department or its authorized agents at any such hearing shall
1566 have power to administer oaths to any such person or persons.
1567 When any person called as a witness by a subpoena signed by the
1568 department or its agents and served upon him by the sheriff of a
1569 county of which such person is a resident, or wherein is located
1570 the principal office of such employing unit or wherein such
1571 records are located or kept, shall fail to obey such subpoena to
1572 appear before the department or its authorized agent, or shall
1573 refuse to testify or to answer any questions or to produce any
1574 book, record, paper or other data when required to do so, such
1575 failure or refusal shall be reported to the Attorney General, who
1576 shall thereupon institute proceedings by the filing of a petition
1577 in the name of the State of Mississippi, on the relation of the
1578 department, in the circuit court or other court of competent
1579 jurisdiction of the county where such witness resides, or wherein
1580 such records are located or kept, to compel the obedience of such
1581 witness. Such petition shall set forth the facts and
1582 circumstances of the demand for and refusal or failure to permit
1583 the examination or copying of such records, or the failure or
1584 refusal of such witness to testify in answer to such subpoena or

1585 to produce the records so required by such subpoena. Such court,
1586 upon the filing and docketing of such petition, shall thereupon
1587 promptly issue an order to the defendants named in said petition
1588 to produce forthwith in such court, or at a place in such county
1589 designated in such order for the examination or copying by the
1590 department or its duly appointed agents, the records, books or
1591 documents so described, and to testify concerning matters
1592 described in such petition. Unless such defendants to such
1593 petition shall appear in said court upon a day specified in such
1594 order, which said day shall be not more than ten (10) days after
1595 the date of issuance of such order, and offer, under oath, good
1596 and sufficient reasons why such examination or copying should not
1597 be permitted, or why such subpoena should not be obeyed, such
1598 court shall thereupon deliver to the department or its agents, for
1599 examination or copying, the records, books and documents so
1600 described in said petition and so produced in such court, and
1601 shall order said defendants to appear in answer to the subpoena of
1602 said department or its agents, and to testify concerning matters
1603 inquired about by said department. Any employing unit or any
1604 officer, member or agent thereof, or any other person having
1605 possession of the records thereof, who shall willfully disobey
1606 such order of the court after the same shall have been served upon
1607 him shall be guilty of indirect contempt of such court from which
1608 such order shall have issued, and may be adjudged in contempt of
1609 said court and punished therefor as provided by law.

1610 **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is
1611 amended as follows:

1612 71-5-135. If any employing unit fails to make any report
1613 required by this chapter, the department or its authorized agents
1614 shall give written notice by mail to such employing unit to make
1615 and file such report within fifteen (15) days from the date of
1616 such notice. If such employing unit, by its proper members,
1617 officers or agents, shall fail or refuse to make and file such

1618 reports within such time, then and in that event such report shall
1619 be made by the department or its authorized agents from the best
1620 information available, and the amount of contributions due shall
1621 be computed thereon; and such report shall be prima facie correct
1622 for the purposes of this chapter.

1623 **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is
1624 amended as follows:

1625 71-5-137. In the discharge of the duties imposed by this
1626 chapter, the department, any referee, the members of the board of
1627 review, and any duly authorized representative of any of them
1628 shall have power to administer oaths and affirmations, to take
1629 depositions, certify to official acts, and issue subpoenas to
1630 compel the attendance of witnesses and the production of books,
1631 papers, correspondence, memoranda and other records deemed
1632 necessary as evidence in connection with a disputed claim or the
1633 administration of this chapter.

1634 **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is
1635 amended as follows:

1636 71-5-139. In case of contumacy or refusal to obey a subpoena
1637 issued to any person, any court in this state within the
1638 jurisdiction of which the inquiry is carried on, or within the
1639 jurisdiction of which said person guilty of contumacy or refusal
1640 to obey is found or resides or transacts business, upon
1641 application by the department, the board of review, any referee,
1642 or any duly authorized representative of any of them, shall have
1643 jurisdiction to issue to such person an order requiring such
1644 person to appear before the department, the Board of Review, any
1645 referee, or any duly authorized representative of any of them,
1646 there to produce evidence if so ordered or there to give testimony
1647 touching the matter under investigation or in question. Any
1648 failure to obey such order of the court may be punished by said
1649 court as a contempt thereof. Any person who shall, without just
1650 cause, fail or refuse to attend and testify or to answer any

1651 lawful inquiry or to produce books, papers, correspondence,
1652 memoranda and other records if it is in his power so to do, in
1653 obedience to a subpoena of the department, the Board of Review,
1654 any referee, or any duly authorized representative of any of them,
1655 shall be punished by a fine of not more than Two Hundred Dollars
1656 (\$200.00), or by imprisonment for not longer than sixty (60) days,
1657 or by both such fine and imprisonment; and each day such violation
1658 continues shall be deemed to be a separate offense.

1659 **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is
1660 amended as follows:

1661 71-5-141. No person shall be excused from attending and
1662 testifying or from producing books, papers, correspondence,
1663 memoranda and other records before the department, the Board of
1664 Review, any referee, or any duly authorized representative of any
1665 of them, or in obedience to the subpoena of any of them in any
1666 cause or proceeding before the department, the Board of Review or
1667 an appeal tribunal, on the ground that the testimony or evidence,
1668 documentary or otherwise, required of him may tend to incriminate
1669 him or subject him to a penalty or forfeiture; but no individual
1670 shall be prosecuted or subjected to any penalty or forfeiture for
1671 or on account of any transaction, matter or thing concerning which
1672 he is compelled, after having claimed his privilege against
1673 self-incrimination, to testify or produce evidence, documentary or
1674 otherwise, except that such individual so testifying shall not be
1675 exempt from prosecution and punishment for perjury committed in so
1676 testifying.

1677 **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is
1678 amended as follows:

1679 71-5-143. In the administration of this chapter, the
1680 department shall cooperate, to the fullest extent consistent with
1681 the provisions of this chapter, with the Social Security Board
1682 created by the Social Security Act, approved August 14, 1935, as
1683 amended; shall make such reports in such form and containing such

1684 information as the Social Security Board may from time to time
1685 require, and shall comply with such provisions as the Social
1686 Security Board may from time to time find necessary to assure the
1687 correctness and verification of such reports; and shall comply
1688 with the reasonable, valid and lawful regulations prescribed by
1689 the Social Security Board pursuant to and under the authority of
1690 the Social Security Act, governing the expenditures of such sums
1691 as may be allotted and paid to this state under Title III of the
1692 Social Security Act, as amended, for the purpose of assisting in
1693 the administration of this chapter.

1694 Upon request therefor, the department shall furnish to any
1695 agency of the United States charged with the administration of
1696 public works, or assistance through public employment, the name,
1697 address, ordinary occupation and employment status of each
1698 recipient of benefits, and such recipient's rights to further
1699 benefits under this chapter.

1700 **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is
1701 amended as follows:

1702 71-5-201. The Mississippi State Employment Service is hereby
1703 established in the Mississippi Department of Employment Security,
1704 Office of the Governor. The department, in the conduct of such
1705 service, shall establish and maintain free public employment
1706 offices in such number and in such places as may be necessary for
1707 the proper administration of this article and for the purpose of
1708 performing such functions as are within the purview of the act of
1709 Congress entitled "An act to provide for the establishment of a
1710 national employment system and for cooperation with the states in
1711 the promotion of such system, and for other purposes" (29 USCS
1712 Section 49 et seq). Any existing free public employment offices
1713 maintained by the state but not heretofore under the jurisdiction
1714 of the department shall be transferred to the jurisdiction of the
1715 department, and upon such transfer all duties and powers conferred
1716 upon any other department, agency or officers of this state

1717 relating to the establishment, maintenance and operation of free
1718 public employment offices shall be vested in the department. The
1719 said Mississippi State Employment Service shall be administered by
1720 the department, which is charged with the duty to cooperate with
1721 any official or agency of the United States having powers or
1722 duties under the provisions of the act of Congress, as amended,
1723 and to do and perform all things necessary to secure to this state
1724 the benefits of the said act of Congress, as amended, in the
1725 promotion and maintenance of a system of public employment
1726 offices. The provisions of said act of Congress, as amended, are
1727 hereby accepted by this state, in conformity with 29 USCS Section
1728 49c, and this state will observe and comply with the requirements
1729 thereof. The department is hereby designated and constituted the
1730 agency of this state for the purposes of said act. The department
1731 may cooperate with or enter into agreements with the Railroad
1732 Retirement Board or veteran's organization with respect to the
1733 establishment, maintenance and use of free employment service
1734 facilities.

1735 **SECTION 34.** Section 71-5-357, Mississippi Code of 1972, is
1736 amended as follows:

1737 71-5-357. Benefits paid to employees of nonprofit
1738 organizations shall be financed in accordance with the provisions
1739 of this section. For the purpose of this section, a nonprofit
1740 organization is an organization (or group of organizations)
1741 described in Section 501(c)(3) of the Internal Revenue Code of
1742 1954 which is exempt from income tax under Section 501(a) of such
1743 code (26 USCS Section 501).

1744 (a) Any nonprofit organization which, pursuant to
1745 Section 71-5-11, subsection H(3), is or becomes subject to this
1746 chapter shall pay contributions under the provisions of Sections
1747 71-5-351 through 71-5-355 unless it elects, in accordance with
1748 this paragraph, to pay to the department for the unemployment fund
1749 an amount equal to the amount of regular benefits and one-half

1750 (1/2) of the extended benefits paid, that is attributable to
1751 service in the employ of such nonprofit organization, to
1752 individuals for weeks of unemployment which begin during the
1753 effective period of such election.

1754 (i) Any nonprofit organization which becomes
1755 subject to this chapter may elect to become liable for payments in
1756 lieu of contributions for a period of not less than twelve (12)
1757 months, beginning with the date on which such subjectivity begins,
1758 by filing a written notice of its election with the department not
1759 later than thirty (30) days immediately following the date of the
1760 determination of such subjectivity.

1761 (ii) Any nonprofit organization which makes an
1762 election in accordance with subparagraph (i) of this paragraph
1763 will continue to be liable for payments in lieu of contributions
1764 unless it files with the department a written termination notice
1765 not later than thirty (30) days prior to the beginning of the tax
1766 year for which such termination shall first be effective.

1767 (iii) Any nonprofit organization which has been
1768 paying contributions under this chapter may change to a
1769 reimbursable basis by filing with the department, not later than
1770 thirty (30) days prior to the beginning of any tax year, a written
1771 notice of election to become liable for payments in lieu of
1772 contributions. Such election shall not be terminable by the
1773 organization for that and the next tax year.

1774 (iv) The department may for good cause extend the
1775 period within which a notice of election or a notice of
1776 termination must be filed, and may permit an election to be
1777 retroactive.

1778 (v) The department, in accordance with such
1779 regulations as it may prescribe, shall notify each nonprofit
1780 organization of any determination which it may make of its status
1781 as an employer, of the effective date of any election which it
1782 makes and of any termination of such election. Such

1783 determinations shall be subject to reconsideration, appeal and
1784 review in accordance with the provisions of Sections 71-5-351
1785 through 71-5-355.

1786 (b) Payments in lieu of contributions shall be made in
1787 accordance with the provisions of subparagraph (i) of this
1788 paragraph.

1789 (i) At the end of each calendar quarter, or at the
1790 end of any other period as determined by the department, the
1791 department shall bill each nonprofit organization (or group of
1792 such organizations) which has elected to make payments in lieu of
1793 contributions, for an amount equal to the full amount of regular
1794 benefits plus one-half (1/2) of the amount of extended benefits
1795 paid during such quarter or other prescribed period that is
1796 attributable to service in the employ of such organization.

1797 (ii) Payment of any bill rendered under
1798 subparagraph (i) of this paragraph shall be made not later than
1799 forty-five (45) days after such bill was mailed to the last known
1800 address of the nonprofit organization or was otherwise delivered
1801 to it, unless there has been an application for review and
1802 redetermination in accordance with subparagraph (v) of this
1803 paragraph.

1804 1. All of the enforcement procedures for the
1805 collection of delinquent contributions contained in Sections
1806 71-5-363 through 71-5-383 shall be applicable in all respects for
1807 the collection of delinquent payments due by nonprofit
1808 organizations who have elected to become liable for payments in
1809 lieu of contributions.

1810 2. If any nonprofit organization is
1811 delinquent in making payments in lieu of contributions, the
1812 department may terminate such organization's election to make
1813 payments in lieu of contributions as of the beginning of the next
1814 tax year, and such termination shall be effective for the balance
1815 of such tax year.

1816 (iii) Payments made by any nonprofit organization
1817 under the provisions of this paragraph shall not be deducted or
1818 deductible, in whole or in part, from the remuneration of
1819 individuals in the employ of the organization.

1820 (iv) Payments due by employers who elect to
1821 reimburse the fund in lieu of contributions as provided in this
1822 paragraph may not be noncharged under any condition. The
1823 reimbursement must be on a dollar-for-dollar basis (One Dollar
1824 (\$1.00) reimbursement for each dollar paid in benefits) in every
1825 case, so that the trust fund shall be reimbursed in full, such
1826 reimbursement to include, but not be limited to, benefits or
1827 payments erroneously or incorrectly paid, or paid as a result of a
1828 determination of eligibility which is subsequently reversed, or
1829 paid as a result of claimant fraud. Provided that political
1830 subdivisions who are reimbursing employers may elect to pay to the
1831 fund an amount equal to five-tenths percent (.5%) of the taxable
1832 wages paid during the calendar year with respect to employment,
1833 and those employers who so elect shall be relieved of liability
1834 for reimbursement of benefits paid under the same conditions that
1835 benefits are not charged to the experience rating record of a
1836 contributing employer as provided in Section 71-5-355(2)(b)(ii)
1837 other than Clause 5 thereof. Benefits paid in such circumstances
1838 for which reimbursing employers are relieved of liability for
1839 reimbursement shall not be considered attributable to service in
1840 the employment of such reimbursing employer.

1841 (v) The amount due specified in any bill from the
1842 department shall be conclusive on the organization unless, not
1843 later than fifteen (15) days after the bill was mailed to its last
1844 known address or otherwise delivered to it, the organization files
1845 an application for redetermination by the department, setting
1846 forth the grounds for such application or appeal. The department
1847 shall promptly review and reconsider the amount due specified in
1848 the bill and shall thereafter issue a redetermination in any case

1849 in which such application for redetermination has been filed. Any
1850 such redetermination shall be conclusive on the organization
1851 unless, not later than fifteen (15) days after the redetermination
1852 was mailed to its last known address or otherwise delivered to it,
1853 the organization files an appeal to the Circuit Court of the First
1854 Judicial District of Hinds County, Mississippi, in accordance with
1855 the provisions of law with respect to review of civil causes by
1856 certiorari.

1857 (vi) Past due payments of amounts in lieu of
1858 contributions shall be subject to the same interest and penalties
1859 that, pursuant to Section 71-5-363, apply to past due
1860 contributions.

1861 (c) Each employer that is liable for payments in lieu
1862 of contributions shall pay to the department for the fund the
1863 amount of regular benefits plus the amount of one-half (1/2) of
1864 extended benefits paid are attributable to service in the employ
1865 of such employer. If benefits paid to an individual are based on
1866 wages paid by more than one (1) employer and one or more of such
1867 employers are liable for payments in lieu of contributions, the
1868 amount payable to the fund by each employer that is liable for
1869 such payments shall be determined in accordance with the
1870 provisions of subparagraph (i) or subparagraph (ii) of this
1871 paragraph.

1872 (i) If benefits paid to an individual are based on
1873 wages paid by one or more employers that are liable for payment in
1874 lieu of contributions and on wages paid by one or more employers
1875 who are liable for contributions, the amount of benefits payable
1876 by each employer that is liable for payments in lieu of
1877 contributions shall be an amount which bears the same ratio to the
1878 total benefits paid to the individual as the total base-period
1879 wages paid to the individual by such employer bear to the total
1880 base-period wages paid to the individual by all of his base-period
1881 employers.

1882 (ii) If benefits paid to an individual are based
1883 on wages paid by two (2) or more employers that are liable for
1884 payments in lieu of contributions, the amount of benefits payable
1885 by each such employer shall be an amount which bears the same
1886 ratio to the total benefits paid to the individual as the total
1887 base-period wages paid to the individual by such employer bear to
1888 the total base-period wages paid to the individual by all of his
1889 base-period employers.

1890 (d) In the discretion of the department, any nonprofit
1891 organization that elects to become liable for payments in lieu of
1892 contributions shall be required, within thirty (30) days after the
1893 effective date of its election, to execute and file with the
1894 department a surety bond approved by the department, or it may
1895 elect instead to deposit with the department money or securities.
1896 The amount of such bond or deposit shall be determined in
1897 accordance with the provisions of this paragraph.

1898 (i) The amount of the bond or deposit required by
1899 paragraph (d) shall be equal to two and seven-tenths percent
1900 (2.7%) of the organization's taxable wages paid for employment as
1901 defined in Section 71-5-11, subsection I(4), for the four (4)
1902 calendar quarters immediately preceding the effective date of the
1903 election, the renewal date in the case of a bond, or the biennial
1904 anniversary of the effective date of election in the case of a
1905 deposit of money or securities, whichever date shall be most
1906 recent and applicable. If the nonprofit organization did not pay
1907 wages in each of such four (4) calendar quarters, the amount of
1908 the bond or deposit shall be as determined by the department.

1909 (ii) Any bond deposited under paragraph (d) shall
1910 be in force for a period of not less than two (2) tax years and
1911 shall be renewed with the approval of the department at such times
1912 as the department may prescribe, but not less frequently than at
1913 intervals of two (2) years as long as the organization continues
1914 to be liable for payments in lieu of contributions. The

1915 department shall require adjustments to be made in a previously
1916 filed bond as it deems appropriate. If the bond is to be
1917 increased, the adjusted bond shall be filed by the organization
1918 within thirty (30) days of the date notice of the required
1919 adjustment was mailed or otherwise delivered to it. Failure by
1920 any organization covered by such bond to pay the full amount of
1921 payments in lieu of contributions when due, together with any
1922 applicable interest and penalties provided in paragraph (b)(v) of
1923 this section, shall render the surety liable on said bond to the
1924 extent of the bond, as though the surety was such organization.

1925 (iii) Any deposit of money or securities in
1926 accordance with paragraph (d) shall be retained by the department
1927 in an escrow account until liability under the election is
1928 terminated, at which time it shall be returned to the
1929 organization, less any deductions as hereinafter provided. The
1930 department may deduct from the money deposited under paragraph (d)
1931 by a nonprofit organization, or sell the securities it has so
1932 deposited, to the extent necessary to satisfy any due and unpaid
1933 payments in lieu of contributions and any applicable interest and
1934 penalties provided for in paragraph (b)(v) of this section. The
1935 department shall require the organization, within thirty (30) days
1936 following any deduction from a money deposit or sale of deposited
1937 securities under the provisions hereof, to deposit sufficient
1938 additional money or securities to make whole the organization's
1939 deposit at the prior level. Any cash remaining from the sale of
1940 such securities shall be a part of the organization's escrow
1941 account. The department may, at any time, review the adequacy of
1942 the deposit made by any organization. If, as a result of such
1943 review, it determines that an adjustment is necessary, it shall
1944 require the organization to make additional deposit within thirty
1945 (30) days of written notice of its determination or shall return
1946 to it such portion of the deposit as it no longer considers
1947 necessary, whichever action is appropriate. Disposition of income

1948 from securities held in escrow shall be governed by the applicable
1949 provisions of the state law.

1950 (iv) If any nonprofit organization fails to file a
1951 bond or make a deposit, or to file a bond in an increased amount,
1952 or to increase or make whole the amount of a previously made
1953 deposit as provided under this subparagraph, the department may
1954 terminate such organization's election to make payments in lieu of
1955 contributions, and such termination shall continue for not less
1956 than the four (4) consecutive calendar-quarter periods beginning
1957 with the quarter in which such termination becomes effective;
1958 provided, that the department may extend for good cause the
1959 applicable filing, deposit or adjustment period by not more than
1960 thirty (30) days.

1961 (v) Group account shall be established according
1962 to regulations prescribed by the department.

1963 (e) Any employer which elects to make payments in lieu
1964 of contributions into the Unemployment Compensation Fund as
1965 provided in this paragraph shall not be liable to make such
1966 payments with respect to the benefits paid to any individual whose
1967 base-period wages include wages for previously uncovered services
1968 as defined in Section 71-5-511(e) to the extent that the
1969 Unemployment Compensation Fund is reimbursed for such benefits
1970 pursuant to Section 121 of Public Law 94-566.

1971 **SECTION 35.** Section 71-5-359, Mississippi Code of 1972, is
1972 amended as follows:

1973 71-5-359. (1) (a) Before January 1, 1978, each state board
1974 or other instrumentality of this state or one or more other states
1975 covered under Section 71-5-11, subsection H(3), shall pay
1976 contributions under the provisions of Sections 71-5-351 through
1977 71-5-355 for all of the hospitals or institutions of higher
1978 learning under its jurisdiction unless it elects, in the same
1979 manner and under the same conditions as provided for nonprofit
1980 organizations in subsections (a), (b) and (c) of Section 71-5-357,

1981 to pay to the department for the unemployment fund an amount equal
1982 to the regular benefits and one-half (1/2) of the extended
1983 benefits paid that are attributable to service in the employ of
1984 such hospitals or institutions. When an election is made, the
1985 amounts required to be paid in lieu of contributions shall be
1986 billed and payment made as provided in Section 71-5-357 with
1987 respect to similar payments by nonprofit organizations. A state
1988 board having jurisdiction over two (2) or more state-owned
1989 hospitals or state-owned institutions of higher learning shall be
1990 treated as a single employer for the employment in all of said
1991 hospitals or institutions of higher learning for purposes of
1992 computing contribution rates and payment of contributions, or for
1993 purposes of reimbursing the fund, unless it elects, in accordance
1994 with this section, to have one or more of said hospitals or
1995 institutions of higher learning treated as a separate employer.

1996 (b) A state board may elect to have one or more
1997 state-owned hospitals or one or more state-owned institutions of
1998 higher learning under its jurisdiction treated as a separate
1999 employer for the purposes of this section, provided it files with
2000 the department, not later than thirty (30) days prior to the
2001 beginning of any tax year, a written notice of such election. Any
2002 such election shall be effective throughout such tax year, and
2003 shall continue in effect unless the state board files with the
2004 department a written notice of termination of such election not
2005 less than thirty (30) days prior to the beginning of the tax year
2006 for which such termination is to be effective.

2007 (2) (a) From January 1, 1978, through December 31, 1978,
2008 the Commission of Budget and Accounting shall, in the manner
2009 provided in subsection (2)(c) of this section, pay, upon warrant
2010 issued by the State Auditor of Public Accounts, to the department
2011 for the unemployment compensation fund an amount equal to the
2012 regular benefits and one-half (1/2) of the extended benefits paid
2013 that are attributable to service in the employ of a state agency.

2014 The amount required to be reimbursed by a certain agency shall be
2015 billed to the Commission of Budget and Accounting and shall be
2016 paid from the Employment Compensation Revolving Fund pursuant to
2017 subsection (2)(c) of this section not later than thirty (30) days
2018 after such bill was mailed, unless there has been an application
2019 for review and redetermination in accordance with Section
2020 71-5-357(b)(v).

2021 (b) The Department of Finance and Administration shall,
2022 in the manner provided in subsection (2)(c) of this section, pay,
2023 upon warrant issued by the State Auditor, or the successor to
2024 these duties, to the department for the Unemployment Compensation
2025 Fund an amount equal to the regular benefits and the extended
2026 benefits paid that are attributable to service in the employ of a
2027 state agency. The amount required to be reimbursed by a certain
2028 agency shall be billed to the Department of Finance and
2029 Administration and shall be paid from the Employment Compensation
2030 Revolving Fund pursuant to subsection (2)(c) of this section not
2031 later than thirty (30) days after such bill was mailed, unless
2032 there has been an application for review and redetermination in
2033 accordance with Section 71-5-357(b)(v).

2034 (c) Each agency of state government shall deposit
2035 monthly for a period of twenty-four (24) months an amount equal to
2036 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand
2037 Dollars (\$6,000.00) paid to each employee thereof during the next
2038 preceding year into the Employment Compensation Revolving Fund
2039 hereby created in the State Treasury. The Department of Finance
2040 and Administration shall determine the percentage to be applied to
2041 the amount of covered wages paid in order to maintain a balance in
2042 the revolving fund of not less than two percent (2%) of the
2043 covered wages paid during the next preceding year. The State
2044 Treasurer shall invest all funds in the Employment Compensation
2045 Revolving Fund and all interest earned shall be credited to the
2046 Employment Compensation Revolving Fund.

2047 The reimbursement of benefits paid by the Mississippi
2048 Employment Security Commission shall be paid by the Department of
2049 Finance and Administration from the Employment Compensation
2050 Revolving Fund upon warrants issued by the State Auditor of Public
2051 Accounts, or the successor to these duties; and the said auditor
2052 shall issue his warrants upon requisitions signed by the
2053 Department of Finance and Administration. Provided, however, that
2054 the Department of Finance and Administration may, if it so elects,
2055 contract for the performance of the duties prescribed by
2056 subsections (2)(b) and (c), and other duties necessarily related
2057 thereto.

2058 (d) From January 1, 1978, through December 31, 1978,
2059 any political subdivision of this state shall pay to the
2060 department for the unemployment fund an amount equal to the
2061 regular benefits and one-half (1/2) of the extended benefits paid
2062 that are attributable to service in the employ of such political
2063 subdivision unless it elects to make contributions to the
2064 unemployment fund as provided in subsection (2)(j) of this
2065 section. The amount required to be reimbursed shall be billed and
2066 shall be paid as provided in Section 71-5-357, with respect to
2067 similar payments for nonprofit organizations.

2068 (e) On and after January 1, 1979, any political
2069 subdivision of this state shall pay to the department for the
2070 unemployment fund an amount equal to the regular benefits and the
2071 extended benefits paid that are attributable to service in the
2072 employ of such political subdivision unless it elects to make
2073 contributions to the unemployment fund as provided in subsection
2074 (2)(j) of this section. The amount required to be reimbursed
2075 shall be billed and shall be paid as provided in Section 71-5-357,
2076 with respect to similar payments for nonprofit organizations.

2077 (f) Each political subdivision unless it elects to make
2078 contributions to the unemployment fund as provided in subsection
2079 (2)(j) of this section, shall establish a revolving fund and

2080 deposit therein monthly for a period of twenty-four (24) months an
2081 amount equal to one-twelfth of one percent (1/12 of 1%) of the
2082 first Six Thousand Dollars (\$6,000.00) paid to each employee
2083 thereof during the next preceding year plus an amount each month
2084 equal to one-third (1/3) of any reimbursement paid to the
2085 department for the next preceding quarter. After January 1, 1980,
2086 the balance in the revolving fund shall be maintained at an amount
2087 not less than two percent (2%) of the covered wages paid during
2088 the next preceding year. Provided, however, that the department
2089 shall by regulation establish a procedure to allow reimbursing
2090 political subdivisions to elect to maintain the balance in the
2091 revolving fund as required under this paragraph or to annually
2092 execute a surety bond to be approved by the department in an
2093 amount not less than two percent (2%) of the covered wages paid
2094 during the next preceding year.

2095 (g) In the event any political subdivision becomes
2096 delinquent in payments due under this chapter, upon due notice,
2097 and upon certification of the delinquency by the department to the
2098 Department of Finance and Administration, the State Tax
2099 Commission, the Department of Environmental Quality and the
2100 Department of Insurance, or any of them, such agencies shall
2101 direct the issuance of warrants which in the aggregate shall be
2102 the amount of such delinquency payable to the department and drawn
2103 upon any funds in the State Treasury which may be available to
2104 such political subdivision in satisfaction of any such
2105 delinquency. This remedy shall be in addition to any other
2106 collection remedies in this chapter or otherwise provided by law.

2107 (h) Payments made by any political subdivision under
2108 the provisions of this section shall not be deducted or
2109 deductible, in whole or in part, from the remuneration of
2110 individuals in the employ of the organization.

2111 (i) Any governmental entity shall not be liable to make
2112 payments to the unemployment fund with respect to the benefits

2113 paid to any individual whose base-period wages include wages for
2114 previously uncovered services as defined in Section 71-5-511,
2115 subsection (e), to the extent that the unemployment compensation
2116 fund is reimbursed for such benefits pursuant to Section 121 of
2117 Public Law 94-566.

2118 (j) Any political subdivision of this state may elect
2119 to make contributions to the unemployment fund instead of making
2120 reimbursement for benefits paid as provided in subsections (2)(d),
2121 (e) and (f) of this section. A political subdivision which makes
2122 this election shall so notify the department, not later than July
2123 1, 1978; and shall be subject to the provisions of Section
2124 71-5-351, with regard to the payment of contributions. A
2125 political subdivision which makes this election shall pay
2126 contributions equal to two percent (2%) of wages paid by it during
2127 each calendar quarter it is subject to this chapter. The
2128 department shall by regulation establish a procedure to allow
2129 political subdivisions the option periodically to elect either the
2130 reimbursement or the contribution method of financing unemployment
2131 compensation coverage.

2132 **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is
2133 amended as follows:

2134 71-5-451. There is hereby established as a special fund,
2135 separate and apart from all public monies or funds of this state,
2136 an Unemployment Compensation Fund, which shall be administered by
2137 the department exclusively for:

- 2138 (a) All contributions collected under this chapter;
- 2139 (b) Interest earned upon any monies in the fund;
- 2140 (c) Any property or securities acquired through the use
2141 of monies belonging to the fund;
- 2142 (d) All earnings of such property or securities;
- 2143 (e) All monies credited to this state's account in the
2144 Unemployment Trust Fund pursuant to the Social Security Act, 42
2145 USCS, Section 1104; and

2146 (f) By way of reimbursement in accordance with Section
2147 204 of the Federal-State Extended Unemployment Compensation Act of
2148 1970 (84 Stat. 711). All monies in the fund shall be mingled and
2149 undivided.

2150 **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is
2151 amended as follows:

2152 71-5-457. (1) Except as otherwise provided in subsection
2153 (5), money credited to the account of this state in the
2154 Unemployment Trust Fund by the Secretary of the Treasury of the
2155 United States of America pursuant to the Social Security Act, 42
2156 USCS Section 1103, may be requisitioned and used for the payment
2157 of expenses incurred for the administration of this law pursuant
2158 to a specific appropriation by the Legislature, provided that the
2159 expenses are incurred and the money is requisitioned after the
2160 enactment of an appropriation law which:

2161 (a) Specifies the purposes for which such money is
2162 appropriated and the amounts appropriated therefor;

2163 (b) Limits the period within which such money may be
2164 obligated to a period ending not more than two (2) years after the
2165 date of the enactment of the appropriation law; and

2166 (c) Limits the amount which may be obligated during a
2167 twelve-month period beginning on July 1 and ending on the next
2168 June 30 to an amount which does not exceed the amount by which:

2169 (i) The aggregate of the amounts credited to the
2170 account of this state pursuant to the Social Security Act, 42 USCS
2171 Section 1103, during the same twelve-month period and the
2172 thirty-four (34) preceding twelve-month periods exceeds.

2173 (ii) The aggregate of the amounts obligated
2174 pursuant to this section and charged against the amounts credited
2175 to the account of this state during such thirty-five (35)
2176 twelve-month periods.

2177 For the purposes of this section, amounts obligated during
2178 any such twelve-month period shall be charged against equivalent

2179 amounts which were first credited and which are not already so
2180 charged; except that no amount obligated for administration during
2181 any such twelve-month period may be charged against any amount
2182 credited during such a twelve-month period earlier than the
2183 thirty-fourth preceding such period.

2184 (2) Money credited to the account of this state pursuant to
2185 the Social Security Act, 42 USCS Section 1103, may not be
2186 withdrawn or used except for the payment of benefits and for the
2187 payment of expenses for the administration of this law and of
2188 public employment offices pursuant to this section.

2189 (3) Money appropriated as provided herein for the payment of
2190 expenses of administration shall be requisitioned as needed for
2191 the payment of obligations incurred under such appropriation and,
2192 upon requisition, shall be deposited in the Employment Security
2193 Administration Fund, from which such payments shall be made.
2194 Money so deposited shall, until expended, remain a part of the
2195 Unemployment Compensation Fund and, if it will not be expended,
2196 shall be returned promptly to the account of this state in the
2197 Unemployment Trust Fund.

2198 (4) The thirty-five-year limitation provided in this section
2199 is no longer in force, effective October 1, 1991.

2200 (5) Notwithstanding subsection (1), monies credited with
2201 respect to federal fiscal years 1999, 2000 and 2001 shall be used
2202 by the department solely for the administration of the
2203 unemployment compensation program.

2204 **SECTION 38.** Section 71-5-511, Mississippi Code of 1972, is
2205 amended as follows:

2206 71-5-511. An unemployed individual shall be eligible to
2207 receive benefits with respect to any week only if the department
2208 finds that:

2209 (a) (i) He has registered for work at and thereafter
2210 has continued to report to an employment office in accordance with
2211 such regulations as the department may prescribe; except that the

2212 department may, by regulation, waive or alter either or both of
2213 the requirements of this subparagraph as to such types of cases or
2214 situations with respect to which it finds that compliance with
2215 such requirements would be oppressive or would be inconsistent
2216 with the purposes of this chapter; and

2217 (ii) He participates in reemployment services,
2218 such as job search assistance services, if, in accordance with a
2219 profiling system established by the department, it has been
2220 determined that he is likely to exhaust regular benefits and needs
2221 reemployment services, unless the department determines that:

2222 1. The individual has completed such
2223 services; or

2224 2. There is justifiable cause for the
2225 claimant's failure to participate in such services.

2226 (b) He has made a claim for benefits in accordance with
2227 the provisions of Section 71-5-515 and in accordance with such
2228 regulations as the department may prescribe thereunder.

2229 (c) He is able to work and is available for work.

2230 (d) He has been unemployed for a waiting period of one
2231 (1) week. No week shall be counted as a week of unemployment for
2232 the purposes of this subsection:

2233 (i) Unless it occurs within the benefit year which
2234 includes the week with respect to which he claims payment of
2235 benefits;

2236 (ii) If benefits have been paid with respect
2237 thereto;

2238 (iii) Unless the individual was eligible for
2239 benefits with respect thereto, as provided in Sections 71-5-511
2240 and 71-5-513, except for the requirements of this subsection.

2241 (e) For weeks beginning on or before July 1, 1982, he
2242 has, during his base period, been paid wages for insured work
2243 equal to not less than thirty-six (36) times his weekly benefit
2244 amount; he has been paid wages for insured work during at least

2245 two (2) quarters of his base period; and he has, during that
2246 quarter of his base period in which his total wages were highest,
2247 been paid wages for insured work equal to not less than sixteen
2248 (16) times the minimum weekly benefit amount. For benefit years
2249 beginning after July 1, 1982, he has, during his base period, been
2250 paid wages for insured work equal to not less than forty (40)
2251 times his weekly benefit amount; he has been paid wages for
2252 insured work during at least two (2) quarters of his base period,
2253 and he has, during that quarter of his base period in which his
2254 total wages were highest, been paid wages for insured work equal
2255 to not less than twenty-six (26) times the minimum weekly benefit
2256 amount. For purposes of this subsection, wages shall be counted
2257 as "wages for insured work" for benefit purposes with respect to
2258 any benefit year only if such benefit year begins subsequent to
2259 the date on which the employing unit by which such wages were paid
2260 has satisfied the conditions of Section 71-5-11, subsection H, or
2261 Section 71-5-361, subsection (3), with respect to becoming an
2262 employer.

2263 (f) No individual may receive benefits in a benefit
2264 year unless, subsequent to the beginning of the next preceding
2265 benefit year during which he received benefits, he performed
2266 service in "employment" as defined in Section 71-5-11, subsection
2267 I, and earned remuneration for such service in an amount equal to
2268 not less than eight (8) times his weekly benefit amount applicable
2269 to his said next preceding benefit year.

2270 (g) Benefits based on service in employment defined in
2271 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,
2272 subsection (4) shall be payable in the same amount, on the same
2273 terms, and subject to the same conditions as compensation payable
2274 on the basis of other service subject to this chapter, except that
2275 benefits based on service in an instructional, research or
2276 principal administrative capacity in an institution of higher
2277 learning (as defined in Section 71-5-11, subsection M) with

2278 respect to service performed prior to January 1, 1978, shall not
2279 be paid to an individual for any week of unemployment which begins
2280 during the period between two (2) successive academic years, or
2281 during a similar period between two (2) regular terms, whether or
2282 not successive, or during a period of paid sabbatical leave
2283 provided for in the individual's contract, if the individual has a
2284 contract or contracts to perform services in any such capacity for
2285 any institution or institutions of higher learning for both such
2286 academic years or both such terms.

2287 (h) Benefits based on service in employment defined in
2288 Section 71-5-11, subsection I(3) and (4), shall be payable in the
2289 same amount, on the same terms and subject to the same conditions
2290 as compensation payable on the basis of other service subject to
2291 this chapter; except that:

2292 (i) With respect to service performed in an
2293 instructional, research or principal administrative capacity for
2294 an educational institution, benefits shall not be paid based on
2295 such services for any week of unemployment commencing during the
2296 period between two (2) successive academic years, or during a
2297 similar period between two (2) regular but not successive terms,
2298 or during a period of paid sabbatical leave provided for in the
2299 individual's contract, to any individual, if such individual
2300 performs such services in the first of such academic years or
2301 terms and if there is a contract or a reasonable assurance that
2302 such individual will perform services in any such capacity for any
2303 educational institution in the second of such academic years or
2304 terms, and provided that Section 71-5-511, subsection (g), shall
2305 apply with respect to such services prior to January 1, 1978. In
2306 no event shall benefits be paid unless the individual employee was
2307 terminated by the employer.

2308 (ii) With respect to services performed in any
2309 other capacity for an educational institution, benefits shall not
2310 be paid on the basis of such services to any individual for any

2311 week which commences during a period between two (2) successive
2312 academic years or terms, if such individual performs such services
2313 in the first of such academic years or terms and there is a
2314 reasonable assurance that such individual will perform such
2315 services in the second of such academic years or terms, except
2316 that if compensation is denied to any individual under this
2317 subparagraph and such individual was not offered an opportunity to
2318 perform such services for the educational institution for the
2319 second of such academic years or terms, such individual shall be
2320 entitled to a retroactive payment of compensation for each week
2321 for which the individual filed a timely claim for compensation and
2322 for which compensation was denied solely by reason of this clause.
2323 In no event shall benefits be paid unless the individual employee
2324 was terminated by the employer.

2325 (iii) With respect to services described in
2326 subsection (h)(i) and (ii), benefits shall not be payable on the
2327 basis of services in any such capacities to any individual for any
2328 week which commences during an established and customary vacation
2329 period or holiday recess if such individual performs such services
2330 in the first of such academic years or terms, or in the period
2331 immediately before such vacation period or holiday recess, and
2332 there is a reasonable assurance that such individual will perform
2333 such services in the period immediately following such vacation
2334 period or holiday recess.

2335 (iv) With respect to any services described in
2336 subsection (h)(i) and (ii), benefits shall not be payable on the
2337 basis of services in any such capacities as specified in
2338 subsection (h)(i), (ii) and (iii) to any individual who performed
2339 such services in an educational institution while in the employ of
2340 an educational service agency. For purposes of this subsection,
2341 the term "educational service agency" means a governmental agency
2342 or governmental entity which is established and operated

2343 exclusively for the purpose of providing such services to one or
2344 more educational institutions.

2345 (v) With respect to services to which Sections
2346 71-5-357 and 71-5-359 apply, if such services are provided to or
2347 on behalf of an educational institution, benefits shall not be
2348 payable under the same circumstances and subject to the same terms
2349 and conditions as described in subsection (h)(i), (ii), (iii) and
2350 (iv).

2351 (i) Subsequent to December 31, 1977, benefits shall not
2352 be paid to any individual on the basis of any services
2353 substantially all of which consist of participating in sports or
2354 athletic events or training or preparing to so participate, for
2355 any week which commences during the period between two (2)
2356 successive sports seasons (or similar periods) if such individual
2357 performs such services in the first of such seasons (or similar
2358 periods) and there is a reasonable assurance that such individual
2359 will perform such services in the later of such seasons (or
2360 similar periods).

2361 (j) (i) Subsequent to December 31, 1977, benefits
2362 shall not be payable on the basis of services performed by an
2363 alien, unless such alien is an individual who was lawfully
2364 admitted for permanent residence at the time such services were
2365 performed, was lawfully present for purposes of performing such
2366 services, or was permanently residing in the United States under
2367 color of law at the time such services were performed (including
2368 an alien who was lawfully present in the United States as a result
2369 of the application of the provisions of Section 203(a)(7) or
2370 Section 212(d)(5) of the Immigration and Nationality Act).

2371 (ii) Any data or information required of
2372 individuals applying for benefits to determine whether benefits
2373 are not payable to them because of their alien status shall be
2374 uniformly required from all applicants for benefits.

2375 (iii) In the case of an individual whose
2376 application for benefits would otherwise be approved, no
2377 determination that benefits to such individual are not payable
2378 because of his alien status shall be made, except upon a
2379 preponderance of the evidence.

2380 (k) An individual shall be deemed prima facie
2381 unavailable for work, and therefore ineligible to receive
2382 benefits, during any period which, with respect to his employment
2383 status, is found by the department to be a holiday or vacation
2384 period.

2385 **SECTION 39.** Section 71-5-513, Mississippi Code of 1972, is
2386 amended as follows:

2387 71-5-513. A. An individual shall be disqualified for
2388 benefits:

2389 (1) (a) For the week, or fraction thereof, which
2390 immediately follows the day on which he left work voluntarily
2391 without good cause, if so found by the department, and for each
2392 week thereafter until he has earned remuneration for personal
2393 services performed for an employer, as in this chapter defined,
2394 equal to not less than eight (8) times his weekly benefit amount,
2395 as determined in each case, provided that marital, filial and
2396 domestic circumstances and obligations shall not be deemed good
2397 cause within the meaning of this subsection. Pregnancy shall not
2398 be deemed to be a marital, filial or domestic circumstance for the
2399 purpose of this subsection.

2400 (b) For the week, or fraction thereof, which
2401 immediately follows the day on which he was discharged for
2402 misconduct connected with his work, if so found by the department,
2403 and for each week thereafter until he has earned remuneration for
2404 personal services performed for an employer, as in this chapter
2405 defined, equal to not less than eight (8) times his weekly benefit
2406 amount, as determined in each case.

2407 (c) The burden of proof of good cause for leaving
2408 work shall be on the claimant, and the burden of proof of
2409 misconduct shall be on the employer.

2410 (2) For the week, or fraction thereof, with respect to
2411 which he willfully makes a false statement, a false representation
2412 of fact, or willfully fails to disclose a material fact for the
2413 purpose of obtaining or increasing benefits under the provisions
2414 of this law, if so found by the department, and such individual's
2415 maximum benefit allowance shall be reduced by the amount of
2416 benefits so paid to him during any such week of disqualification;
2417 and additional disqualification shall be imposed for a period not
2418 exceeding fifty-two (52) weeks, the length of such period of
2419 disqualification and the time when such period begins to be
2420 determined by the department, in its discretion, according to the
2421 circumstances in each case.

2422 (3) If the department finds that he has failed, without
2423 good cause, either to apply for available suitable work when so
2424 directed by the employment office or the department, to accept
2425 suitable work when offered him, or to return to his customary
2426 self-employment (if any) when so directed by the department, such
2427 disqualification shall continue for the week in which such failure
2428 occurred and for not more than the twelve (12) weeks which
2429 immediately follow such week, as determined by the department
2430 according to the circumstances in each case.

2431 (a) In determining whether or not any work is
2432 suitable for an individual, the department shall consider among
2433 other factors the degree of risk involved to his health, safety
2434 and morals, his physical fitness and prior training, his
2435 experience and prior earnings, his length of unemployment and
2436 prospects for securing local work in his customary occupation, and
2437 the distance of the available work from his residence; provided,
2438 however, that offered employment paying the minimum wage or
2439 higher, if such minimum or higher wage is that prevailing for his

2440 customary occupation or similar work in the locality, shall be
2441 deemed to be suitable employment after benefits have been paid to
2442 the individual for a period of eight (8) weeks.

2443 (b) Notwithstanding any other provisions of this
2444 chapter, no work shall be deemed suitable and benefits shall not
2445 be denied under this chapter to any otherwise eligible individual
2446 for refusing to accept new work under any of the following
2447 conditions:

2448 (i) If the position offered is vacant due
2449 directly to a strike, lockout or other labor dispute;

2450 (ii) If the wages, hours or other conditions
2451 of the work offered are substantially less favorable to the
2452 individual than those prevailing for similar work in the locality;

2453 (iii) If as a condition of being employed the
2454 individual would be required to join a company union or to resign
2455 from or refrain from joining any bona fide labor organization.

2456 (4) For any week with respect to which the department
2457 finds that his total unemployment is due to a stoppage of work
2458 which exists because of a labor dispute at a factory,
2459 establishment or other premises at which he is or was last
2460 employed; provided, that this subsection shall not apply if it is
2461 shown to the satisfaction of the department:

2462 (a) He is unemployed due to a stoppage of work
2463 occasioned by an unjustified lockout, provided such lockout was
2464 not occasioned or brought about by such individual acting alone or
2465 with other workers in concert; or

2466 (b) He is not participating in or directly
2467 interested in the labor dispute which caused the stoppage of work;
2468 and

2469 (c) He does not belong to a grade or class of
2470 workers of which, immediately before the commencement of stoppage,
2471 there were members employed at the premises at which the stoppage

2472 occurs, any of whom are participating in or directly interested in
2473 the dispute.

2474 Provided, that if in any case separate branches of work which
2475 are commonly conducted as separate businesses in separate premises
2476 are conducted in separate departments of the same premises, each
2477 such department shall, for the purposes of this subsection, be
2478 deemed to be a separate factory, establishment or other premises.

2479 (5) For any week with respect to which he has received
2480 or is seeking unemployment compensation under an unemployment
2481 compensation law of another state or of the United States.

2482 Provided, that if the appropriate agency of such other state or of
2483 the United States finally determines that he is not entitled to
2484 such unemployment compensation benefits, this disqualification
2485 shall not apply. Nothing in this subsection contained shall be
2486 construed to include within its terms any law of the United States
2487 providing unemployment compensation or allowances for honorably
2488 discharged members of the Armed Forces.

2489 (6) For any week with respect to which he is receiving
2490 or has received remuneration in the form of payments under any
2491 governmental or private retirement or pension plan, system or
2492 policy which a base-period employer is maintaining or contributing
2493 to or has maintained or contributed to on behalf of the
2494 individual; provided, that if the amount payable with respect to
2495 any week is less than the benefits which would otherwise be due
2496 under Section 71-5-501, he shall be entitled to receive for such
2497 week, if otherwise eligible, benefits reduced by the amount of
2498 such remuneration. However, on or after the first Sunday
2499 immediately following July 1, 2001, no social security payments,
2500 to which the employee has made contributions, shall be deducted
2501 from unemployment benefits paid for any period of unemployment
2502 beginning on or after the first Sunday following July 1, 2001.
2503 This one hundred percent (100%) exclusion shall not apply to any
2504 other governmental or private retirement or pension plan, system

2505 or policy. If benefits payable under this section, after being
2506 reduced by the amount of such remuneration, are not a multiple of
2507 One Dollar (\$1.00), they shall be adjusted to the next lower
2508 multiple of One Dollar (\$1.00).

2509 (7) For any week with respect to which he is receiving
2510 or has received remuneration in the form of a back pay award, or
2511 other compensation allocable to any week, whether by settlement or
2512 otherwise. Any benefits previously paid for weeks of unemployment
2513 with respect to which back pay awards, or other such compensation,
2514 are made shall constitute an overpayment and such amounts shall be
2515 deducted from the award by the employer prior to payment to the
2516 employee, and shall be transmitted promptly to the department by
2517 the employer for application against the overpayment and credit to
2518 the claimant's maximum benefit amount and prompt deposit into the
2519 fund; provided, however, the removal of any charges made against
2520 the employer as a result of such previously paid benefits shall be
2521 applied to the calendar year and the calendar quarter in which the
2522 overpayment is transmitted to the department, and no attempt shall
2523 be made to relate such a credit to the period to which the award
2524 applies. Any amount of overpayment so deducted by the employer
2525 and not transmitted to the department shall be subject to the same
2526 procedures for collection as is provided for contributions by
2527 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
2528 deducted by the employer shall be established as an overpayment
2529 against the claimant and collected as provided above. It is the
2530 purpose of this paragraph to assure equity in the situations to
2531 which it applies, and it shall be construed accordingly.

2532 B. Notwithstanding any other provision in this chapter, no
2533 otherwise eligible individual shall be denied benefits for any
2534 week because he is in training with the approval of the
2535 department; nor shall such individual be denied benefits with
2536 respect to any week in which he is in training with the approval
2537 of the department by reason of the application of provisions in

2538 Section 71-5-511, subsection (c), relating to availability for
2539 work, or the provisions of subsection A(3) of this section,
2540 relating to failure to apply for, or a refusal to accept, suitable
2541 work.

2542 C. Notwithstanding any other provisions of this chapter, no
2543 otherwise eligible individual shall be denied benefits for any
2544 week because he or she is in training approved under Section
2545 236(a)(1) of the Trade Act of 1974, nor shall such individual be
2546 denied benefits by reason of leaving work to enter such training,
2547 provided the work left is not suitable employment, or because of
2548 the application to any such week in training of provisions in this
2549 law (or any applicable federal unemployment compensation law),
2550 relating to availability for work, active search for work or
2551 refusal to accept work.

2552 For purposes of this section, the term "suitable employment"
2553 means with respect to an individual, work of a substantially equal
2554 or higher skill level than the individual's past adversely
2555 affected employment (as defined for purposes of the Trade Act of
2556 1974), and wages for such work at not less than eighty percent
2557 (80%) of the individual's average weekly wage as determined for
2558 the purposes of the Trade Act of 1974.

2559 **SECTION 40.** Section 71-5-517, Mississippi Code of 1972, is
2560 amended as follows:

2561 71-5-517. An examiner designated by the department shall
2562 take the claim. An initial determination thereon shall be made
2563 promptly and shall include a determination with respect to whether
2564 or not benefits are payable, the week with respect to which
2565 benefits shall commence, the weekly benefit amount payable and the
2566 maximum duration of benefits. In any case in which the payment or
2567 denial of benefits will be determined by the provisions of
2568 subsection A(4) of Section 71-5-513, the examiner shall promptly
2569 transmit all the evidence with respect to that subsection to the
2570 department, which, on the basis of evidence so submitted and such

2571 additional evidence as it may require, shall make an initial
2572 determination with respect thereto. An initial determination may
2573 for good cause be reconsidered. The claimant, his most recent
2574 employing unit and all employers whose experience-rating record
2575 would be charged with benefits pursuant to such determination
2576 shall be promptly notified of such initial determination or any
2577 amended initial determination and the reason therefor. Benefits
2578 shall be denied or, if the claimant is otherwise eligible,
2579 promptly paid in accordance with the initial determination or
2580 amended initial determination. The jurisdiction of the department
2581 over benefit claims which have not been appealed shall be
2582 continuous. The claimant or any party to the initial
2583 determination or amended initial determination may file an appeal
2584 from such initial determination or amended initial determination
2585 within fourteen (14) days after notification thereof, or after the
2586 date such notification was mailed to his last known address.

2587 Notwithstanding any other provision of this section, benefits
2588 shall be paid promptly in accordance with a determination or
2589 redetermination, or the decision of an appeal tribunal, the board
2590 of review or a reviewing court upon the issuance of such
2591 determination, redetermination or decision in favor of the
2592 claimant (regardless of the pendency of the period to apply for
2593 reconsideration, file an appeal, or petition for judicial review,
2594 as the case may be, or the pendency of any such application,
2595 filing or petition), unless and until such determination,
2596 redetermination or decision has been modified or reversed by a
2597 subsequent redetermination or decision, in which event benefits
2598 shall be paid or denied in accordance with such modifying or
2599 reversing redetermination or decision. Any benefits finally
2600 determined to have been erroneously paid shall be set up as an
2601 overpayment to the claimant and must be liquidated before any
2602 future benefits can be paid to the claimant. If, subsequent to
2603 such initial determination or amended initial determination,

2604 benefits with respect to any week for which a claim has been filed
2605 are denied for reasons other than matters included in the initial
2606 determination or amended initial determination, the claimant shall
2607 be promptly notified of the denial and the reason therefor and may
2608 appeal therefrom in accordance with the procedure herein described
2609 for appeals from initial determination or amended initial
2610 determination.

2611 **SECTION 41.** Section 71-5-519, Mississippi Code of 1972, is
2612 amended as follows:

2613 71-5-519. Unless such appeal is withdrawn, an appeal
2614 tribunal appointed by the director, after affording the parties
2615 reasonable opportunity for fair hearing, shall affirm, modify or
2616 reverse the findings of fact and initial determination or amended
2617 initial determination. The parties shall be duly notified of such
2618 tribunal's decision, together with its reasons therefor, which
2619 shall be deemed to be the final decision of the Executive Director
2620 of the Department of Employment Security unless, within fourteen
2621 (14) days after the date of notification or mailing of such
2622 decision, further appeal is initiated pursuant to Section
2623 71-5-523.

2624 **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is
2625 amended as follows:

2626 71-5-523. The executive director may on his own motion
2627 affirm, modify or set aside any decision of an appeal tribunal on
2628 the basis of the evidence previously submitted in such case, or
2629 direct the taking of additional evidence, or may permit any of the
2630 parties to such decision to initiate further appeals before it.
2631 The executive director shall permit such further appeal by any of
2632 the parties to a decision of an appeal tribunal which is not
2633 unanimous, and by the examiner whose decision has been overruled
2634 or modified by an appeal tribunal. The executive director may
2635 remove to himself or transfer to another appeal tribunal the
2636 proceedings on any claim pending before an appeal tribunal. Any

2637 proceedings so removed to the executive director shall be
2638 heard * * * in accordance with the requirements of Section
2639 71-5-519 and within fifteen (15) days after notice of appeal has
2640 been received by the director. No notice of appeal shall be
2641 deemed to be received by the said director, within the meaning of
2642 this section, until all prior appeals pending before the board of
2643 review have been heard. The director shall, within four (4) days
2644 after his decision, so notify the parties to any proceeding of his
2645 findings and decision. * * *

2646 **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is
2647 amended as follows:

2648 71-5-525. The manner in which appealed claims shall be
2649 presented and the conduct of hearings and appeals shall be in
2650 accordance with regulations prescribed by the Executive Director
2651 of the Department of Employment Security for determining the
2652 rights of the parties, whether or not such regulations conform to
2653 common law or statutory rules of evidence and other technical
2654 rules of procedure. A full and complete record shall be kept of
2655 all proceedings in connection with an appealed claim. The
2656 department's entire file relative to the appealed claim shall be a
2657 part of such record and shall be considered as evidence. All
2658 testimony at any hearing upon an appealed claim shall be recorded,
2659 but need not be transcribed unless the claim is further appealed.

2660 **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is
2661 amended as follows:

2662 71-5-529. Any decision of the Executive Director of the
2663 Department of Employment Security, in the absence of an appeal
2664 therefrom as herein provided, shall become final ten (10) days
2665 after the date of notification or mailing thereof; and judicial
2666 review thereof shall be permitted only after any party claiming to
2667 be aggrieved thereby has exhausted his administrative remedies as
2668 provided by this chapter. The department shall be deemed to be a
2669 party to any judicial action involving any such decision, and may

2670 be represented in any such judicial action by any qualified
2671 attorney employed by the department and designated by it for that
2672 purpose or, at the department's request, by the Attorney General.

2673 **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is
2674 amended as follows:

2675 71-5-531. Within ten (10) days after the decision of the
2676 Executive Director of the Department of Employment Security has
2677 become final, any party aggrieved thereby may secure judicial
2678 review thereof by commencing an action, in the circuit court of
2679 the county in which the plaintiff resides, against the department
2680 for the review of such decision, in which action any other party
2681 to the proceeding before the executive director shall be made a
2682 defendant. In cases wherein the plaintiff is not a resident of
2683 the State of Mississippi, such action may be filed in the circuit
2684 court of the county in which the employer resides, the county in
2685 which the cause of action arose, or in the county of employment.
2686 In such action, a petition which need not be verified, but which
2687 shall state the grounds upon which a review is sought, shall be
2688 served upon the department or upon such person as the department
2689 may designate, and such service shall be deemed completed service
2690 on all parties; but there shall be left with the party so served
2691 as many copies of the petition as there are defendants, and the
2692 department shall forthwith mail one (1) such copy to each such
2693 defendant. With its answer, the department shall certify and file
2694 with said court all documents and papers and a transcript of all
2695 testimony taken in the matter, together with the executive
2696 director's findings of fact and decision therein. The department
2697 may also, in its discretion, certify to such court questions of
2698 law involved in any decision. In any judicial proceedings under
2699 this section, the findings of the executive director as to the
2700 facts, if supported by evidence and in the absence of fraud, shall
2701 be conclusive, and the jurisdiction of said court shall be
2702 confined to questions of law. Such actions, and the questions so

2703 certified, shall be heard in a summary manner and shall be given
2704 precedence over all other civil cases. An appeal may be taken
2705 from the decision of the circuit court of the county in which the
2706 plaintiff resides to the Supreme Court of Mississippi, in the same
2707 manner, but not inconsistent with the provisions of this chapter,
2708 as is provided in civil cases. It shall not be necessary, in any
2709 judicial proceeding under this section, to enter exceptions to the
2710 rulings of the Board of Review, and no bond shall be required for
2711 entering such appeal. Upon the final determination of such
2712 judicial proceeding, the executive director shall enter an order
2713 in accordance with such determination. A petition for judicial
2714 review shall not act as a supersedeas or stay unless the executive
2715 director shall so order.

2716 **SECTION 46.** Section 71-5-541, Mississippi Code of 1972, is
2717 amended as follows:

2718 71-5-541. A. (1) In the administration of this chapter,
2719 the department shall cooperate with the Department of Labor to the
2720 fullest extent consistent with the provisions of this chapter and
2721 shall take such action, through the adoption of appropriate rules,
2722 regulations, administrative methods and standards, as may be
2723 necessary to secure to this state and its citizens all advantages
2724 available under the provisions of the Social Security Act that
2725 relate to unemployment compensation, the Federal Unemployment Tax
2726 Act, the Wagner-Peyser Act and the Federal-State Extended
2727 Unemployment Compensation Act of 1970, all as amended.

2728 (2) In the administration of the provisions of this
2729 section, which are enacted to conform with the requirements of the
2730 Federal-State Extended Unemployment Compensation Act of 1970, as
2731 amended, the department shall take such actions as may be
2732 necessary:

2733 (a) To ensure that the provisions are so
2734 interpreted and applied as to meet the requirements of such
2735 federal act as interpreted by the U.S. Department of Labor; and

2736 (b) To secure to this state the full reimbursement
2737 of the federal share of extended benefits paid under this chapter
2738 that are reimbursable under the federal act; and also

2739 (c) To limit the amount of extended benefits paid
2740 as may be necessary so that the reimbursement of the federal share
2741 of extended benefits paid shall remain at one-half (1/2) of the
2742 total extended benefits paid.

2743 B. As used in this section, unless the context clearly
2744 requires otherwise:

2745 (1) "Extended benefit period" means a period which:

2746 (a) Begins with the third week after a week for
2747 which there is a state "on" indicator; and

2748 (b) Ends with either of the following weeks,
2749 whichever occurs later:

2750 (i) The third week after the first week for
2751 which there is a state "off" indicator; or

2752 (ii) The thirteenth consecutive week of such
2753 period.

2754 No extended benefit period may begin by reason of a state
2755 "on" indicator before the fourteenth week following the end of a
2756 prior extended benefit period which was in effect with respect to
2757 this state.

2758 (2) For weeks beginning after September 25, 1982, there
2759 is a "state 'on' indicator" for a week if the rate of insured
2760 unemployment under this chapter for the period consisting of such
2761 week and the immediately preceding twelve (12) weeks:

2762 (a) Equaled or exceeded one hundred twenty percent
2763 (120%) of the average of such rates for the corresponding period
2764 of thirteen (13) weeks ending in each of the preceding two (2)
2765 calendar years; and

2766 (b) Equaled or exceeded five percent (5%).

2767 Provided that the determination of whether there has been a
2768 state "on" or "off" indicator beginning or ending any extended

2769 benefit period shall be made under this subsection as if (i)
2770 paragraph (2) did not contain subparagraph (a) thereof, and (ii)
2771 the figure "5" contained in subparagraph (b) thereof were "6";
2772 except that, notwithstanding any such provision of this
2773 subsection, any week for which there would otherwise be a "state
2774 'on' indicator" shall continue to be such week and shall not be
2775 determined to be a week for which there is a "state 'off'
2776 indicator."

2777 (3) There is a "state 'off' indicator" for a week if,
2778 for the period consisting of such week and the immediately
2779 preceding twelve (12) weeks, either subparagraph (a) or (b) of
2780 paragraph (2) was not satisfied.

2781 (4) "Rate of insured unemployment," for purposes of
2782 paragraphs (2) and (3) of this subsection, means the percentage
2783 derived by dividing:

2784 (a) The average number of continued weeks claimed
2785 for regular state compensation in this state for weeks of
2786 unemployment with respect to the most recent period of thirteen
2787 (13) consecutive weeks, as determined by the department on the
2788 basis of its reports to the U.S. Secretary of Labor; by

2789 (b) The average monthly employment covered under
2790 this chapter for the first four (4) of the most recent six (6)
2791 completed calendar quarters ending before the end of such period
2792 of thirteen (13) weeks.

2793 (5) "Regular benefits" means benefits payable to an
2794 individual under this chapter or under any other state law
2795 (including benefits payable to federal civilian employees and to
2796 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than
2797 extended benefits.

2798 (6) "Extended benefits" means benefits (including
2799 benefits payable to federal civilian employees and to
2800 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an

2801 individual under the provisions of this section for weeks of
2802 unemployment in his eligibility period.

2803 (7) "Eligibility period" of an individual means the
2804 period consisting of the weeks in his benefit year which begin in
2805 an extended benefit period and, if his benefit year ends within
2806 such extended benefit period, any weeks thereafter which begin in
2807 such period.

2808 (8) "Exhaustee" means an individual who, with respect
2809 to any week of unemployment in his eligibility period:

2810 (a) Has received, prior to such week, all of the
2811 regular benefits that were available to him under this chapter or
2812 any other state law (including dependents' allowances and benefits
2813 payable to federal civilian employees and ex-servicemen under 5
2814 USCS Section 8501-8525) in his current benefit year that includes
2815 such week;

2816 For the purposes of this subparagraph, an individual shall be
2817 deemed to have received all of the regular benefits that were
2818 available to him although, as a result of a pending appeal with
2819 respect to wages that were not considered in the original monetary
2820 determination in his benefit year, he may subsequently be
2821 determined to be entitled to added regular benefits; or

2822 (b) Has no, or insufficient, wages on the basis of
2823 which he could establish a new benefit year that would include
2824 such week, his benefit year having expired prior to such week; and

2825 (c) (i) Has no right to unemployment benefits or
2826 allowances, as the case may be, under the Railroad Unemployment
2827 Insurance Act, the Trade Expansion Act of 1962, the Automotive
2828 Products Trade Act of 1965, and such other federal laws as are
2829 specified in regulations issued by the U.S. Secretary of Labor;
2830 and

2831 (ii) Has not received and is not seeking
2832 unemployment benefits under the Unemployment Compensation Law of
2833 the Virgin Islands or of Canada; but if he is seeking such

2834 benefits and the appropriate agency finally determines that he is
2835 not entitled to benefits under such law, he is considered an
2836 exhaustee; provided, that the reference in this subsection to the
2837 Virgin Islands shall be inapplicable effective on the day on which
2838 the United States Secretary of Labor approves under Section
2839 3304(a) of the Internal Revenue Code of 1954, an unemployment
2840 compensation law submitted to the Secretary by the Virgin Islands
2841 for approval.

2842 (9) "State law" means the unemployment insurance law of
2843 any state, approved by the U.S. Secretary of Labor under Section
2844 3304 of the Internal Revenue Code of 1954 (26 USCS Section 3304).

2845 C. Except when the result would be inconsistent with the
2846 other provisions of this section, as provided in the regulations
2847 of the department, the provisions of this chapter which apply to
2848 claims for, or the payment of, regular benefits shall apply to
2849 claims for, and the payment of, extended benefits.

2850 D. An individual shall be eligible to receive extended
2851 benefits with respect to any week of unemployment in his
2852 eligibility period only if the department finds that with respect
2853 to such week:

2854 (1) He is an "exhaustee" as defined in subsection B(8)
2855 of this section.

2856 (2) He has satisfied the requirements of this chapter
2857 for the receipt of regular benefits that are applicable to
2858 individuals claiming extended benefits, including not being
2859 subject to a disqualification for the receipt of benefits.

2860 (3) For a week beginning after September 25, 1982, he
2861 has, during his base period, been paid wages for insured work
2862 equal to not less than forty (40) times his weekly benefit amount;
2863 he has been paid wages for insured work during at least two (2)
2864 quarters of his base period, and he has, during that quarter of
2865 his base period in which his total wages were highest, been paid

2866 wages for insured work equal to not less than twenty-six (26)
2867 times the minimum weekly benefit amount.

2868 E. The weekly extended benefit amount payable to an
2869 individual for a week of total unemployment in his eligibility
2870 period shall be an amount equal to the weekly benefit amount
2871 payable to him during his applicable benefit year; provided,
2872 however, that benefits paid to individuals during eligibility
2873 periods beginning before October 1, 1983, shall be computed to the
2874 next higher multiple of One Dollar (\$1.00), if not a multiple of
2875 One Dollar (\$1.00); and benefits paid to individuals during
2876 eligibility periods beginning on or after October 1, 1983, shall
2877 be computed to the next lower multiple of One Dollar (\$1.00), if
2878 not a multiple of One Dollar (\$1.00). Provided further, that in
2879 no event shall the weekly extended benefit amount payable to an
2880 individual be more than two (2) times the amount of the
2881 reimbursement of the federal share of extended benefits paid.

2882 F. (1) The total extended benefit amount payable to any
2883 eligible individual with respect to his applicable benefit year
2884 shall be the least of the following amounts:

2885 (a) Fifty percent (50%) of the total amount of
2886 regular benefits which were payable to him under this chapter in
2887 his applicable benefit year; provided, however, that benefits paid
2888 to individuals during eligibility periods beginning before October
2889 1, 1983, shall be computed to the next higher multiple of One
2890 Dollar (\$1.00), if not a multiple of One Dollar (\$1.00), and
2891 benefits paid to individuals during eligibility periods beginning
2892 on or after October 1, 1983, shall be computed to the next lower
2893 multiple of One Dollar (\$1.00), if not a multiple of One Dollar
2894 (\$1.00); or

2895 (b) Thirteen (13) times his weekly benefit amount
2896 which was payable to him under this chapter for a week of total
2897 unemployment in the applicable benefit year.

2898 (2) The total extended benefits otherwise payable to an
2899 individual who is filing an interstate claim under the interstate
2900 benefit payment plan shall not exceed two (2) weeks whenever an
2901 extended benefit period is not in effect for such week in the
2902 state where the claim is filed.

2903 (3) Provided further, that in no event shall the total
2904 extended benefit amount payable to any eligible individual with
2905 respect to his applicable benefit year be more than two (2) times
2906 the amount of the reimbursement of the federal share of extended
2907 benefits paid.

2908 G. (1) Whenever an extended benefit period is to become
2909 effective in this state as a result of a state "on" indicator, or
2910 an extended benefit period is to be terminated in this state as a
2911 result of state "off" indicators, the department shall make an
2912 appropriate public announcement.

2913 (2) Computations required by the provisions of
2914 subsection B(4) shall be made by the department, in accordance
2915 with regulations prescribed by the U.S. Secretary of Labor.

2916 H. Extended benefits paid under the provisions of this
2917 section which are not reimbursable from federal funds shall be
2918 charged to the experience-rating record of base period employers.

2919 I. (1) Notwithstanding the provisions of subsections C and
2920 D of this section, an individual shall be disqualified for receipt
2921 of extended benefits if the department finds that during any week
2922 of his eligibility period:

2923 (a) He has failed either to apply for or to accept
2924 an offer of suitable work (as defined under paragraph (3)) to
2925 which he was referred by the department; or

2926 (b) He has failed to furnish tangible evidence
2927 that he has actively engaged in a systematic and sustained effort
2928 to find work, unless such individual is not actively engaged in
2929 seeking work because such individual is:

2930 (i) Before any court of the United States or
2931 any state pursuant to a lawfully issued summons to appear for jury
2932 duty;

2933 (ii) Hospitalized for treatment of an
2934 emergency or a life-threatening condition.

2935 The entitlement to benefits of any individual who is
2936 determined not to be actively engaged in seeking work in any week
2937 for the foregoing reasons shall be decided pursuant to the able
2938 and available requirements in Section 71-5-511 without regard to
2939 the disqualification provisions otherwise applicable under Section
2940 71-5-541. The conditions prescribed in clauses (i) and (ii) of
2941 this subparagraph (b) must be applied in the same manner to
2942 individuals filing claims for regular benefits.

2943 (2) Such disqualification shall begin with the week in
2944 which such failure occurred and shall continue until he has been
2945 employed in each of eight (8) subsequent weeks (whether or not
2946 consecutive) and has earned remuneration for personal services
2947 performed for an employer, as in this chapter defined, equal to
2948 not less than eight (8) times his weekly extended benefit amount.

2949 (3) For the purpose of subparagraph (a) of paragraph
2950 (1) the term "suitable work" means any work which is within the
2951 individual's capabilities to perform, if:

2952 (a) The gross average weekly remuneration payable
2953 for the work exceeds the sum of the individual's weekly extended
2954 benefit amount plus the amount, if any, of supplemental
2955 unemployment benefits (as defined in Section 501(c)(17)(D) of the
2956 Internal Revenue Code of 1954) payable to such individual for such
2957 week;

2958 (b) The wages payable for the work equal the
2959 higher of the minimum wages provided by Section 6(a)(1) of the
2960 Fair Labor Standards Act of 1938 (without regard to any
2961 exemption), or the state or local minimum wage; and

2962 (c) The position was offered to the individual in
2963 writing or was listed with the state employment service; and

2964 (d) Such work otherwise meets the definition of
2965 "suitable work" for regular benefits contained in Section
2966 71-5-513A(4) to the extent that such criteria of suitability are
2967 not inconsistent with the provisions of this paragraph (3); and

2968 (e) The individual cannot furnish satisfactory
2969 evidence to the department that his prospects for obtaining work
2970 in his customary occupation within a reasonably short period are
2971 good. If such evidence is deemed satisfactory for this purpose,
2972 the determination of whether any work is suitable with respect to
2973 such individual shall be made in accordance with the definition of
2974 suitable work contained in Section 71-5-513A(4) without regard to
2975 the definition specified by this paragraph (3).

2976 (4) Notwithstanding any provisions of subsection I to
2977 the contrary, no work shall be deemed to be suitable work for an
2978 individual which does not accord with the labor standard
2979 provisions set forth herein under Section 71-5-513A(4).

2980 (5) The employment service shall refer any claimant
2981 entitled to extended benefits under this section to any suitable
2982 work which meets the criteria prescribed in paragraph (3).

2983 (6) An individual shall be disqualified for extended
2984 benefits for the week, or fraction thereof, which immediately
2985 follows the day on which he left work voluntarily without good
2986 cause (as defined in Section 71-5-513A(1)), was discharged for
2987 misconduct connected with his work, or refused suitable work
2988 (except as provided in subsection I of this section), and for each
2989 week thereafter until he has earned remuneration for personal
2990 services performed for an employer, as in this chapter defined,
2991 equal to not less than eight (8) times his weekly benefit amount,
2992 as determined in each case.

2993 (7) The provisions of paragraphs I(1) through (6) of
2994 this section shall not apply to claims for weeks of unemployment

2995 beginning after March 6, 1993, and before January 1, 1995, and
2996 during that period the provisions of this chapter applicable to
2997 claims for regular compensation shall apply.

2998 J. Notwithstanding any other provisions of this chapter, if
2999 the benefit year of any individual ends within an extended benefit
3000 period, the remaining balance of extended benefits that such
3001 individual would, but for this section, be entitled to receive in
3002 that extended benefit period, with respect to weeks of
3003 unemployment beginning after the end of the benefit year, shall be
3004 reduced (but not below zero) by the product of the number of weeks
3005 for which the individual received any amounts as trade
3006 readjustment allowances within that benefit year, multiplied by
3007 the individual's weekly benefit amount for extended benefits.

3008 **SECTION 47.** Section 73-30-25, Mississippi Code of 1972, is
3009 amended as follows:

3010 73-30-25. It is not the intent of this chapter to regulate
3011 against members of other duly regulated professions in this state
3012 who do counseling in the normal course of the practice of their
3013 own profession. This chapter does not apply to:

3014 (a) Any person registered, certified or licensed by the
3015 state to practice any other occupation or profession while
3016 rendering counseling services in the performance of the occupation
3017 or profession for which he is registered, certified or licensed;

3018 (b) Certified school counselors when they are
3019 practicing counseling within the scope of their employment;

3020 (c) Certified vocational counselors when they are
3021 practicing vocational counseling within the scope of their
3022 employment;

3023 (d) Counselors in post-secondary institutions when they
3024 are practicing within the scope of their employment;

3025 (e) Student interns or trainees in counseling pursuing
3026 a course of study in counseling in a regionally or nationally
3027 accredited institution of higher learning or training institution

3028 if activities and services constitute a part of the supervised
3029 course of study, provided that such persons be designated a
3030 counselor intern;

3031 (f) Professionals employed by regionally or nationally
3032 accredited post-secondary institutions as counselor educators when
3033 they are practicing counseling within the scope of their
3034 employment;

3035 (g) Professionals registered, certified or licensed by
3036 a recognized state or national professional association that has a
3037 published code of ethics and requires adherence to same;

3038 (h) Duly ordained ministers or clergy while functioning
3039 in their ministerial capacity and duly accredited Christian
3040 Science practitioners;

3041 (i) Professional employees of regional mental health
3042 centers, state mental hospitals, vocational rehabilitation
3043 institutions, youth court counselors and employees of the
3044 Mississippi Department of Employment Security or other
3045 governmental agency so long as they practice within the scope of
3046 their employment;

3047 (j) Professional employees of alcohol or drug abuse
3048 centers or treatment facilities, whether privately or publicly
3049 funded, so long as they practice within the scope of their
3050 employment;

3051 (k) Private employment counselors;

3052 (l) Any nonresident temporarily employed in this state
3053 to render counseling services for not more than thirty (30) days
3054 in any year, if in the opinion of the board the person would
3055 qualify for a license under this chapter and if the person holds
3056 any license required for counselors in his home state or country;
3057 and

3058 (m) Any social workers holding a master's degree in
3059 social work from a school accredited by the Council on Social Work

3060 Education and who do counseling in the normal course of the
3061 practice of their own profession.

3062 **SECTION 48.** Section 43-1-30, Mississippi Code of 1972, is
3063 amended as follows:

3064 43-1-30. (1) There is hereby created the Mississippi TANF
3065 Implementation Council. It shall serve as the independent, single
3066 state advisory and review council for assuring Mississippi's
3067 compliance with the federal Personal Responsibility and Work
3068 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as
3069 amended. The council shall further cooperation between
3070 government, education and the private sector in meeting the needs
3071 of the TANF program. It shall also further cooperation between
3072 the business and labor communities, education and training
3073 delivery systems, and between businesses in developing highly
3074 skilled workers for high skill, high paying jobs in Mississippi.

3075 (2) The council shall be comprised of thirteen (13) public
3076 members and certain ex officio nonvoting members. All public
3077 members of the council shall be appointed as follows by the
3078 Governor:

3079 Ten (10) members shall be representatives from business and
3080 industry, provided that no fewer than five (5) members are from
3081 the manufacturing and industry sector who are also serving as
3082 members of private industry councils established within the state,
3083 and one (1) member may be a representative of a nonprofit
3084 organization. Three (3) members shall be recipients or former
3085 recipients of TANF assistance appointed from the state at large.

3086 The ex officio nonvoting members of the council shall consist
3087 of the following, or their designees:

3088 (a) The Executive Director of the Mississippi
3089 Department of Human Services;

3090 (b) The Executive Director of the Mississippi
3091 Department of Employment Security;

3092 (c) The Executive Director of the Mississippi
3093 Development Authority;
3094 (d) The State Superintendent of Education;
3095 (e) The Director of the State Board for Community and
3096 Junior Colleges;
3097 (f) The Executive Director of the Division of Medicaid;
3098 (g) The Commissioner of the Mississippi Department of
3099 Corrections; and
3100 (h) The Director of the Mississippi Cooperative
3101 Extension Service.

3102 (3) The Governor shall designate one (1) public member to
3103 serve as chairman of the council for a term of two (2) years and
3104 until a successor as chairman is appointed and qualified.

3105 (4) The term of office for public members appointed by the
3106 Governor shall be four (4) years and until their successors are
3107 appointed and qualified.

3108 (5) Any vacancy shall be filled for the unexpired term by
3109 the Governor in the manner of the original appointment, unless
3110 otherwise specified in this section.

3111 (6) Public members shall receive a per diem as authorized in
3112 Section 25-3-69, for each day actually engaged in meetings of the
3113 council, and shall be reimbursed for mileage and necessary
3114 expenses incurred in the performance of their duties, as provided
3115 in Section 25-3-41.

3116 (7) The council shall:

3117 (a) Annually review and recommend policies and programs
3118 to the Governor and the Legislature that will implement and meet
3119 federal requirements under the TANF program.

3120 (b) Annually review and recommend policies and programs
3121 to the Governor and to the Legislature that will enable citizens
3122 of Mississippi to acquire the skills necessary to maximize their
3123 economic self-sufficiency.

3124 (c) Review the provision of services and the use of
3125 funds and resources under the TANF program, and under all
3126 state-financed job training and job retraining programs, and
3127 advise the Governor and the Legislature on methods of coordinating
3128 such provision of services and use of funds and resources
3129 consistent with the laws and regulations governing such programs.

3130 (d) Assist in developing outcome and output measures to
3131 measure the success of the Department of Human Services' efforts
3132 in implementing the TANF program. These recommendations shall be
3133 made to the Department of Human Services at such times as required
3134 in the event that the department implements new programs to comply
3135 with the TANF program requirements.

3136 (e) Collaborate with the Department of Economic and
3137 Community development, local planning and development districts
3138 and local industrial development boards, and shall develop an
3139 economic development plan for the creation of manufacturing jobs
3140 in each of the counties in the state that has an unemployment rate
3141 of ten percent (10%) or more, which shall include, but not be
3142 limited to, procedures for business development, entrepreneurship
3143 and financial and technical assistance.

3144 (8) A majority of the members of the council shall
3145 constitute a quorum for the conduct of meetings and all actions of
3146 the council shall be by a majority of the members present at a
3147 meeting.

3148 (9) The council shall adopt rules and regulations as it
3149 deems necessary to carry out its responsibilities under this
3150 section and under applicable federal human resources programs.

3151 (10) The council may make and enter into contracts and
3152 interagency agreements as may be necessary and proper.

3153 (11) The council is authorized to commit and expend monies
3154 appropriated to it by the Legislature for its authorized purposes.
3155 The council is authorized to solicit, accept and expend public and

3156 private gifts, grants, awards and contributions related to
3157 furtherance of its statutory duties.

3158 (12) Funds for the operations of the council shall be
3159 derived from federal funds for the operation of state councils
3160 pursuant to applicable federal human resources programs and from
3161 such other monies appropriated to it by the Legislature.

3162 **SECTION 49.** Section 43-17-5, Mississippi Code of 1972, is
3163 amended as follows:

3164 43-17-5. (1) The amount of Temporary Assistance for Needy
3165 Families (TANF) benefits which may be granted for any dependent
3166 child and a needy caretaker relative shall be determined by the
3167 county department with due regard to the resources and necessary
3168 expenditures of the family and the conditions existing in each
3169 case, and in accordance with the rules and regulations made by the
3170 Department of Human Services which shall not be less than the
3171 Standard of Need in effect for 1988, and shall be sufficient when
3172 added to all other income (except that any income specified in the
3173 federal Social Security Act, as amended, may be disregarded) and
3174 support available to the child to provide such child with a
3175 reasonable subsistence compatible with decency and health. The
3176 first family member in the dependent child's budget may receive an
3177 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;
3178 the second family member in the dependent child's budget may
3179 receive an amount not to exceed Thirty-six Dollars (\$36.00) per
3180 month; and each additional family member in the dependent child's
3181 budget an amount not to exceed Twenty-four Dollars (\$24.00) per
3182 month. The maximum for any individual family member in the
3183 dependent child's budget may be exceeded for foster or medical
3184 care or in cases of mentally retarded or physically handicapped
3185 children. TANF benefits granted shall be specifically limited
3186 only (a) to children existing or conceived at the time the
3187 caretaker relative initially applies and qualifies for such
3188 assistance, unless this limitation is specifically waived by the

3189 department, or (b) to a child born following a twelve (12)
3190 consecutive month period of discontinued benefits by the caretaker
3191 relative.

3192 (2) TANF cash benefits in Mississippi shall be provided by
3193 monthly checks mailed to the recipient family until such time as
3194 an on-line electronic benefits transfer system for TANF benefit
3195 payments is implemented pursuant to Section 43-1-28.

3196 (3) The Department of Human Services shall deny TANF
3197 benefits to the following categories of individuals, except for
3198 individuals and families specifically exempt or excluded for good
3199 cause as allowed by federal statute or regulation:

3200 (a) Families without a minor child residing with the
3201 custodial parent or other adult caretaker relative of the child;

3202 (b) Families which include an adult who has received
3203 TANF assistance for sixty (60) months after the commencement of
3204 the Mississippi TANF program, whether or not such period of time
3205 is consecutive;

3206 (c) Families not assigning to the state any rights a
3207 family member may have, on behalf of the family member or of any
3208 other person for whom the family member has applied for or is
3209 receiving such assistance, to support from any other person, as
3210 required by law;

3211 (d) Families who fail to cooperate in establishing
3212 paternity or obtaining child support, as required by law;

3213 (e) Any individual who has not attained eighteen (18)
3214 years of age, is not married to the head of household, has a minor
3215 child at least twelve (12) weeks of age in his or her care, and
3216 has not successfully completed a high school education or its
3217 equivalent, if such individual does not participate in educational
3218 activities directed toward the attainment of a high school diploma
3219 or its equivalent, or an alternative educational or training
3220 program approved by the department;

3221 (f) Any individual who has not attained eighteen (18)
3222 years of age, is not married, has a minor child in his or her
3223 care, and does not reside in a place or residence maintained by a
3224 parent, legal guardian or other adult relative or the individual
3225 as such parent's, guardian's or adult relative's own home;

3226 (g) Any minor child who has been, or is expected by a
3227 parent or other caretaker relative of the child to be, absent from
3228 the home for a period of more than thirty (30) days;

3229 (h) Any individual who is a parent or other caretaker
3230 relative of a minor child who fails to notify the department of
3231 the absence of the minor child from the home for the thirty-day
3232 period specified in paragraph (g), by the end of the five-day
3233 period that begins with the date that it becomes clear to the
3234 individual that the minor child will be absent for the thirty-day
3235 period;

3236 (i) Any individual who fails to comply with the
3237 provisions of the Employability Development Plan signed by the
3238 individual which prescribe those activities designed to help the
3239 individual become and remain employed, or to participate
3240 satisfactorily in the assigned work activity, as authorized under
3241 subsections (6)(c) and (d);

3242 (j) A parent or caretaker relative who has not engaged
3243 in an allowable work activity once the department determines the
3244 parent or caretaker relative is ready to engage in work, or once
3245 the parent or caretaker relative has received TANF assistance
3246 under the program for twenty-four (24) months, whether or not
3247 consecutive, whichever is earlier;

3248 (k) Any individual who is fleeing to avoid prosecution,
3249 or custody or confinement after conviction, under the laws of the
3250 jurisdiction from which the individual flees, for a crime, or an
3251 attempt to commit a crime, which is a felony under the laws of the
3252 place from which the individual flees, or who is violating a

3253 condition of probation or parole imposed under federal or state
3254 law;

3255 (l) Aliens who are not qualified under federal law;

3256 (m) For a period of ten (10) years following
3257 conviction, individuals convicted in federal or state court of
3258 having made a fraudulent statement or representation with respect
3259 to the individual's place of residence in order to receive TANF,
3260 food stamps or Supplemental Security Income (SSI) assistance under
3261 Title XVI or Title XIX simultaneously from two (2) or more states;
3262 and

3263 (n) Individuals who are recipients of federal
3264 Supplemental Security Income (SSI) assistance.

3265 (4) (a) Any person who is otherwise eligible for TANF
3266 benefits, including custodial and noncustodial parents, shall be
3267 required to attend school and meet the monthly attendance
3268 requirement as provided in this subsection if all of the following
3269 apply:

3270 (i) The person is under age twenty (20);

3271 (ii) The person has not graduated from a public or
3272 private high school or obtained a GED equivalent;

3273 (iii) The person is physically able to attend
3274 school and is not excused from attending school; and

3275 (iv) If the person is a parent or caretaker
3276 relative with whom a dependent child is living, child care is
3277 available for the child.

3278 The monthly attendance requirement under this subsection
3279 shall be attendance at the school in which the person is enrolled
3280 for each day during a month that the school conducts classes in
3281 which the person is enrolled, with not more than two (2) absences
3282 during the month for reasons other than the reasons listed in
3283 paragraph (e)(iv) of this subsection. Persons who fail to meet
3284 participation requirements in this subsection shall be subject to
3285 sanctions as provided in paragraph (f) of this subsection.

3286 (b) As used in this subsection, "school" means any one
3287 (1) of the following:

3288 (i) A school as defined in Section 37-13-91(2);

3289 (ii) A vocational, technical and adult education
3290 program; or

3291 (iii) A course of study meeting the standards
3292 established by the State Department of Education for the granting
3293 of a declaration of equivalency of high school graduation.

3294 (c) If any compulsory-school-age child, as defined in
3295 Section 37-13-91(2), to which TANF eligibility requirements apply
3296 is not in compliance with the compulsory school attendance
3297 requirements of Section 37-13-91(6), the superintendent of schools
3298 of the school district in which the child is enrolled or eligible
3299 to attend shall notify the county department of human services of
3300 the child's noncompliance. The Department of Human Services shall
3301 review school attendance information as provided under this
3302 paragraph at all initial eligibility determinations and upon
3303 subsequent report of unsatisfactory attendance.

3304 (d) The signature of a person on an application for
3305 TANF benefits constitutes permission for the release of school
3306 attendance records for that person or for any child residing with
3307 that person. The department shall request information from the
3308 child's school district about the child's attendance in the school
3309 district's most recently completed semester of attendance. If
3310 information about the child's previous school attendance is not
3311 available or cannot be verified, the department shall require the
3312 child to meet the monthly attendance requirement for one (1)
3313 semester or until the information is obtained. The department
3314 shall use the attendance information provided by a school district
3315 to verify attendance for a child. The department shall review
3316 with the parent or caretaker relative a child's claim that he or
3317 she has a good cause for not attending school.

3318 A school district shall provide information to the department
3319 about the attendance of a child who is enrolled in a public school
3320 in the district within five (5) working days of the receipt of a
3321 written request for such information from the department. The
3322 school district shall define how many hours of attendance count as
3323 a full day and shall provide that information, upon request, to
3324 the department. In reporting attendance, the school district may
3325 add partial days' absence together to constitute a full day's
3326 absence.

3327 (e) A child who is required to attend school to meet
3328 the requirements under this subsection shall comply except when
3329 there is good cause, which shall be demonstrated by any of the
3330 following circumstances:

3331 (i) The minor parent is the caretaker of a child
3332 less than twelve (12) weeks old; or

3333 (ii) The department determines that child care
3334 services are necessary for the minor parent to attend school and
3335 there is no child care available; or

3336 (iii) The child is prohibited by the school
3337 district from attending school and an expulsion is pending. This
3338 exemption no longer applies once the teenager has been expelled;
3339 however, a teenager who has been expelled and is making
3340 satisfactory progress towards obtaining a GED equivalent shall be
3341 eligible for TANF benefits; or

3342 (iv) The child failed to attend school for one or
3343 more of the following reasons:

3344 1. Illness, injury or incapacity of the child
3345 or the minor parent's child;

3346 2. Court-required appearances or temporary
3347 incarceration;

3348 3. Medical or dental appointments for the
3349 child or minor parent's child;

3350 4. Death of a close relative;

- 3351 5. Observance of a religious holiday;
3352 6. Family emergency;
3353 7. Breakdown in transportation;
3354 8. Suspension; or
3355 9. Any other circumstance beyond the control
3356 of the child, as defined in regulations of the department.

3357 (f) Upon determination that a child has failed without
3358 good cause to attend school as required, the department shall
3359 provide written notice to the parent or caretaker relative
3360 (whoever is the primary recipient of the TANF benefits) that
3361 specifies:

3362 (i) That the family will be sanctioned in the next
3363 possible payment month because the child who is required to attend
3364 school has failed to meet the attendance requirement of this
3365 subsection;

3366 (ii) The beginning date of the sanction, and the
3367 child to whom the sanction applies;

3368 (iii) The right of the child's parents or
3369 caretaker relative (whoever is the primary recipient of the TANF
3370 benefits) to request a fair hearing under this subsection.

3371 The child's parent or caretaker relative (whoever is the
3372 primary recipient of the TANF benefits) may request a fair hearing
3373 on the department's determination that the child has not been
3374 attending school. If the child's parents or caretaker relative
3375 does not request a fair hearing under this subsection, or if,
3376 after a fair hearing has been held, the hearing officer finds that
3377 the child without good cause has failed to meet the monthly
3378 attendance requirement, the department shall discontinue or deny
3379 TANF benefits to the child thirteen (13) years old, or older, in
3380 the next possible payment month. The department shall discontinue
3381 or deny twenty-five percent (25%) of the family grant when a child
3382 six (6) through twelve (12) years of age without good cause has
3383 failed to meet the monthly attendance requirement. Both the child

3384 and family sanction may apply when children in both age groups
3385 fail to meet the attendance requirement without good cause. A
3386 sanction applied under this subsection shall be effective for one
3387 (1) month for each month that the child failed to meet the monthly
3388 attendance requirement. In the case of a dropout, the sanction
3389 shall remain in force until the parent or caretaker relative
3390 provides written proof from the school district that the child has
3391 reenrolled and met the monthly attendance requirement for one (1)
3392 calendar month. Any month in which school is in session for at
3393 least ten (10) days during the month may be used to meet the
3394 attendance requirement under this subsection. This includes
3395 attendance at summer school. The sanction shall be removed the
3396 next possible payment month.

3397 (5) All parents or caretaker relatives shall have their
3398 dependent children receive vaccinations and booster vaccinations
3399 against those diseases specified by the State Health Officer
3400 pursuant to Section 41-23-37 in accordance with the vaccination
3401 and booster vaccination schedule prescribed by the State Health
3402 Officer for children of that age, in order for the parents or
3403 caretaker relatives to be eligible or remain eligible to receive
3404 TANF benefits. Proof of having received such vaccinations and
3405 booster vaccinations shall be given by presenting the certificates
3406 of vaccination issued by any health care provider licensed to
3407 administer vaccinations, and submitted on forms specified by the
3408 State Board of Health. If the parents without good cause do not
3409 have their dependent children receive the vaccinations and booster
3410 vaccinations as required by this subsection and they fail to
3411 comply after thirty (30) days' notice, the department shall
3412 sanction the family's TANF benefits by twenty-five percent (25%)
3413 for the next payment month and each subsequent payment month until
3414 the requirements of this subsection are met.

3415 (6) (a) If the parent or caretaker relative applying for
3416 TANF assistance is an employable person, as determined by the

3417 Department of Human Services, the person shall be required to
3418 engage in an allowable work activity once the department
3419 determines the parent or caretaker relative is ready to engage in
3420 work, or once the parent or caretaker relative has received TANF
3421 assistance under the program for twenty-four (24) months, whether
3422 or not consecutive, whichever is earlier. No TANF benefits shall
3423 be given to any person to whom this section applies who fails
3424 without good cause to comply with the Employability Development
3425 Plan prepared by the department for the person, or who has refused
3426 to accept a referral or offer of employment, training or education
3427 in which he or she is able to engage, subject to the penalties
3428 prescribed in subsection (6)(e). A person shall be deemed to have
3429 refused to accept a referral or offer of employment, training or
3430 education if he or she:

3431 (i) Willfully fails to report for an interview
3432 with respect to employment when requested to do so by the
3433 department; or

3434 (ii) Willfully fails to report to the department
3435 the result of a referral to employment; or

3436 (iii) Willfully fails to report for allowable work
3437 activities as prescribed in subsections (6)(c) and (d).

3438 (b) The Department of Human Services shall operate a
3439 statewide work program for TANF recipients to provide work
3440 activities and supportive services to enable families to become
3441 self-sufficient and improve their competitive position in the work
3442 force in accordance with the requirements of the federal Personal
3443 Responsibility and Work Opportunity Reconciliation Act of 1996
3444 (Public Law 104-193), as amended, and the regulations promulgated
3445 thereunder. All adults who are not specifically exempt shall be
3446 referred by the department for allowable work activities. An
3447 adult may be exempt from the mandatory work activity requirement
3448 for the following reasons:

3449 (i) Incapacity;

3450 (ii) Temporary illness or injury, verified by
3451 physician's certificate;

3452 (iii) Is in the third trimester of pregnancy,
3453 verified by physician's certificate;

3454 (iv) Caretaker of a child under twelve (12)
3455 months, for not more than twelve (12) months of the sixty-month
3456 maximum benefit period;

3457 (v) Caretaker of an ill or incapacitated person,
3458 as verified by physician's certificate;

3459 (vi) Age, if over sixty (60) or under eighteen
3460 (18) years of age;

3461 (vii) Receiving treatment for substance abuse, if
3462 the person is in compliance with the substance abuse treatment
3463 plan;

3464 (viii) In a two-parent family, the caretaker of a
3465 severely disabled child, as verified by a physician's certificate;
3466 or

3467 (ix) History of having been a victim of domestic
3468 violence, which has been reported as required by state law and is
3469 substantiated by police reports or court records, and being at
3470 risk of further domestic violence, shall be exempt for a period as
3471 deemed necessary by the department but not to exceed a total of
3472 twelve (12) months, which need not be consecutive, in the
3473 sixty-month maximum benefit period. For the purposes of this
3474 subparagraph (ix), "domestic violence" means that an individual
3475 has been subjected to:

3476 1. Physical acts that resulted in, or
3477 threatened to result in, physical injury to the individual;

3478 2. Sexual abuse;

3479 3. Sexual activity involving a dependent
3480 child;

3481 4. Being forced as the caretaker relative of
3482 a dependent child to engage in nonconsensual sexual acts or
3483 activities;

3484 5. Threats of, or attempts at, physical or
3485 sexual abuse;

3486 6. Mental abuse; or

3487 7. Neglect or deprivation of medical care.

3488 (c) For all families, all adults who are not
3489 specifically exempt shall be required to participate in work
3490 activities for at least the minimum average number of hours per
3491 week specified by federal law or regulation, not fewer than twenty
3492 (20) hours per week (thirty-five (35) hours per week for
3493 two-parent families) of which are attributable to the following
3494 allowable work activities:

3495 (i) Unsubsidized employment;

3496 (ii) Subsidized private employment;

3497 (iii) Subsidized public employment;

3498 (iv) Work experience (including work associated
3499 with the refurbishing of publicly assisted housing), if sufficient
3500 private employment is not available;

3501 (v) On-the-job training;

3502 (vi) Job search and job readiness assistance
3503 consistent with federal TANF regulations;

3504 (vii) Community service programs;

3505 (viii) Vocational educational training (not to
3506 exceed twelve (12) months with respect to any individual);

3507 (ix) The provision of child care services to an
3508 individual who is participating in a community service program;

3509 (x) Satisfactory attendance at high school or in a
3510 course of study leading to a high school equivalency certificate,
3511 for heads of household under age twenty (20) who have not
3512 completed high school or received such certificate;

3513 (xi) Education directly related to employment, for
3514 heads of household under age twenty (20) who have not completed
3515 high school or received such equivalency certificate.

3516 (d) The following are allowable work activities which
3517 may be attributable to hours in excess of the minimum specified in
3518 subsection (6)(c):

3519 (i) Job skills training directly related to
3520 employment;

3521 (ii) Education directly related to employment for
3522 individuals who have not completed high school or received a high
3523 school equivalency certificate;

3524 (iii) Satisfactory attendance at high school or in
3525 a course of study leading to a high school equivalency, for
3526 individuals who have not completed high school or received such
3527 equivalency certificate;

3528 (iv) Job search and job readiness assistance
3529 consistent with federal TANF regulations.

3530 (e) If any adult or caretaker relative refuses to
3531 participate in allowable work activity as required under this
3532 subsection (6), the following full family TANF benefit penalty
3533 will apply, subject to due process to include notification,
3534 conciliation and a hearing if requested by the recipient:

3535 (i) For the first violation, the department shall
3536 terminate the TANF assistance otherwise payable to the family for
3537 a two-month period or until the person has complied with the
3538 required work activity, whichever is longer;

3539 (ii) For the second violation, the department
3540 shall terminate the TANF assistance otherwise payable to the
3541 family for a six-month period or until the person has complied
3542 with the required work activity, whichever is longer;

3543 (iii) For the third violation, the department
3544 shall terminate the TANF assistance otherwise payable to the

3545 family for a twelve-month period or until the person has complied
3546 with the required work activity, whichever is longer;

3547 (iv) For the fourth violation, the person shall be
3548 permanently disqualified.

3549 For a two-parent family, unless prohibited by state or
3550 federal law, Medicaid assistance shall be terminated only for the
3551 person whose failure to participate in allowable work activity
3552 caused the family's TANF assistance to be sanctioned under this
3553 subsection (6)(e), unless an individual is pregnant, but shall not
3554 be terminated for any other person in the family who is meeting
3555 that person's applicable work requirement or who is not required
3556 to work. Minor children shall continue to be eligible for
3557 Medicaid benefits regardless of the disqualification of their
3558 parent or caretaker relative for TANF assistance under this
3559 subsection (6), unless prohibited by state or federal law.

3560 (f) Any person enrolled in a two-year or four-year
3561 college program who meets the eligibility requirements to receive
3562 TANF benefits, and who is meeting the applicable work requirements
3563 and all other applicable requirements of the TANF program, shall
3564 continue to be eligible for TANF benefits while enrolled in the
3565 college program for as long as the person meets the requirements
3566 of the TANF program, unless prohibited by federal law.

3567 (g) No adult in a work activity required under this
3568 subsection (6) shall be employed or assigned (i) when any other
3569 individual is on layoff from the same or any substantially
3570 equivalent job within six (6) months before the date of the TANF
3571 recipient's employment or assignment; or (ii) if the employer has
3572 terminated the employment of any regular employee or otherwise
3573 caused an involuntary reduction of its work force in order to fill
3574 the vacancy so created with an adult receiving TANF assistance.

3575 The Mississippi Department of Employment Security, established
3576 under Section 71-5-101, shall appoint one or more impartial
3577 hearing officers to hear and decide claims by employees of

3578 violations of this paragraph (f). The hearing officer shall hear
3579 all the evidence with respect to any claim made hereunder and such
3580 additional evidence as he may require and shall make a
3581 determination and the reason therefor. The claimant shall be
3582 promptly notified of the decision of the hearing officer and the
3583 reason therefor. Within ten (10) days after the decision of the
3584 hearing officer has become final, any party aggrieved thereby may
3585 secure judicial review thereof by commencing an action, in the
3586 circuit court of the county in which the claimant resides, against
3587 the department for the review of such decision, in which action
3588 any other party to the proceeding before the hearing officer shall
3589 be made a defendant. Any such appeal shall be on the record which
3590 shall be certified to the court by the department in the manner
3591 provided in Section 71-5-531, and the jurisdiction of the court
3592 shall be confined to questions of law which shall render its
3593 decision as provided in that section.

3594 (7) The Department of Human Services may provide child care
3595 for eligible participants who require such care so that they may
3596 accept employment or remain employed. The department may also
3597 provide child care for those participating in the TANF program
3598 when it is determined that they are satisfactorily involved in
3599 education, training or other allowable work activities. The
3600 department may contract with Head Start agencies to provide child
3601 care services to TANF recipients. The department may also arrange
3602 for child care by use of contract or vouchers, provide vouchers in
3603 advance to a caretaker relative, reimburse a child care provider,
3604 or use any other arrangement deemed appropriate by the department,
3605 and may establish different reimbursement rates for child care
3606 services depending on the category of the facility or home. Any
3607 center-based or group home child care facility under this
3608 subsection shall be licensed by the State Department of Health
3609 pursuant to law. When child care is being provided in the child's
3610 own home, in the home of a relative of the child, or in any other

3611 unlicensed setting, the provision of such child care may be
3612 monitored on a random basis by the Department of Human Services or
3613 the State Department of Health. Transitional child care
3614 assistance may be continued if it is necessary for parents to
3615 maintain employment once support has ended, unless prohibited
3616 under state or federal law. Transitional child care assistance
3617 may be provided for up to twenty-four (24) months after the last
3618 month during which the family was eligible for TANF assistance, if
3619 federal funds are available for such child care assistance.

3620 (8) The Department of Human Services may provide
3621 transportation or provide reasonable reimbursement for
3622 transportation expenses that are necessary for individuals to be
3623 able to participate in allowable work activity under the TANF
3624 program.

3625 (9) Medicaid assistance shall be provided to a family of
3626 TANF program participants for up to twenty-four (24) consecutive
3627 calendar months following the month in which the participating
3628 family would be ineligible for TANF benefits because of increased
3629 income, expiration of earned income disregards, or increased hours
3630 of employment of the caretaker relative; however, Medicaid
3631 assistance for more than twelve (12) months may be provided only
3632 if a federal waiver is obtained to provide such assistance for
3633 more than twelve (12) months and federal and state funds are
3634 available to provide such assistance.

3635 (10) The department shall require applicants for and
3636 recipients of public assistance from the department to sign a
3637 personal responsibility contract that will require the applicant
3638 or recipient to acknowledge his or her responsibilities to the
3639 state.

3640 (11) The department shall enter into an agreement with the
3641 State Personnel Board and other state agencies that will allow
3642 those TANF participants who qualify for vacant jobs within state
3643 agencies to be placed in state jobs. State agencies participating

3644 in the TANF work program shall receive any and all benefits
3645 received by employers in the private sector for hiring TANF
3646 recipients. This subsection (11) shall be effective only if the
3647 state obtains any necessary federal waiver or approval and if
3648 federal funds are available therefor.

3649 (12) No new TANF program requirement or restriction
3650 affecting a person's eligibility for TANF assistance, or allowable
3651 work activity, which is not mandated by federal law or regulation
3652 may be implemented by the Department of Human Services after the
3653 effective date of this act, unless such is specifically authorized
3654 by an amendment to this section by the Legislature.

3655 **SECTION 50.** Section 43-19-45, Mississippi Code of 1972, is
3656 amended as follows:

3657 43-19-45. (1) The Child Support Unit shall establish a
3658 state parent locator service for the purpose of locating absent
3659 and nonsupporting parents and alleged parents, which will utilize
3660 all appropriate public and private locator sources. In order to
3661 carry out the responsibilities imposed under Sections 43-19-31
3662 through 43-19-53, the Child Support Unit may secure by
3663 administrative subpoena from the customer records of public
3664 utilities and cable television companies the names and addresses
3665 of individuals and the names and addresses of employers of such
3666 individuals that would enable the location of parents or alleged
3667 parents who have a duty to provide support and maintenance for
3668 their children. The Child Support Unit may also administratively
3669 subpoena any and all financial information, including account
3670 numbers, names and social security numbers of record for assets,
3671 accounts, and account balances from any individual, financial
3672 institution, business or other entity, public or private, needed
3673 to establish, modify or enforce a support order. No entity
3674 complying with an administrative subpoena to supply the requested
3675 information of whatever nature shall be liable in any civil action
3676 or proceeding on account of such compliance. Full faith and

3677 credit shall be given to all uniform administrative subpoenas
3678 issued by other state child support units. The recipient of an
3679 administrative subpoena shall supply said Child Support Unit,
3680 other state and federal IV-D agencies, its attorneys,
3681 investigators, probation officers, county or district attorneys in
3682 this state, all information relative to the location, employment,
3683 employment related benefits including, but not limited to,
3684 availability of medical insurance, income and property of such
3685 parents and alleged parents and with all information on hand
3686 relative to the location and prosecution of any person who has, by
3687 means of a false statement or misrepresentation or by
3688 impersonation or other fraudulent device, obtained Temporary
3689 Assistance for Needy Families (TANF) to which he or she was not
3690 entitled, notwithstanding any provision of law making such
3691 information confidential. The Mississippi Department of
3692 Information Technology Services and any other agency in this state
3693 using the facilities of the Mississippi Department of Information
3694 Technology Services are directed to permit the Child Support Unit
3695 access to their files, inclusive of those maintained for other
3696 state agencies, for the purpose of locating absent and
3697 nonsupporting parents and alleged parents, except to the extent
3698 that any such access would violate any valid federal statute or
3699 regulation issued pursuant thereto. The Child Support Unit, other
3700 state and federal IV-D agencies, its attorneys, investigators,
3701 probation officers, or county or district attorneys, shall use
3702 such information only for the purpose of investigating or
3703 enforcing the support liability of such absent parents or alleged
3704 parents or for the prosecution of other persons mentioned herein.
3705 Neither the Child Support Unit nor said authorities shall use the
3706 information, or disclose it, for any other purpose. All records
3707 maintained pursuant to the provisions of Sections 43-19-31 through
3708 43-19-53 shall be confidential and shall be available only to the
3709 Child Support Unit, other state and federal IV-D agencies, the

3710 attorneys, investigators and other staff employed or under
3711 contract under Sections 43-19-31 through 43-19-53, district or
3712 county attorneys, probation departments, child support units in
3713 other states, and courts having jurisdiction in paternity, support
3714 or abandonment proceedings. The Child Support Unit may release to
3715 the public the name, photo, last known address, arrearage amount
3716 and other necessary information of a parent who has a judgment
3717 against him for child support and is currently in arrears in the
3718 payment of this support. Such release may be included in a "Most
3719 Wanted List" or other media in order to solicit assistance.

3720 (2) The Child Support Unit shall have the authority to
3721 secure information from the records of the Mississippi Department
3722 of Employment Security that may be necessary to locate absent and
3723 nonsupporting parents and alleged parents under the provisions of
3724 Sections 43-19-31 through 43-19-53. Upon request of the Child
3725 Support Unit, all departments, boards, bureaus and agencies of the
3726 state shall provide to the Child Support Unit verification of
3727 employment or payment and the address and social security number
3728 of any person designated as an absent or nonsupporting parent or
3729 alleged parent. In addition, upon request of the Child Support
3730 Unit, the Mississippi Department of Employment Security, or any
3731 private employer or payor of any income to a person designated as
3732 an absent or nonsupporting parent or alleged parent, shall provide
3733 to the Child Support Unit verification of employment or payment
3734 and the address and social security number of the person so
3735 designated. Full faith and credit shall be given to such notices
3736 issued by child support units in other states. All such records
3737 and information shall be confidential and shall not be used for
3738 any purposes other than those specified by Sections 43-19-31
3739 through 43-19-53. The violation of the provisions of this
3740 subsection shall be unlawful and any person convicted of violating
3741 the provisions of this subsection shall be guilty of a misdemeanor

3742 and shall pay a fine of not more than Two Hundred Dollars
3743 (\$200.00).

3744 (3) Federal and state IV-D agencies shall have access to the
3745 state parent locator service and any system used by the Child
3746 Support Unit to locate an individual for purposes relating to
3747 motor vehicles or law enforcement. No employer or other source of
3748 income who complies with this section shall be liable in any civil
3749 action or proceeding brought by the obligor or obligee on account
3750 of such compliance.

3751 **SECTION 51.** Section 43-19-46, Mississippi Code of 1972, is
3752 amended as follows:

3753 43-19-46. (1) Each employer, as defined in Section
3754 93-11-101, Mississippi Code of 1972, doing business in Mississippi
3755 shall report to the Directory of New Hires within the Mississippi
3756 Department of Human Services:

3757 (a) The hiring of any person who resides or works in
3758 this state to whom the employer anticipates paying wages; and

3759 (b) The hiring or return to work of any employee who
3760 was laid off, furloughed, separated, granted leave without pay or
3761 was terminated from employment.

3762 (2) Employers shall report, by mailing or by other means
3763 authorized by the Department of Human Services, a copy of the
3764 employee's W-4 form or its equivalent which will result in timely
3765 reporting. Each employer shall submit reports within fifteen (15)
3766 days of the hiring, rehiring or return to work of the employee.

3767 The report shall contain:

3768 (a) The employee's name, address, Social Security
3769 number and the date of birth;

3770 (b) The employer's name, address, and federal and state
3771 withholding tax identification numbers; and

3772 (c) The date upon which the employee began or resumed
3773 employment, or is scheduled to begin or otherwise resume
3774 employment.

3775 (3) The department shall retain the information, which shall
3776 be forwarded to the federal registry of new hires.

3777 (4) The Department of Human Services may operate the
3778 program, may enter into a mutual agreement with the Mississippi
3779 Department of Employment Security or the State Tax Commission, or
3780 both, for the operation of the Directory of New Hires Program, or
3781 the Department of Human Services may contract for such service, in
3782 which case the department shall maintain administrative control of
3783 the program.

3784 (5) In cases in which an employer fails to report
3785 information, as required by this section, an administratively
3786 levied civil penalty in an amount not to exceed Five Hundred
3787 Dollars (\$500.00) shall apply if the failure is the result of a
3788 conspiracy between the employer and employee to not supply the
3789 required report or to supply a false or incomplete report. The
3790 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).
3791 Appeal shall be as provided in Section 43-19-58.

3792 **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is
3793 amended as follows:

3794 57-62-5. As used in this chapter, the following words and
3795 phrases shall have the meanings ascribed in this section unless
3796 the context clearly indicates otherwise:

3797 (a) "Qualified business or industry" means any
3798 corporation, limited liability company, partnership, sole
3799 proprietorship, business trust or other legal entity and subunits
3800 or affiliates thereof, pursuant to rules and regulations of the
3801 MDA, which provides an average annual salary, excluding benefits
3802 which are not subject to Mississippi income taxes, of at least one
3803 hundred twenty-five percent (125%) of the most recently published
3804 state average annual wage or the most recently published average
3805 annual wage of the county in which the qualified business or
3806 industry is located as determined by the Mississippi Department of
3807 Employment Security, whichever is the lesser. An establishment

3808 shall not be considered to be a qualified business or industry
3809 unless it offers, or will offer within one hundred eighty (180)
3810 days of the date it receives the first incentive payment pursuant
3811 to the provisions of this chapter, a basic health benefits plan to
3812 the individuals it employs in new direct jobs in this state which
3813 is approved by the MDA. Qualified business or industry does not
3814 include retail business or gaming business;

3815 (b) "New direct job" means full-time employment in this
3816 state in a qualified business or industry that has qualified to
3817 receive an incentive payment pursuant to this chapter, which
3818 employment did not exist in this state before the date of approval
3819 by the MDA of the application of the qualified business or
3820 industry pursuant to the provisions of this chapter. "New direct
3821 job" shall include full-time employment in this state of employees
3822 who are employed by an entity other than the establishment that
3823 has qualified to receive an incentive payment and who are leased
3824 to the qualified business or industry, if such employment did not
3825 exist in this state before the date of approval by the MDA of the
3826 application of the establishment;

3827 (c) "Full-time job" means a job of at least thirty-five
3828 (35) hours per week;

3829 (d) "Estimated direct state benefits" means the tax
3830 revenues projected by the MDA to accrue to the state as a result
3831 of the qualified business or industry;

3832 (e) "Estimated direct state costs" means the costs
3833 projected by the MDA to accrue to the state as a result of the
3834 qualified business or industry;

3835 (f) "Estimated net direct state benefits" means the
3836 estimated direct state benefits less the estimated direct state
3837 costs;

3838 (g) "Net benefit rate" means the estimated net direct
3839 state benefits computed as a percentage of gross payroll, provided
3840 that:

3841 (i) Except as otherwise provided in this paragraph
3842 (g), the net benefit rate may be variable and shall not exceed
3843 four percent (4%) of the gross payroll; and shall be set in the
3844 sole discretion of the MDA;

3845 (ii) In no event shall incentive payments,
3846 cumulatively, exceed the estimated net direct state benefits;

3847 (h) "Gross payroll" means wages for new direct jobs of
3848 the qualified business or industry; and

3849 (i) "MDA" means the Mississippi Development Authority.

3850 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is
3851 amended as follows:

3852 57-62-9. (1) Except as otherwise provided in this section,
3853 a qualified business or industry that meets the qualifications
3854 specified in the Mississippi Advantage Jobs Act may receive
3855 quarterly incentive payments for a period not to exceed ten (10)
3856 years from the State Tax Commission pursuant to the provisions of
3857 the Mississippi Advantage Jobs Act in an amount which shall be
3858 equal to the net benefit rate multiplied by the actual gross
3859 payroll of new direct jobs for a calendar quarter as verified by
3860 the Mississippi Department of Employment Security, but not to
3861 exceed the amount of money previously paid into the fund by the
3862 employer. A qualified business or industry that is a project as
3863 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
3864 the ten-year period will begin. Such date may not be later than
3865 sixty (60) months after the date the business or industry applied
3866 for incentive payments.

3867 (2) (a) A qualified business or industry that is a project
3868 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
3869 receive incentive payments for an additional period not to exceed
3870 five (5) years beyond the expiration date of the initial ten-year
3871 period if:

3872 (i) The qualified business or industry creates at
3873 least three thousand (3,000) new direct jobs within five (5) years

3874 after the date the business or industry commences commercial
3875 production;

3876 (ii) Within five (5) years after the date the
3877 business or industry commences commercial production, the average
3878 annual wage of the jobs is at least one hundred fifty percent
3879 (150%) of the most recently published state average annual wage or
3880 the most recently published average annual wage of the county in
3881 which the qualified business or industry is located as determined
3882 by the Mississippi Department of Employment Security, whichever is
3883 the lesser. The criteria for the average annual wage requirement
3884 shall be based upon the state average annual wage or the average
3885 annual wage of the county whichever is appropriate, at the time of
3886 creation of the minimum number of jobs, and the threshold
3887 established at that time will remain constant for the duration of
3888 the additional period; and

3889 (iii) The qualified business or industry meets and
3890 maintains the job and wage requirements of subparagraphs (i) and
3891 (ii) of this paragraph (a) for four (4) consecutive calendar
3892 quarters.

3893 (b) A qualified business or industry that is a project
3894 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
3895 incentive payments for the additional period provided in paragraph
3896 (a) of this subsection (2) may apply to the MDA to receive
3897 incentive payments for an additional period not to exceed ten (10)
3898 years beyond the expiration date of the additional period provided
3899 in paragraph (a) of this subsection (2) if:

3900 (i) The qualified business or industry creates at
3901 least four thousand (4,000) new direct jobs after qualifying for
3902 the additional incentive period provided in paragraph (a) of this
3903 subsection (2) but before the expiration of the additional period.
3904 For purposes of determining whether the business or industry meets
3905 the minimum jobs requirement of this subparagraph (i), the number
3906 of jobs the business or industry created in order to meet the

3907 minimum jobs requirement of paragraph (a) of this subsection (2)
3908 shall be subtracted from the minimum jobs requirement of this
3909 subparagraph (i);

3910 (ii) The average annual wage of the jobs is at
3911 least one hundred fifty percent (150%) of the most recently
3912 published state average annual wage or the most recently published
3913 average annual wage of the county in which the qualified business
3914 or industry is located as determined by the Mississippi Department
3915 of Employment Security, whichever is the lesser. The criteria for
3916 the average annual wage requirement shall be based upon the state
3917 average annual wage or the average annual wage of the county
3918 whichever is appropriate, at the time of creation of the minimum
3919 number of jobs, and the threshold established at that time will
3920 remain constant for the duration of the additional period; and

3921 (iii) The qualified business or industry meets and
3922 maintains the job and wage requirements of subparagraphs (i) and
3923 (ii) of this paragraph (b) for four (4) consecutive calendar
3924 quarters.

3925 (3) In order to receive incentive payments, an establishment
3926 shall apply to the MDA. The application shall be on a form
3927 prescribed by the MDA and shall contain such information as may be
3928 required by the MDA to determine if the applicant is qualified.

3929 (4) In order to qualify to receive such payments, the
3930 establishment applying shall be required to:

3931 (a) Be engaged in a qualified business or industry;

3932 (b) Provide an average salary, excluding benefits which
3933 are not subject to Mississippi income taxes, of at least one
3934 hundred twenty-five percent (125%) of the most recently published
3935 state average annual wage or the most recently published average
3936 annual wage of the county in which the qualified business or
3937 industry is located as determined by the Mississippi Department of
3938 Employment Security, whichever is the lesser. The criteria for
3939 this requirement shall be based upon the state average annual wage

3940 or the average annual wage of the county whichever is appropriate,
3941 at the time of application, and the threshold established upon
3942 application will remain constant for the duration of the project;

3943 (c) The business or industry must create and maintain a
3944 minimum of ten (10) full-time jobs in counties that have an
3945 average unemployment rate over the previous twelve-month period
3946 which is at least one hundred fifty percent (150%) of the most
3947 recently published state unemployment rate, as determined by the
3948 Mississippi Department of Employment Security or in Tier Three
3949 counties as determined under Section 57-73-21. In all other
3950 counties, the business or industry must create and maintain a
3951 minimum of twenty-five (25) full-time jobs. The criteria for this
3952 requirement shall be based on the designation of the county at the
3953 time of the application. The threshold established upon the
3954 application will remain constant for the duration of the project.
3955 The business or industry must meet its job creation commitment
3956 within twenty-four (24) months of the application approval.
3957 However, if the qualified business or industry is applying for
3958 incentive payments for an additional period under subsection (2)
3959 of this section, the business or industry must comply with the
3960 applicable job and wage requirements of subsection (2) of this
3961 section.

3962 (5) The MDA shall determine if the applicant is qualified to
3963 receive incentive payments. If the applicant is determined to be
3964 qualified by the MDA, the MDA shall conduct a cost/benefit
3965 analysis to determine the estimated net direct state benefits and
3966 the net benefit rate applicable for a period not to exceed ten
3967 (10) years and to estimate the amount of gross payroll for the
3968 period. If the applicant is determined to be qualified to receive
3969 incentive payments for an additional period under subsection (2)
3970 of this section, the MDA shall conduct a cost/benefit analysis to
3971 determine the estimated net direct state benefits and the net
3972 benefit rate applicable for the appropriate additional period and

3973 to estimate the amount of gross payroll for the additional period.
3974 In conducting such cost/benefit analysis, the MDA shall consider
3975 quantitative factors, such as the anticipated level of new tax
3976 revenues to the state along with the cost to the state of the
3977 qualified business or industry, and such other criteria as deemed
3978 appropriate by the MDA, including the adequacy of retirement
3979 benefits that the business or industry provides to individuals it
3980 employs in new direct jobs in this state. In no event shall
3981 incentive payments, cumulatively, exceed the estimated net direct
3982 state benefits. Once the qualified business or industry is
3983 approved by the MDA, an agreement shall be deemed to exist between
3984 the qualified business or industry and the State of Mississippi,
3985 requiring the continued incentive payment to be made as long as
3986 the qualified business or industry retains its eligibility.

3987 (6) Upon approval of such an application, the MDA shall
3988 notify the State Tax Commission and shall provide it with a copy
3989 of the approved application and the estimated net direct state
3990 benefits. The State Tax Commission may require the qualified
3991 business or industry to submit such additional information as may
3992 be necessary to administer the provisions of this chapter. The
3993 qualified business or industry shall report to the State Tax
3994 Commission periodically to show its continued eligibility for
3995 incentive payments. The qualified business or industry may be
3996 audited by the State Tax Commission to verify such eligibility.

3997 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is
3998 amended as follows:

3999 57-75-5. Words and phrases used in this chapter shall have
4000 meanings as follows, unless the context clearly indicates a
4001 different meaning:

4002 (a) "Act" means the Mississippi Major Economic Impact
4003 Act as originally enacted or as hereafter amended.

4004 (b) "Authority" means the Mississippi Major Economic
4005 Impact Authority created pursuant to the act.

4006 (c) "Bonds" means general obligation bonds, interim
4007 notes and other evidences of debt of the State of Mississippi
4008 issued pursuant to this chapter.

4009 (d) "Facility related to the project" means and
4010 includes any of the following, as the same may pertain to the
4011 project within the project area: (i) facilities to provide
4012 potable and industrial water supply systems, sewage and waste
4013 disposal systems and water, natural gas and electric transmission
4014 systems to the site of the project; (ii) airports, airfields and
4015 air terminals; (iii) rail lines; (iv) port facilities; (v)
4016 highways, streets and other roadways; (vi) public school
4017 buildings, classrooms and instructional facilities, training
4018 facilities and equipment, including any functionally related
4019 facilities; (vii) parks, outdoor recreation facilities and
4020 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
4021 art centers, cultural centers, folklore centers and other public
4022 facilities; (ix) health care facilities, public or private; and
4023 (x) fire protection facilities, equipment and elevated water
4024 tanks.

4025 (e) "Person" means any natural person, corporation,
4026 association, partnership, receiver, trustee, guardian, executor,
4027 administrator, fiduciary, governmental unit, public agency,
4028 political subdivision, or any other group acting as a unit, and
4029 the plural as well as the singular.

4030 (f) "Project" means:

4031 (i) Any industrial, commercial, research and
4032 development, warehousing, distribution, transportation,
4033 processing, mining, United States government or tourism enterprise
4034 together with all real property required for construction,
4035 maintenance and operation of the enterprise with an initial
4036 capital investment of not less than Three Hundred Million Dollars
4037 (\$300,000,000.00) from private or United States government sources
4038 together with all buildings, and other supporting land and

4039 facilities, structures or improvements of whatever kind required
4040 or useful for construction, maintenance and operation of the
4041 enterprise; or with an initial capital investment of not less than
4042 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
4043 or United States government sources together with all buildings
4044 and other supporting land and facilities, structures or
4045 improvements of whatever kind required or useful for construction,
4046 maintenance and operation of the enterprise and which creates at
4047 least one thousand (1,000) net new full-time jobs; or which
4048 creates at least one thousand (1,000) net new full-time jobs which
4049 provides an average salary, excluding benefits which are not
4050 subject to Mississippi income taxation, of at least one hundred
4051 twenty-five percent (125%) of the most recently published average
4052 annual wage of the state as determined by the Mississippi
4053 Employment Security Commission. "Project" shall include any
4054 addition to or expansion of an existing enterprise if such
4055 addition or expansion has an initial capital investment of not
4056 less than Three Hundred Million Dollars (\$300,000,000.00) from
4057 private or United States government sources, or has an initial
4058 capital investment of not less than One Hundred Fifty Million
4059 Dollars (\$150,000,000.00) from private or United States government
4060 sources together with all buildings and other supporting land and
4061 facilities, structures or improvements of whatever kind required
4062 or useful for construction, maintenance and operation of the
4063 enterprise and which creates at least one thousand (1,000) net new
4064 full-time jobs; or which creates at least one thousand (1,000) net
4065 new full-time jobs which provides an average salary, excluding
4066 benefits which are not subject to Mississippi income taxation, of
4067 at least one hundred twenty-five percent (125%) of the most
4068 recently published average annual wage of the state as determined
4069 by the Mississippi Department of Employment Security. "Project"
4070 shall also include any ancillary development or business resulting
4071 from the enterprise, of which the authority is notified, within

4072 three (3) years from the date that the enterprise entered into
4073 commercial production, that the project area has been selected as
4074 the site for the ancillary development or business.

4075 (ii) Any major capital project designed to
4076 improve, expand or otherwise enhance any active duty United States
4077 Air Force or Navy training bases or naval stations, their support
4078 areas or their military operations, upon designation by the
4079 authority that any such base was or is at risk to be recommended
4080 for closure or realignment pursuant to the Defense Base Closure
4081 and Realignment Act of 1990; or any major development project
4082 determined by the authority to be necessary to acquire base
4083 properties and to provide employment opportunities through
4084 construction of projects as defined in Section 57-3-5, which shall
4085 be located on or provide direct support service or access to such
4086 military installation property as such property exists on July 1,
4087 1993, in the event of closure or reduction of military operations
4088 at the installation. From and after July 1, 1997, projects
4089 described in this subparagraph (ii) shall not be considered to be
4090 within the meaning of the term "project" for purposes of this
4091 section, unless such projects are commenced before July 1, 1997,
4092 and shall not be eligible for any funding provided under the
4093 Mississippi Major Economic Impact Act.

4094 (iii) Any enterprise to be maintained, improved or
4095 constructed in Tishomingo County by or for a National Aeronautics
4096 and Space Administration facility in such county.

4097 (iv) 1. Any major capital project with an initial
4098 capital investment from private sources of not less than Seven
4099 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
4100 at least three thousand (3,000) jobs meeting criteria established
4101 by the Mississippi Development Authority.

4102 2. "Project" shall also include any ancillary
4103 development or business resulting from an enterprise operating a
4104 project as defined in item 1 of this paragraph (f)(iv), of which

4105 the authority is notified, within three (3) years from the date
4106 that the enterprise entered into commercial production, that the
4107 state has been selected as the site for the ancillary development
4108 or business.

4109 (v) Any manufacturing, processing or industrial
4110 project determined by the authority, in its sole discretion, to
4111 contribute uniquely and significantly to the economic growth and
4112 development of the state, and which meets the following criteria:

4113 1. The project shall create at least two
4114 thousand (2,000) net new full-time jobs meeting criteria
4115 established by the authority, which criteria shall include, but
4116 not be limited to, the requirement that such jobs must be held by
4117 persons eligible for employment in the United States under
4118 applicable state and federal law.

4119 2. The project and any facility related to
4120 the project shall include a total investment from private sources
4121 of not less than Sixty Million Dollars (\$60,000,000.00), or from
4122 any combination of sources of not less than Eighty Million Dollars
4123 (\$80,000,000.00).

4124 (vi) Any real property owned or controlled by the
4125 National Aeronautics and Space Administration, the United States
4126 government, or any agency thereof, which is legally conveyed to
4127 the State of Mississippi or to the State of Mississippi for the
4128 benefit of the Mississippi Major Economic Impact Authority, its
4129 successors and assigns pursuant to Section 212 of Public Law
4130 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4131 (vii) Any major capital project related to the
4132 establishment, improvement, expansion and/or other enhancement of
4133 any active duty military installation and having a minimum capital
4134 investment from any source or combination of sources other than
4135 the State of Mississippi of at least Forty Million Dollars
4136 (\$40,000,000.00), and which will create at least four hundred
4137 (400) military installation related full-time jobs, which jobs may

4138 be military jobs, civilian jobs or a combination of military and
4139 civilian jobs. The authority shall require that binding
4140 commitments be entered into requiring that the minimum
4141 requirements for the project provided for in this subparagraph
4142 shall be met not later than July 1, 2008.

4143 (viii) Any major capital project with an initial
4144 capital investment from any source or combination of sources of
4145 not less than Ten Million Dollars (\$10,000,000.00) which will
4146 create at least eighty (80) full-time jobs which provide an
4147 average annual salary, excluding benefits which are not subject to
4148 Mississippi income taxes, of at least one hundred thirty-five
4149 percent (135%) of the most recently published average annual wage
4150 of the state or the most recently published average annual wage of
4151 the county in which the project is located as determined by the
4152 Mississippi Employment Security Commission, whichever is the
4153 lesser. The authority shall require that binding commitments be
4154 entered into requiring that:

4155 1. The minimum requirements for the project
4156 provided for in this subparagraph shall be met, and

4157 2. That if such commitments are not met, all
4158 or a portion of the funds provided by the state for the project as
4159 determined by the authority shall be repaid.

4160 (ix) Any regional retail shopping mall with an
4161 initial capital investment from private sources in excess of One
4162 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
4163 footage in excess of eight hundred thousand (800,000) square feet,
4164 which will create at least seven hundred (700) full-time jobs with
4165 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
4166 authority shall require that binding commitments be entered into
4167 requiring that:

4168 1. The minimum requirements for the project
4169 provided for in this subparagraph shall be met, and

4170 2. That if such commitments are not met, all
4171 or a portion of the funds provided by the state for the project as
4172 determined by the authority shall be repaid.

4173 (x) Any major capital project with an initial
4174 capital investment from any source or combination of sources of
4175 not less than Seventy-five Million Dollars (\$75,000,000.00) which
4176 will create at least one hundred twenty-five (125) full-time jobs
4177 which provide an average annual salary, excluding benefits which
4178 are not subject to Mississippi income taxes, of at least one
4179 hundred thirty-five percent (135%) of the most recently published
4180 average annual wage of the state or the most recently published
4181 average annual wage of the county in which the project is located
4182 as determined by the Mississippi Department of Employment
4183 Security, whichever is the greater. The authority shall require
4184 that binding commitments be entered into 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 (xi) Any potential major capital project that the
4191 authority has determined is feasible to recruit.

4192 (g) "Project area" means the project site, together
4193 with any area or territory within the state lying within
4194 sixty-five (65) miles of any portion of the project site whether
4195 or not such area or territory be contiguous; provided, however,
4196 that for the project defined in paragraph (f)(iv) of this section
4197 the term "project area" means any area or territory within the
4198 state. The project area shall also include all territory within a
4199 county if any portion of such county lies within sixty-five (65)
4200 miles of any portion of the project site. "Project site" means
4201 the real property on which the principal facilities of the
4202 enterprise will operate.

4203 (h) "Public agency" means:

4204 (i) Any department, board, commission, institution
4205 or other agency or instrumentality of the state;

4206 (ii) Any city, town, county, political
4207 subdivision, school district or other district created or existing
4208 under the laws of the state or any public agency of any such city,
4209 town, county, political subdivision or district or any other
4210 public entity created or existing under local and private
4211 legislation;

4212 (iii) Any department, commission, agency or
4213 instrumentality of the United States of America; and

4214 (iv) Any other state of the United States of
4215 America which may be cooperating with respect to location of the
4216 project within the state, or any agency thereof.

4217 (i) "State" means State of Mississippi.

4218 (j) "Fee-in-lieu" means a negotiated fee to be paid by
4219 the project in lieu of any franchise taxes imposed on the project
4220 by Chapter 13, Title 27, Mississippi Code of 1972. The
4221 fee-in-lieu shall not be less than Twenty-five Thousand Dollars
4222 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an
4223 enterprise operating an existing project defined in Section
4224 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated
4225 for other existing enterprises that fall within the definition of
4226 the term "project."

4227 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is
4228 amended as follows:

4229 57-80-7. (1) From and after December 31, 2000, and until
4230 December 31, 2005, the following counties may apply to the MDA for
4231 the issuance of a certificate of public convenience and necessity:

4232 (a) Any county of this state which has an annualized
4233 unemployment rate that is at least two hundred percent (200%) of
4234 the state's unemployment rate as of December 31 of any year from

4235 2000 through 2005, as determined by the Mississippi Department of
4236 Employment Security's most recently published data;

4237 (b) Any county of this state in which thirty percent
4238 (30%) or more of the population of the county is at or below the
4239 federal poverty level according to the official data compiled by
4240 the United States Census Bureau as of August 30, 2000, for
4241 counties that apply before December 31, 2002, or the most recent
4242 official data compiled by the United States Census Bureau for
4243 counties that apply from and after December 31, 2002; or

4244 (c) Any county of this state having an eligible
4245 supervisors district.

4246 (2) The application, at a minimum, must contain (a) the
4247 Mississippi Department of Employment Security's most recently
4248 published figures that reflect the annualized unemployment rate of
4249 the applying county as of December 31 or the most recent official
4250 data by the United States Census Bureau required by subsection (1)
4251 of this section, as the case may be, and (b) an order or
4252 resolution of the county consenting to the designation of the
4253 county as a growth and prosperity county.

4254 (3) Any municipality of a designated growth and prosperity
4255 county or within an eligible supervisors district and not more
4256 than eight (8) miles from the boundary of the county that meets
4257 the criteria of subsection (1)(b) of this section may by order or
4258 resolution of the municipality consent to participation in the
4259 Growth and Prosperity Program.

4260 (4) No incentive or tax exemption shall be given under this
4261 chapter without the consent of the affected county or
4262 municipality.

4263 **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is
4264 amended as follows:

4265 69-2-5. (1) The Mississippi Cooperative Extension Service
4266 shall act as a clearinghouse for the dissemination of information
4267 regarding programs and services which may be available to help

4268 those persons and businesses which have been adversely affected by
4269 the present emergency in the agricultural community. The
4270 Cooperative Extension Service shall develop a plan of assistance
4271 which shall identify all programs and services available within
4272 the state which can be of assistance to those affected by the
4273 present emergency. The Department of Agriculture and Commerce,
4274 the Department of Finance and Administration, Department of Human
4275 Services, Department of Mental Health, State Department of Health,
4276 Board of Trustees of State Institutions of Higher Learning, State
4277 Board for Community and Junior Colleges, Research and Development
4278 Center, Mississippi Development Authority, Department of
4279 Employment Security, Office of the Governor, Board of Vocational
4280 and Technical Education, Mississippi Authority for Educational
4281 Television, and other agencies of the state which have programs
4282 and services that can be of assistance to those affected by the
4283 present emergency, shall provide information regarding their
4284 programs and services to the Cooperative Extension Service for use
4285 in the clearinghouse. The types of programs and services shall
4286 include, but not be limited to, financial counseling, farm and
4287 small business management, employment services, labor market
4288 information, job re-training, vocational and technical training,
4289 food stamp programs, personal counseling, health services, and
4290 free or low cost legal services. The clearinghouse shall provide
4291 a single contact point to provide program information and referral
4292 services to individuals interested or needing services from state
4293 funded assistance programs affecting agriculture, horticulture,
4294 aquaculture and other agribusinesses or related industries. Such
4295 assistance information shall identify all monies available under
4296 the Small Business Financing Act, the Business Investment Act, the
4297 Emerging Crop Fund legislation and any other sources which may be
4298 used singularly or combined, to provide a comprehensive financing
4299 package. The provisions of this section in establishing a single

4300 contact point for information and referral services shall not be
4301 construed to authorize the hiring of additional personnel.

4302 (2) The Cooperative Extension Service may accept monetary or
4303 in-kind contributions, gifts and grants for the establishment or
4304 operation of the clearinghouse.

4305 (3) The Cooperative Extension Service shall establish a
4306 method for the dissemination of information to those who can be
4307 benefited by the existing programs and services of the state.

4308 (4) The Cooperative Extension Service shall file an annual
4309 report with the Governor, Lieutenant Governor and Speaker of the
4310 House of Representatives regarding the efforts which have been
4311 made in the clearinghouse operation. The report shall also
4312 recommend any additional measures, including legislation, which
4313 may be needed or desired in providing programs and benefits to
4314 those affected by the agricultural emergency.

4315 **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is
4316 amended as follows:

4317 7-1-355. (1) The Mississippi Development Authority is * * *
4318 designated as the sole administrator of all programs for which the
4319 state is the prime sponsor under Title 1(B) of Public Law 105-220,
4320 Workforce Investment Act of 1998, and the regulations promulgated
4321 thereunder, and may take all necessary action to secure to this
4322 state the benefits of such legislation. The Mississippi
4323 Development Authority is empowered to receive and disburse funds
4324 for such programs which become available to it from any source.

4325 (2) The Mississippi Development Authority shall establish
4326 guidelines on the amount and/or percentage of indirect and/or
4327 administrative expenses by the local fiscal agent or the Workforce
4328 Development Center operator. The Mississippi Development
4329 Authority shall develop an accountability system and make an
4330 annual report to the Legislature before December 31 of each year
4331 on Workforce Investment Act activities. The report shall include,
4332 but is not limited to, the following:

4333 (a) The total number of individuals served through the
4334 Workforce Development Centers and the percentage and number of
4335 individuals for which a quarterly follow-up is provided;

4336 (b) The number of individuals who receive core services
4337 by each center;

4338 (c) The number of individuals who receive intensive
4339 services by each center;

4340 (d) The number of Workforce Investment Act vouchers
4341 issued by the Workforce Development Centers, including:

4342 (i) A list of schools and colleges to which these
4343 vouchers were issued and the average cost per school of the
4344 vouchers; and

4345 (ii) A list of the types of programs for which
4346 these vouchers were issued;

4347 (e) The number of individuals placed in a job through
4348 Workforce Development Centers;

4349 (f) The monies and the amount retained for
4350 administrative and other costs received from Workforce Investment
4351 Act funds for each agency or organization that Workforce
4352 Investment Act funds flow through as a percentage and actual
4353 dollar amount of all Workforce Investment funds received.

4354 **SECTION 58.** Sections 37-151-69, 37-151-71 and 37-151-73,
4355 Mississippi Code of 1972, which authorize a Mississippi Workforce
4356 Development Council, local district councils and one-stop career
4357 centers, are hereby repealed.

4358 **SECTION 59.** Sections 71-5-103 and 71-5-105, Mississippi Code
4359 of 1972, which provide for the organization and compensation of
4360 members of the Mississippi Employment Security Commission, are
4361 hereby repealed.

4362 **SECTION 60.** Section 57-73-25, Mississippi Code of 1972, is
4363 amended as follows:

4364 57-73-25. (1) A fifty percent (50%) income tax credit shall
4365 be granted to any employer (as defined in subsection (4) of this

4366 section) sponsoring * * * skills training. The fifty percent
4367 (50%) credit shall be granted to employers that participate in
4368 employer-sponsored training programs through any community/junior
4369 college in the district within which the employer is located or
4370 training approved by such community/junior college. * * * The
4371 credit is applied to qualified training * * * expenses, which are
4372 expenses related to instructors, instructional materials and
4373 equipment, and the construction and maintenance of facilities by
4374 such employer designated for training purposes which is
4375 attributable to training * * * provided through such
4376 community/junior college or training approved by such
4377 community/junior college. The credits allowed under this section
4378 shall only be used by the actual employer qualifying for the
4379 credits. The credit shall not exceed fifty percent (50%) of the
4380 income tax liability in a tax year and may be carried forward for
4381 the five (5) successive years if the amount allowable as credit
4382 exceeds the income tax liability in a tax year; however,
4383 thereafter, if the amount allowable as a credit exceeds the tax
4384 liability, the amount of excess shall not be refundable or carried
4385 forward to any other taxable year. The credit authorized under
4386 this section shall not exceed Two Thousand Five Hundred Dollars
4387 (\$2,500.00) * * * per employee during any one year. Nothing in
4388 this section shall be interpreted in any manner as to prevent the
4389 continuing operation of state-supported university programs.

4390 (2) Employer-sponsored training shall include an evaluation
4391 by the local community or junior college that serves the employer
4392 to ensure that the training provided is job related and conforms
4393 to the definition of "* * * skills training" * * * as hereinafter
4394 defined.

4395 (3) Employers shall be certified as eligible for the tax
4396 credit by the local community or junior college that serves the
4397 employer and the State Tax Commission.

4398 (4) For the purposes of this section:

4399 (a) "* * * Skills training" means any
4400 employer-sponsored training by an appropriate community/junior
4401 college or training approved by such community/junior college that
4402 enhances skills that improve job performance. If the employer
4403 provides pre-employment training, the portion of the
4404 pre-employment training that involves skills training shall be
4405 eligible for the credit.

4406 * * *

4407 (b) "Employer-sponsored training" means training
4408 provided by the appropriate community/junior college in the
4409 district within which the employer is located or training approved
4410 by such community/junior college.

4411 (c) "Employer" means those permanent business
4412 enterprises as defined and set out in Section 57-73-21(2), (3),
4413 (4) and (5).

4414 (5) The tax credits provided for in this section shall be in
4415 addition to all other tax credits heretofore granted by the laws
4416 of the state.

4417 (6) A community/junior college may commit to provide
4418 employer-sponsored * * * skills training * * * program for an
4419 employer for a multiple number of years, not to exceed five (5)
4420 years.

4421 (7) The State Board for Community and Junior Colleges shall
4422 make a report to the Legislature by January 30 of each year
4423 summarizing the number of participants, the junior or community
4424 college through which the training was offered and the type
4425 training offered.

4426 * * *

4427 **SECTION 61.** This act shall take effect and be in force from
4428 and after July 1, 2004; provided, however, that Section 4 of this
4429 act shall take effect and be in force from and after its passage.