

Senate Amendments to House Bill No. 973

TO THE CLERK OF THE HOUSE:

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

AMENDMENT NO. 1

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

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 small businesses
293 and local industry. Each career center shall be affiliated with a
294 separate public 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 resources, 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 small businesses, industries or firms
315 within the 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; * * *

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; and

330 (viii) Development of business plans;

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

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

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

344 records on new small businesses, placement, length of time on the
345 job after placement and wage rates of those placed in a form
346 containing such information as established by the state council.

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

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

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

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

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

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

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

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

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

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

371 (vi) Developing data for strategic planning;

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

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

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

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

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

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

390 (j) To collaborate, partner and contract for services
391 with community-based organizations in the delivery of workforce
392 training and career information especially to youth, as defined by
393 the Federal Workforce Investment Act, and to those adults who are
394 in low income jobs or whose individual skill levels are so low as
395 to be unable initially to be aided by a workforce development
396 center. Community-based organizations must meet performance-based
397 certification requirements set by the State Board for Community
398 and Junior Colleges.

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

401 71-5-5. The Legislature hereby finds and declares that the
402 existence and continued operation of a federal tax upon employers,
403 against which some portion of the contributions required under
404 this chapter may be credited, will protect Mississippi employers
405 from undue disadvantages in their competition with employers in
406 other states. If at any time, upon a formal complaint to the
407 Governor, he shall find that Title IX of the Social Security Act
408 has been amended or repealed by Congress or has been held
409 unconstitutional by the Supreme Court of the United States, and
410 that, as a result thereof, the provisions of this chapter
411 requiring Mississippi employers to pay contributions will subject
412 them to a serious competitive disadvantage in relation to

413 employers in other states, he shall publish such findings and
414 proclaim that the operation of the provisions of this chapter
415 requiring the payment of contributions and benefits shall be
416 suspended for a period of not more than six (6) months. The
417 Department of Employment Security shall thereupon requisition from
418 the Unemployment Trust Fund all monies therein standing to its
419 credit, and shall direct the State Treasurer to deposit such
420 monies, together with any other monies in the Unemployment
421 Compensation Fund, as a special fund in any banks or public
422 depositories in this state in which general funds of the state may
423 be deposited.

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

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

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

449 71-5-11. As used in this chapter, unless the context clearly
450 requires otherwise:

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

454 B. "Benefits" means the money payments payable to an
455 individual, as provided in this chapter, with respect to his
456 unemployment.

457 C. "Benefit year" with respect to any individual means the
458 period beginning with the first day of the first week with respect
459 to which he first files a valid claim for benefits, and ending
460 with the day preceding the same day of the same month in the next
461 calendar year; and, thereafter, the period beginning with the
462 first day of the first week with respect to which he next files
463 his valid claim for benefits, and ending with the day preceding
464 the same day of the same month in the next calendar year. Any
465 claim for benefits made in accordance with Section 71-5-515 shall
466 be deemed to be a "valid claim" for purposes of this subsection if
467 the individual has been paid the wages for insured work required
468 under Section 71-5-511(e).

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

471 E. "Calendar quarter" means the period of three (3)
472 consecutive calendar months ending on March 31, June 30, September
473 30, or December 31.

474 F. "Department" or "commission" means the Mississippi
475 Department of Employment Security, Office of the Governor.
476 "Executive director" means the Executive Director of the
477 Mississippi Department of Employment Security, Office of the
478 Governor, appointed pursuant to Section 71-5-107.

479 G. "Employing unit" means this state or another state or any
480 instrumentalities or any political subdivisions thereof or any of
481 their instrumentalities or any instrumentality of more than one

482 (1) of the foregoing or any instrumentality of any of the
483 foregoing and one or more other states or political subdivisions,
484 any Indian tribe as defined in Section 3306(u) of the Federal
485 Unemployment Tax Act (FUTA), which includes any subdivision,
486 subsidiary or business enterprise wholly owned by such Indian
487 tribe, any individual or type of organization, including any
488 partnership, association, trust, estate, joint-stock company,
489 insurance company, or corporation, whether domestic or foreign, or
490 the receiver, trustee in bankruptcy, trustee or successor thereof,
491 or the legal representative of a deceased person, which has or had
492 in its employ one or more individuals performing services for it
493 within this state. All individuals performing services within
494 this state for any employing unit which maintains two (2) or more
495 separate establishments within this state shall be deemed to be
496 employed by a single employing unit for all the purposes of this
497 chapter. Each individual employed to perform or to assist in
498 performing the work of any agent or employee of an employing unit
499 shall be deemed to be employed by such employing unit for all
500 purposes of this chapter, whether such individual was hired or
501 paid directly by such employing unit or by such agent or employee,
502 provided the employing unit had actual or constructive knowledge
503 of the work. All individuals performing services in the employ of
504 an elected fee-paid county official, other than those related by
505 blood or marriage within the third degree computed by the rule of
506 the civil law to such fee-paid county official, shall be deemed to
507 be employed by such county as the employing unit for all the
508 purposes of this chapter. For purposes of defining an "employing
509 unit" which shall pay contributions on remuneration paid to
510 individuals, if two (2) or more related corporations concurrently
511 employ the same individual and compensate such individual through
512 a common paymaster which is one (1) of such corporations, then
513 each such corporation shall be considered to have paid as
514 remuneration to such individual only the amounts actually
515 disbursed by it to such individual and shall not be considered to

516 have paid as remuneration to such individual such amounts actually
517 disbursed to such individual by another of such corporations.

518 H. "Employer" means:

519 (1) Any employing unit which,

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

524 (b) For some portion of a day in each of twenty
525 (20) different calendar weeks, whether or not such weeks were
526 consecutive, in either the current or the preceding calendar year
527 had in employment at least one (1) individual (irrespective of
528 whether the same individual was in employment in each such day),
529 except as provided in paragraph (9) of this subsection;

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

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

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

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

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

544 (6) Any individual or employing unit which acquired its
545 organization, trade, business, or substantially all the assets
546 thereof, from another employing unit, if the employment record of
547 the acquiring individual or employing unit subsequent to such
548 acquisition, together with the employment record of the acquired
549 organization, trade, or business prior to such acquisition, both
550 within the same calendar year, would be sufficient to constitute

551 an employing unit an employer subject to this chapter under
552 paragraph (1) or (3) of this subsection;

553 (7) Any employing unit which, having become an employer
554 under paragraph (1), (3), (5) or (6) of this subsection or under
555 any other provisions of this chapter, has not, under Section
556 71-5-361, ceased to be an employer subject to this chapter;

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

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

565 (b) In determining whether or not an employing
566 unit for which service other than agricultural labor is also
567 performed is an employer under paragraph (1) or (4)(b) of this
568 subsection, the wages earned or the employment of an employee
569 performing services in agricultural labor, shall not be taken into
570 account. If an employing unit is determined an employer of
571 agricultural labor, such employing unit shall be determined an
572 employer for purposes of paragraph (1) of this subsection;

573 (10) All entities utilizing the services of any
574 employee leasing firm shall be considered the employer of the
575 individuals leased from the employee leasing firm. Temporary help
576 firms shall be considered the employer of the individuals they
577 provide to perform services for other individuals or
578 organizations.

579 I. "Employment" means and includes:

580 (1) Any service performed, which was employment as
581 defined in this section and, subject to the other provisions of
582 this subsection, including service in interstate commerce,
583 performed for wages or under any contract of hire, written or
584 oral, express or implied.

585 (2) Services performed for remuneration for a
586 principal:

587 (a) As an agent-driver or commission-driver
588 engaged in distributing meat products, vegetable products, fruit
589 products, bakery products, beverages (other than milk), or laundry
590 or dry cleaning services;

591 (b) As a traveling or city salesman, other than as
592 an agent-driver or commission-driver, engaged upon a full-time
593 basis in the solicitation on behalf of, and the transmission to, a
594 principal (except for sideline sales activities on behalf of some
595 other person) of orders from wholesalers, retailers, contractors,
596 or operator of hotels, restaurants, or other similar
597 establishments for merchandise for resale or supplies for use in
598 their business operations.

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

602 (i) The contract of service contemplates that
603 substantially all of the services are to be performed personally
604 by such individual;

605 (ii) The individual does not have a
606 substantial investment in facilities used in connection with the
607 performance of the services (other than in facilities for
608 transportation); and

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

612 (3) Service performed in the employ of this state or
613 any of its instrumentalities or any political subdivision thereof
614 or any of its instrumentalities or any instrumentality of more
615 than one (1) of the foregoing or any instrumentality of any of the
616 foregoing and one or more other states or political subdivisions
617 or any Indian tribe as defined in Section 3306(u) of the Federal
618 Unemployment Tax Act (FUTA), which includes any subdivision,
619 subsidiary or business enterprise wholly owned by such Indian

620 tribe; provided that such service is excluded from "employment" as
621 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)
622 of that act and is not excluded from "employment" under subsection
623 I(5) of this section.

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

628 (b) The organization had four (4) or more
629 individuals in employment for some portion of a day in each of
630 twenty (20) different weeks, whether or not such weeks were
631 consecutive, within the current or preceding calendar year,
632 regardless of whether they were employed at the same moment of
633 time.

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

637 (a) In the employ of:

638 (i) A church or convention or association of
639 churches; or

640 (ii) An organization which is operated
641 primarily for religious purposes and which is operated,
642 supervised, controlled, or principally supported by a church or
643 convention or association of churches; or

644 (b) By a duly ordained, commissioned, or licensed
645 minister of a church in the exercise of his ministry, or by a
646 member of a religious order in the exercise of duties required by
647 such order; or

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

651 (i) As an elected official;

652 (ii) As a member of a legislative body, or a
653 member of the judiciary, of a state or political subdivision or a
654 member of an Indian tribal council;

655 (iii) As a member of the State National Guard
656 or Air National Guard;

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

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

663 1. A major nontenured policy-making or
664 advisory position, or

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

668 (d) In a facility conducted for the purpose of
669 carrying out a program of rehabilitation for individuals whose
670 earning capacity is impaired by age or physical or mental
671 deficiency or injury, or providing remunerative work for
672 individuals who because of their impaired physical or mental
673 capacity cannot be readily absorbed in the competitive labor
674 market, by an individual receiving such rehabilitation or
675 remunerative work; or

676 (e) By an inmate of a custodial or penal
677 institution; or

678 (f) As part of an unemployment work-relief or
679 work-training program assisted or financed in whole or in part by
680 any federal agency or agency of a state or political subdivision
681 thereof or of an Indian tribe, by an individual receiving such
682 work relief or work training, unless coverage of such service is
683 required by federal law or regulation.

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

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

687 (i) During any calendar quarter in either the
688 current or the preceding calendar year paid remuneration in cash

689 of Twenty Thousand Dollars (\$20,000.00) or more to individuals
690 employed in agricultural labor, or

691 (ii) For some portion of a day in each of
692 twenty (20) different calendar weeks, whether or not such weeks
693 were consecutive, in either the current or the preceding calendar
694 year, employed in agricultural labor ten (10) or more individuals,
695 regardless of whether they were employed at the same moment of
696 time.

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

701 (i) If such crew leader holds a valid
702 certificate of registration under the Farm Labor Contractor
703 Registration Act of 1963; or substantially all the members of such
704 crew operate or maintain tractors, mechanized harvesting or crop
705 dusting equipment, or any other mechanized equipment, which is
706 provided by such crew leader; and

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

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

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

716 (ii) Such other person shall be treated as
717 having paid cash remuneration to such individual in an amount
718 equal to the amount of cash remuneration paid to such individual
719 by the crew leader (either on his own behalf or on behalf of such
720 other person) for the service in agricultural labor performed for
721 such other person.

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

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

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

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

732 (7) The term "employment" shall include domestic
733 service in a private home, local college club or local chapter of
734 a college fraternity or sorority performed for an employing unit
735 which paid cash remuneration of One Thousand Dollars (\$1,000.00)
736 or more in any calendar quarter in the current or the preceding
737 calendar year to individuals employed in such domestic service.
738 For the purpose of this subsection, the term "employment" does not
739 apply to service performed as a "sitter" at a hospital in the
740 employ of an individual.

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

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

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

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

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

753 (9) Services not covered under paragraph (8) of this
754 subsection and performed entirely without this state, with respect
755 to no part of which contributions are required and paid under an
756 unemployment compensation law of any other state or of the federal
757 government, shall be deemed to be employment subject to this
758 chapter if the individual performing such services is a resident

759 of this state and the department approves the election of the
760 employing unit for whom such services are performed that the
761 entire service of such individual shall be deemed to be employment
762 subject to this chapter.

763 (10) Service shall be deemed to be localized within a
764 state if:

765 (a) The service is performed entirely within such
766 state; or

767 (b) The service is performed both within and
768 without such state, but the service performed without such state
769 is incidental to the individual's service within the state; for
770 example, is temporary or transitory in nature or consists of
771 isolated transactions.

772 (11) The services of an individual who is a citizen of
773 the United States, performed outside the United States (except in
774 Canada), in the employ of an American employer (other than service
775 which is deemed "employment" under the provisions of paragraph
776 (8), (9) or (10) of this subsection or the parallel provisions of
777 another state's law), if:

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

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

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

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

786 (iii) The employer is a partnership or a
787 trust and the number of the partners or trustees who are residents
788 of this state is greater than the number who are residents of any
789 one (1) other state; or

790 (c) None of the criteria of subparagraphs (a) and
791 (b) of this paragraph are met but the employer has elected
792 coverage in this state or, the employer having failed to elect

793 coverage in any state, the individual has filed a claim for
794 benefits, based on such service, under the law of this state; or

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

797 (i) An individual who is a resident of the
798 United States; or

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

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

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

805 (12) All services performed by an officer or member of
806 the crew of an American vessel on or in connection with such
807 vessel, if the operating office from which the operations of such
808 vessel operating on navigable waters within, or within and
809 without, the United States are ordinarily and regularly
810 supervised, managed, directed and controlled is within this state;
811 notwithstanding the provisions of subsection I(8).

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

819 (14) Services performed by an individual for wages
820 shall be deemed to be employment subject to this chapter unless
821 and until it is shown to the satisfaction of the department that
822 such individual has been and will continue to be free from control
823 and direction over the performance of such services both under his
824 contract of service and in fact; and the relationship of employer
825 and employee shall be determined in accordance with the principles
826 of the common law governing the relation of master and servant.

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

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

831 (i) On a farm or in a forest in the employ of
832 any employing unit in connection with cultivating the soil, in
833 connection with cutting, planting, deadening, marking or otherwise
834 improving timber, or in connection with raising or harvesting any
835 agricultural or horticultural commodity, including the raising,
836 shearing, feeding, caring for, training, and management of
837 livestock, bees, poultry, fur-bearing animals and wildlife;

838 (ii) In the employ of the owner or tenant or
839 other operator of a farm, in connection with the operation,
840 management, conservation, improvement or maintenance of such farm
841 and its tools and equipment, or in salvaging timber or clearing
842 land of brush and other debris left by a hurricane, if the major
843 part of such service is performed on a farm;

844 (iii) In connection with the production or
845 harvesting of naval stores products or any commodity defined in
846 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),
847 or in connection with the raising or harvesting of mushrooms, or
848 in connection with the ginning of cotton, or in connection with
849 the operation or maintenance of ditches, canals, reservoirs, or
850 waterways not owned or operated for profit, used exclusively for
851 supplying and storing water for farming purposes;

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

859 (B) In the employ of a group of
860 operators of farms (or a cooperative organization of which such
861 operators are members) in the performance of service described in
862 subparagraph (A), but only if such operators produced more than

863 one-half (1/2) of the commodity with respect to which such service
864 is performed;

865 (C) The provisions of subparagraphs (A)
866 and (B) shall not be deemed to be applicable with respect to
867 service performed in connection with commercial canning or
868 commercial freezing or in connection with any agricultural or
869 horticultural commodity after its delivery to a terminal market
870 for distribution for consumption;

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

873 (vi) As used in paragraph (15)(a) of this
874 subsection, the term "farm" includes stock, dairy, poultry, fruit,
875 fur-bearing animals, and truck farms, plantations, ranches,
876 nurseries, ranges, greenhouses, or other similar structures used
877 primarily for the raising of agricultural or horticultural
878 commodities, and orchards.

879 (b) Domestic service in a private home, local
880 college club, or local chapter of a college fraternity or
881 sorority, except as provided in subsection I(7) of this section,
882 or service performed as a "sitter" at a hospital in the employ of
883 an individual.

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

886 (d) Service performed by an individual in the
887 employ of his son, daughter, or spouse, and service performed by a
888 child under the age of twenty-one (21) in the employ of his father
889 or mother.

890 (e) Service performed in the employ of the United
891 States government or of an instrumentality wholly owned by the
892 United States; except that if the Congress of the United States
893 shall permit states to require any instrumentalities of the United
894 States to make payments into an unemployment fund under a state
895 unemployment compensation act, then to the extent permitted by
896 Congress and from and after the date as of which such permission
897 becomes effective, all of the provisions of this chapter shall be

898 applicable to such instrumentalities and to services performed by
899 employees for such instrumentalities in the same manner, to the
900 same extent, and on the same terms as to all other employers and
901 employing units. If this state should not be certified under the
902 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any
903 year, then the payment required by such instrumentality with
904 respect to such year shall be deemed to have been erroneously
905 collected and shall be refunded by the department from the fund in
906 accordance with the provisions of Section 71-5-383.

907 (f) Service performed in the employ of an
908 "employer" as defined by the Railroad Unemployment Insurance Act,
909 45 USCS Section 351(a), or as an "employee representative" as
910 defined by the Railroad Unemployment Insurance Act, 45 USCS
911 Section 351(f), and service with respect to which unemployment
912 compensation is payable under an unemployment compensation system
913 for maritime employees, or under any other unemployment
914 compensation system established by an act of Congress; provided
915 that the department is hereby authorized and directed to enter
916 into agreements with the proper agencies under such act or acts of
917 Congress, which agreements shall become effective ten (10) days
918 after publication thereof in the manner provided in Section
919 71-5-117 for general rules, to provide reciprocal treatment to
920 individuals who have, after acquiring potential rights to benefits
921 under this chapter, acquired rights to unemployment compensation
922 under such act or acts of Congress or who have, after acquiring
923 potential rights to unemployment compensation under such act or
924 acts of Congress, acquired rights to benefits under this chapter.

925 (g) Service performed in any calendar quarter in
926 the employ of any organization exempt from income tax under the
927 Internal Revenue Code, 26 USCS Section 501(a) (other than an
928 organization described in 26 USCS Section 401(a)), or exempt from
929 income tax under 26 USCS Section 521 if the remuneration for such
930 service is less than Fifty Dollars (\$50.00).

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

933 (i) By a student who is enrolled and is
934 regularly attending classes at such school, college or university,
935 or

936 (ii) By the spouse of such a student if such
937 spouse is advised, at the time such spouse commences to perform
938 such service, that

939 (A) The employment of such spouse to
940 perform such service is provided under a program to provide
941 financial assistance to such student by such school, college, or
942 university, and

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

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

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

960 (k) Service performed as a student nurse in the
961 employ of a hospital or a nurses' training school by an individual
962 who is enrolled and is regularly attending classes in a nurses'
963 training school chartered or approved pursuant to state law; and
964 services performed as an intern in the employ of a hospital by an
965 individual who has completed a four-year course in a medical
966 school chartered or approved pursuant to state law.

967 (1) Service performed by an individual as an
968 insurance agent or as an insurance solicitor, if all such service
969 performed by such individual is performed for remuneration solely
970 by way of commission.

971 (m) Service performed by an individual under the
972 age of eighteen (18) in the delivery or distribution of newspapers
973 or shopping news, not including delivery or distribution to any
974 point for subsequent delivery or distribution.

975 (n) If the services performed during one-half
976 (1/2) or more of any pay period by an employee for the employing
977 unit employing him constitute employment, all the services of such
978 employee for such period shall be deemed to be employment; but if
979 the services performed during more than one-half (1/2) of any such
980 pay period by an employee for the employing unit employing him do
981 not constitute employment, then none of the services of such
982 employee for such period shall be deemed to be employment. As
983 used in this subsection the term "pay period" means a period (of
984 not more than thirty-one (31) consecutive days) for which a
985 payment of remuneration is ordinarily made to the employee by the
986 employing unit employing him.

987 (o) Service performed by an individual who is a
988 CETA/PSE (Comprehensive Employment Training Act/Public Service
989 Employment) participant unless coverage of such service is
990 required by federal law or regulation.

991 (p) Service performed by a barber or beautician
992 whose work station is leased to him or her by the owner of the
993 shop in which he or she works and who is compensated directly by
994 the patrons he or she serves and who is free from direction and
995 control by the lessor.

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

999 "Public employment service" means the operation of a program
1000 that offers free placement and referral services to applicants and
1001 employers, including job development.

1002 K. "Fund" means the Unemployment Compensation Fund
1003 established by this chapter, to which all contributions required
1004 and from which all benefits provided under this chapter shall be
1005 paid.

1006 L. "Hospital" means an institution which has been licensed,
1007 certified, or approved by the Mississippi Commission on Hospital
1008 Care as a hospital.

1009 M. "Institution of higher learning," for the purposes of
1010 this section, means an educational institution which:

1011 (1) Admits as regular students only individuals having
1012 a certificate of graduation from a high school, or the recognized
1013 equivalent of such a certificate;

1014 (2) Is legally authorized in this state to provide a
1015 program of education beyond high school;

1016 (3) Provides an educational program for which it awards
1017 a bachelor's or higher degree, or provides a program which is
1018 acceptable for full credit toward such a degree, a program of
1019 postgraduate or postdoctoral studies, or a program of training to
1020 prepare students for gainful employment in a recognized
1021 occupation;

1022 (4) Is a public or other nonprofit institution;

1023 (5) Notwithstanding any of the foregoing provisions of
1024 this subsection, all colleges and universities in this state are
1025 institutions of higher learning for purposes of this section.

1026 N. (1) "State" includes, in addition to the states of the
1027 United States of America, the District of Columbia, Commonwealth
1028 of Puerto Rico and the Virgin Islands.

1029 (2) The term "United States" when used in a
1030 geographical sense includes the states, the District of Columbia,
1031 Commonwealth of Puerto Rico and the Virgin Islands.

1032 (3) The provisions of subsections (1) and (2) of
1033 paragraph N, as including the Virgin Islands, shall become
1034 effective on the day after the day on which the United States
1035 Secretary of Labor approves for the first time under Section
1036 3304(a) of the Internal Revenue Code of 1954 an unemployment

1037 compensation law submitted to the secretary by the Virgin Islands
1038 for such approval.

1039 O. "Unemployment."

1040 (1) An individual shall be deemed "unemployed" in any
1041 week during which he performs no services and with respect to
1042 which no wages are payable to him, or in any week of less than
1043 full-time work if the wages payable to him with respect to such
1044 week are less than his weekly benefit amount as computed and
1045 adjusted in Section 71-5-505. The department shall prescribe
1046 regulations applicable to unemployed individuals, making such
1047 distinctions in the procedure as to total unemployment, part-total
1048 unemployment, partial unemployment of individuals attached to
1049 their regular jobs, and other forms of short-time work, as the
1050 department deems necessary.

1051 (2) An individual's week of total unemployment shall be
1052 deemed to commence only after his registration at an employment
1053 office, except as the department may by regulation otherwise
1054 prescribe.

1055 P. (1) "Wages" means all remuneration for personal
1056 services, including commissions and bonuses and the cash value of
1057 all remuneration in any medium other than cash, except that
1058 "wages," for purposes of determining employer's coverage and
1059 payment of contributions for agricultural and domestic service
1060 means cash remuneration only. The reasonable cash value of
1061 remuneration in any medium other than cash shall be estimated and
1062 determined in accordance with rules prescribed by the department;
1063 provided, that the term "wages" shall not include:

1064 (a) The amount of any payment made to, or on
1065 behalf of, an employee under a plan or system established by an
1066 employer which makes provision for his employees generally or for
1067 a class or classes of his employees (including any amount paid by
1068 an employer for insurance or annuities, or into a fund, to provide
1069 for any such payment), on account of:

1070 (i) Retirement, or

1071 (ii) Sickness or accident disability, or

1072 (iii) Medical or hospitalization expenses in
1073 connection with sickness or actual disability, or

1074 (iv) Death, provided the employee:

1075 (A) Has not the option to receive,
1076 instead of provision for such death benefit, any part of such
1077 payment or, if such death benefit is insured, any part of the
1078 premiums (or contributions to premiums) paid by his employer, and

1079 (B) Has not the right, under the
1080 provisions of the plan or system or policy of insurance providing
1081 for such death benefit, to assign such benefit or to receive a
1082 cash consideration in lieu of such benefit, either upon his
1083 withdrawal from the plan or system providing for such benefit or
1084 upon termination of such plan or system or policy of insurance or
1085 of his employment with such employer;

1086 (b) Dismissal payments which the employer is not
1087 legally required to make;

1088 (c) Payment by an employer (without deduction from
1089 the remuneration of an employee) of the tax imposed by the
1090 Internal Revenue Code, 26 USCS Section 3101;

1091 (d) From and after January 1, 1992, the amount of
1092 any payment made to or on behalf of an employee for a "cafeteria"
1093 plan, which meets the following requirements:

1094 (i) Qualifies under Section 125 of the
1095 Internal Revenue Code;

1096 (ii) Covers only employees;

1097 (iii) Covers only noncash benefits;

1098 (iv) Does not include deferred compensation
1099 plans.

1100 (2) [Not enacted].

1101 Q. "Week" means calendar week or such period of seven (7)
1102 consecutive days as the department may by regulation prescribe.
1103 The department may by regulation prescribe that a week shall be
1104 deemed to be in, within, or during any benefit year which includes
1105 any part of such week.

1106 R. "Insured work" means "employment" for "employers."

1107 S. The term "includes" and "including," when used in a
1108 definition contained in this chapter, shall not be deemed to
1109 exclude other things otherwise within the meaning of the term
1110 defined.

1111 T. "Employee leasing arrangement" means any agreement
1112 between an employee leasing firm and a client, whereby specified
1113 client responsibilities such as payment of wages, reporting of
1114 wages for unemployment insurance purposes, payment of unemployment
1115 insurance contributions and other such administrative duties are
1116 to be performed by an employee leasing firm, on an ongoing basis.

1117 U. "Employee leasing firm" means any entity which provides
1118 specified duties for a client company such as payment of wages,
1119 reporting of wages for unemployment insurance purposes, payment of
1120 unemployment insurance contributions and other administrative
1121 duties, in connection with the client's employees, that are
1122 directed and controlled by the client and that are providing
1123 ongoing services for the client.

1124 V. "Temporary help firm" means an entity which hires its own
1125 employees and provides those employees to other individuals or
1126 organizations to perform some service, to support or supplement
1127 the existing work force in special situations such as employee
1128 absences, temporary skill shortages, seasonal workloads and
1129 special assignments and projects, with the expectation that the
1130 worker's position will be terminated upon the completion of the
1131 specified task or function.

1132 **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is
1133 amended as follows:

1134 71-5-19. (1) Whoever makes a false statement or
1135 representation knowing it to be false, or knowingly fails to
1136 disclose a material fact, to obtain or increase any benefit or
1137 other payment under this chapter or under an employment security
1138 law of any other state, of the federal government or of a foreign
1139 government, either for himself or for any other person, shall be
1140 punished by a fine of not less than One Hundred Dollars (\$100.00)
1141 nor more than Five Hundred Dollars (\$500.00), or by imprisonment

1142 for not longer than thirty (30) days, or by both such fine and
1143 imprisonment; and each such false statement or representation or
1144 failure to disclose a material fact shall constitute a separate
1145 offense.

1146 (2) Any employing unit, any officer or agent of an employing
1147 unit or any other person who makes a false statement or
1148 representation knowing it to be false, or who knowingly fails to
1149 disclose a material fact, to prevent or reduce the payment of
1150 benefits to any individual entitled thereto, or to avoid becoming
1151 or remaining subject hereto, or to avoid or reduce any
1152 contribution or other payment required from any employing unit
1153 under this chapter, or who willfully fails or refuses to make any
1154 such contribution or other payment, or to furnish any reports
1155 required hereunder or to produce or permit the inspection or
1156 copying of records as required hereunder, shall be punished by a
1157 fine of not less than One Hundred Dollars (\$100.00) nor more than
1158 One Thousand Dollars (\$1,000.00), or by imprisonment for not
1159 longer than sixty (60) days, or by both such fine and
1160 imprisonment; and each such false statement, or representation, or
1161 failure to disclose a material fact, and each day of such failure
1162 or refusal shall constitute a separate offense. In lieu of such
1163 fine and imprisonment, the employing unit or representative, or
1164 both employing unit and representative, if such representative is
1165 an employing unit in this state and is found to be a party to such
1166 violation, shall not be eligible for a contributions rate of less
1167 than five and four-tenths percent (5.4%) for the tax year in which
1168 such violation is discovered by the department and for the next
1169 two (2) succeeding tax years.

1170 (3) Any person who shall willfully violate any provision of
1171 this chapter or any other rule or regulation thereunder, the
1172 violation of which is made unlawful or the observance of which is
1173 required under the terms of this chapter and for which a penalty
1174 is neither prescribed herein nor provided by any other applicable
1175 statute, shall be punished by a fine of not less than One Hundred
1176 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),

1177 or by imprisonment for not longer than sixty (60) days, or by both
1178 such fine and imprisonment; and each day such violation continues
1179 shall be deemed to be a separate offense. In lieu of such fine
1180 and imprisonment, the employing unit or representative, or both
1181 employing unit and representative, if such representative is an
1182 employing unit in this state and is found to be a party to such
1183 violation, shall not be eligible for a contributions rate of less
1184 than five and four-tenths percent (5.4%) for the tax year in which
1185 the violation is discovered by the department and for the next two
1186 (2) succeeding tax years.

1187 (4) Any person who, by reason of the nondisclosure or
1188 misrepresentation by him or by another of a material fact,
1189 irrespective of whether such nondisclosure or misrepresentation
1190 was known or fraudulent, or who, for any other reason has received
1191 any such benefits under this chapter, while any conditions for the
1192 receipt of benefits imposed by this chapter were not fulfilled in
1193 his case, or while he was disqualified from receiving benefits,
1194 shall, in the discretion of the department, either be liable to
1195 have such sum deducted from any future benefits payable to him
1196 under this chapter or shall be liable to repay to the department
1197 for the unemployment compensation fund a sum equal to the amount
1198 so received by him; and such sum shall be collectible in the
1199 manner provided in Sections 71-5-363 through 71-5-383 for the
1200 collection of past-due contributions. Provided, however, that no
1201 such deduction shall be made, nor shall any action be taken for
1202 the collection of any such overpayments, after five (5) years have
1203 elapsed from the date of the receipt of the benefits at issue;
1204 provided further that any such judgment against such person for
1205 collection of such overpayments shall not be a lien upon the
1206 property of the person for a longer period than five (5) years
1207 from the date of the filing of the lien, and any such notice of
1208 lien shall not be refiled by the department.

1209 (5) The department, by agreement with another state or the
1210 United States, as provided under Section 303(g) of the Social
1211 Security Act, may recover any overpayment of benefits paid to any

1212 individual under the laws of this state or of another state or
1213 under an unemployment benefit program of the United States. Any
1214 overpayments subject to this subsection may be deducted from any
1215 future benefits payable to the individual under the laws of this
1216 state or of another state or under an unemployment program of the
1217 United States.

1218 **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is
1219 amended as follows:

1220 71-5-101. There is hereby established the Mississippi
1221 Department of Employment Security, Office of the Governor. The
1222 Department of Employment Security shall be the Mississippi
1223 Employment Security Commission and shall retain all powers and
1224 duties as granted to the Mississippi Employment Security
1225 Commission. Wherever the term "Employment Security Commission"
1226 appears in any law, the same shall mean the Mississippi Department
1227 of Employment Security, Office of the Governor. The Executive
1228 Director of the Department of Employment Security may assign to
1229 the appropriate offices such powers and duties deemed appropriate
1230 to carry out the lawful functions of the department.

1231 **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is
1232 amended as follows:

1233 71-5-107. The Mississippi Department of Employment Security,
1234 Office of the Governor, shall administer this chapter through a
1235 full-time salaried executive director, to be appointed by the
1236 Governor, with the advice and consent of the Senate. He * * *
1237 shall be responsible for the administration of this chapter under
1238 authority delegated to him by the Governor.

1239 **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is
1240 amended as follows:

1241 71-5-109. There is hereby created a board of review
1242 consisting of three (3) members to be appointed by the Executive
1243 Director of the Department of Employment Security. The executive
1244 director shall designate one (1) member of the board of review as
1245 chairman. Each member shall be paid a salary or per diem at a
1246 rate to be determined by the executive director, and such expenses

1247 as may be allowed by the executive director. All salaries, per
1248 diem and expenses of the Board of Review shall be paid from the
1249 Employment Security Administration Fund.

1250 **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is
1251 amended as follows:

1252 71-5-111. There is hereby created in the State Treasury a
1253 special fund to be known as the Employment Security Administration
1254 Fund. All monies which are deposited or paid into this fund are
1255 hereby appropriated and made available to the department. All
1256 monies in this fund shall be expended solely for the purpose of
1257 defraying the cost of administration of this chapter, and for no
1258 other purpose whatsoever. The fund shall consist of all monies
1259 appropriated by this state and all monies received from the United
1260 States of America, or any agency thereof, or from any other source
1261 for such purpose. Notwithstanding any provision of this section,
1262 all monies requisitioned and deposited in this fund pursuant to
1263 Section 71-5-457 shall remain part of the Employment Security
1264 Administration Fund and shall be used only in accordance with the
1265 conditions specified in said section. All monies in this fund
1266 shall be deposited, administered and disbursed in the same manner
1267 and under the same conditions and requirements as is provided by
1268 law for other special funds in the State Treasury. The State
1269 Treasurer shall be liable on his official bond for the faithful
1270 performance of his duties in connection with the employment
1271 Security Administration Fund under this chapter.

1272 **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is
1273 amended as follows:

1274 71-5-112. All funds received by the Mississippi Employment
1275 Security Commission shall clear through the State Treasury as
1276 provided and required by Sections 71-5-111 and 71-5-453. All
1277 expenditures from the administration fund of said department
1278 authorized by Section 71-5-111 shall be expended only pursuant to
1279 appropriation approved by the Legislature and as provided by law.

1280 **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is
1281 amended as follows:

1282 71-5-113. All monies received from the Social Security Board
1283 or its successors for the administration of this chapter shall be
1284 expended solely for the purposes and in the amounts found
1285 necessary by the Social Security Board or its successors for the
1286 proper and efficient administration of this chapter.

1287 It shall be the duty of the department to take appropriate
1288 action with respect to the replacement, within a reasonable time,
1289 of any monies received from the Social Security Board, or its
1290 successors, for the administration of this chapter, and monies
1291 used to match grants pursuant to the provisions of the
1292 Wagner-Peyser Act, which the board, or its successors, find,
1293 because of any action or contingency, have been lost or have been
1294 expended for purposes other than, or in amounts in excess of those
1295 found necessary by the Social Security Board, or its successors,
1296 for the proper administration of this chapter. Funds which have
1297 been expended by the department or its agents in accordance with
1298 the budget approved by the Social Security Board, or its
1299 successors, or in accordance with the general standards and
1300 limitations promulgated by the Social Security Board, or its
1301 successors, prior to such expenditure (where proposed expenditures
1302 have not been specifically disapproved by the Social Security
1303 Board, or its successors), shall not be deemed to require
1304 replacement. To effectuate the purposes of this paragraph, it
1305 shall be the duty of the department to take such action to
1306 safeguard the expenditure of the funds referred to herein as it
1307 deems necessary. In the event of a loss of such funds or an
1308 improper expenditure thereof as herein defined, it shall be the
1309 duty of the department to notify the Governor of any such loss or
1310 improper expenditure and submit to him a request for an
1311 appropriation in the amount thereof. The Governor shall transmit
1312 to the next regular session of the Legislature following such
1313 notification, the department's request for an appropriation in an
1314 amount necessary to replace funds which have been lost or
1315 improperly expended as defined above. Such request of the
1316 department for an appropriation shall not be subject to the

1317 provisions of Sections 27-103-1 through 27-103-75. The
1318 Legislature recognizes its obligation to replace such funds as may
1319 be necessary and shall make necessary appropriations in accordance
1320 with such requests.

1321 **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is
1322 amended as follows:

1323 71-5-114. There is hereby created in the State Treasury a
1324 special fund, to be known as the "Special Employment Security
1325 Administration Fund," into which shall be deposited or transferred
1326 all interest, penalties and damages collected on and after July 1,
1327 1982, pursuant to Sections 71-5-363 through 71-5-379. Interest,
1328 penalties and damages collected on delinquent payments deposited
1329 during any calendar quarter in the clearing account in the
1330 Unemployment Compensation Fund shall, as soon as practicable after
1331 the close of such calendar quarter, be transferred to the Special
1332 Employment Security Administration Fund. All monies in this fund
1333 shall be deposited, administered and disbursed in the same manner
1334 and under the same conditions and requirements as is provided by
1335 law for other special funds in the State Treasury. The State
1336 Treasurer shall be liable on his official bond for the faithful
1337 performance of his duties in connection with the Special
1338 Employment Security Administration Fund under this chapter. Said
1339 monies shall not be expended or made available for expenditure in
1340 any manner which would permit their substitution for (or permit a
1341 corresponding reduction in) federal funds which would, in the
1342 absence of said monies, be available to finance expenditures for
1343 the administration of the state unemployment compensation and
1344 employment service laws. Nothing in this section shall prevent
1345 said monies in this fund from being used as a revolving fund to
1346 cover expenditures necessary and proper under the law for which
1347 federal funds have been duly requested but not yet received,
1348 subject to the charging of such expenditures against such funds
1349 when necessary. The monies in this fund may be used by the
1350 department for the payment of costs of administration of the
1351 employment security laws of this state which are found not to be

1352 or not to have been properly and validly chargeable against funds
1353 obtained from federal sources. All monies in this Special
1354 Employment Security Administration Fund shall be continuously
1355 available to the department for expenditure in accordance with the
1356 provisions of this chapter, and shall not lapse at any time. The
1357 monies in this fund are hereby specifically made available to
1358 replace, as contemplated by Section 71-5-113, expenditures from
1359 the Employment Security Administration Fund established by Section
1360 71-5-111, which have been found, because of any action or
1361 contingency, to have been lost or improperly expended.

1362 The department, whenever it is of the opinion that the money
1363 in the Special Employment Security Administration Fund is more
1364 than ample to pay for all foreseeable needs for which such special
1365 fund is set up, may, by written order, order the transfer
1366 therefrom to the Unemployment Compensation Fund of such amount of
1367 money in the said Special Employment Security Administration Fund
1368 as it deems proper, and the same shall thereupon be immediately
1369 transferred to the Unemployment Compensation Fund.

1370 **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is
1371 amended as follows:

1372 71-5-115. It shall be the duty of the Executive Director of
1373 the Mississippi Department of Employment Security, Office of the
1374 Governor, to administer this chapter; and the director shall have
1375 the power and authority to adopt, amend or rescind such rules and
1376 regulations, to employ such persons, make such expenditures,
1377 require such reports, make such investigations, and take such
1378 other action as he deems necessary or suitable to that end. Such
1379 rules and regulations shall be effective upon publication in the
1380 manner, not inconsistent with the provisions of this chapter,
1381 which the director shall prescribe. The director shall determine
1382 the department's own organization and methods of procedure in
1383 accordance with the provisions of this chapter, and shall have an
1384 official seal which shall be judicially noticed. Not later than
1385 the first day of February in each year, the director shall submit
1386 to the Governor a report covering the administration and operation

1387 of this chapter during the preceding fiscal year and shall make
1388 such recommendations for amendments to this chapter as the
1389 director deems proper. Whenever the director believes that a
1390 change in contribution or benefit rates will become necessary to
1391 protect the solvency of the fund, he shall promptly so inform the
1392 Governor and the Legislature, and make recommendations with
1393 respect thereto.

1394 **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is
1395 amended as follows:

1396 71-5-117. General rules may be adopted, amended or rescinded
1397 by the director only after public hearing or opportunity to be
1398 heard thereon, of which proper notice has been given. General
1399 rules shall become effective ten (10) days after filing with the
1400 Secretary of State and publication in one or more newspapers of
1401 general circulation in this state. Regulations may be adopted,
1402 amended or rescinded by the director and shall become effective in
1403 the manner and at the time prescribed by the director.

1404 **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is
1405 amended as follows:

1406 71-5-119. The department shall cause to be printed for
1407 distribution to the public the text of this chapter, its
1408 regulations and general rules, its reports to the Governor, and
1409 any other material it deems relevant and suitable, and shall
1410 furnish the same to any person upon application therefor.

1411 **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is
1412 amended as follows:

1413 71-5-121. Subject to other provisions of this chapter, the
1414 Executive Director of the Mississippi Department of Employment
1415 Security, Office of the Governor, is authorized to appoint, fix
1416 the compensation, and prescribe the duties and powers of such
1417 officers, accountants, attorneys, experts and other persons as may
1418 be necessary in the performance of department duties, provided
1419 that all personnel who were former members of the Armed Forces of
1420 the United States of America shall be given credit regardless of
1421 rate, rank or commission. All positions shall be filled by

1422 persons selected and appointed on a nonpartisan merit basis, in
1423 accordance with Section 25-9-101 et seq., that provides for a
1424 state service personnel system. The director shall not employ any
1425 person who is an officer or committee member of any political
1426 party organization. The director may delegate to any such person
1427 so appointed such power and authority as he deems reasonable and
1428 proper for the effective administration of this chapter, and may
1429 in his discretion bond any person handling monies or signing
1430 checks hereunder. The veteran status of an individual shall be
1431 considered and preference given in accordance with the provisions
1432 of the State Personnel Board.

1433 The department and its employees are exempt from Sections
1434 25-15-101 and 25-15-103.

1435 The department may use federal granted funds to provide such
1436 group health, life, accident and hospitalization insurance for its
1437 employees as may be agreed upon by the department and the federal
1438 granting authorities.

1439 The department shall adopt a "layoff formula" to be used
1440 wherever it is determined that, because of reduced workload,
1441 budget reductions or in order to effect a more economical
1442 operation, a reduction in force shall occur in any group.

1443 In establishing this formula, the department shall give
1444 effect to the principle of seniority and shall provide that
1445 seniority points may be added for disabled veterans and veterans,
1446 with due regard to the efficiency of the service. Any such layoff
1447 formula shall be implemented according to the policies, rules and
1448 regulations of the State Personnel Board.

1449 **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is
1450 amended as follows:

1451 71-5-123. The Executive Director of the Mississippi
1452 Department of Employment Security, Office of the Governor, shall
1453 retain all powers and duties as granted to the state advisory
1454 council appointed by the former Employment Security Commission.

1455 The director * * * may appoint local advisory councils, composed
1456 in each case of an equal number of employer representatives and

1457 employee representatives who may fairly be regarded as
1458 representative because of their vocation, employment or
1459 affiliations, and of such members representing the general public
1460 as the director may designate. Such councils shall aid the
1461 department in formulating policies and discussing problems related
1462 to the administration of this chapter and in assuring impartiality
1463 and freedom from political influence in the solution of such
1464 problems. Members of the advisory councils shall receive a per
1465 diem in accordance with Section 25-3-69 for attendance upon
1466 meetings of the council, and shall be reimbursed for actual and
1467 necessary traveling expenses. The per diem and expenses herein
1468 authorized shall be paid from the Employment Security
1469 Administration Fund.

1470 **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is
1471 amended as follows:

1472 71-5-125. The department * * * shall take all appropriate
1473 steps to reduce and prevent unemployment; to encourage and assist
1474 in the adoption of practical methods of vocational training,
1475 retraining and vocational guidance; to investigate, recommend,
1476 advise and assist in the establishment and operation, by
1477 municipalities, counties, school districts and the state, of
1478 reserves for public works to be used in times of business
1479 depression and unemployment; to promote the reemployment of
1480 unemployed workers throughout the state in every other way that
1481 may be feasible; and to these ends to carry on and publish the
1482 results of investigation and research studies.

1483 **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is
1484 amended as follows:

1485 71-5-127. Each employing unit shall keep true and accurate
1486 work records, containing such information as the department may
1487 prescribe. Such records shall be open to inspection and be
1488 subject to being copied by the department or its authorized
1489 representatives at any reasonable time and as often as may be
1490 necessary. The department, board of review and any referee may
1491 require from any employing unit any sworn or unsworn reports with

1492 respect to persons employed by it which they or any of them deem
1493 necessary for the effective administration of this chapter.
1494 Information thus obtained or obtained from any individual pursuant
1495 to the administration of this chapter shall, except to the extent
1496 necessary for the proper administration of this chapter, be held
1497 confidential and shall not be published or be opened to public
1498 inspection (other than to public employees in the performance of
1499 their public duties) in any manner revealing the individual's or
1500 employing unit's identity, but any claimant (or his legal
1501 representative) at a hearing before an appeal tribunal or the
1502 board of review shall be supplied with information from such
1503 records to the extent necessary for the proper presentation of his
1504 claim. Any employee or member of the board of review or any
1505 employee of the department who violates any provisions of this
1506 section shall be fined not less than Twenty Dollars (\$20.00) nor
1507 more than Two Hundred Dollars (\$200.00), or imprisoned for not
1508 longer than ninety (90) days, or both. The department may make
1509 the state's records relating to the administration of this chapter
1510 available to the Railroad Retirement Board, and may furnish the
1511 Railroad Retirement Board, at the expense of such board, such
1512 copies thereof as the railroad retirement board deems necessary
1513 for its purposes. The department may afford reasonable
1514 cooperation with every agency of the United States charged with
1515 the administration of any unemployment insurance law.

1516 **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is
1517 amended as follows:

1518 71-5-129. Records hereinafter designated, which are found by
1519 the department to be useless, may be disposed of in accordance
1520 with approved records control schedules.

1521 (a) Records which have been preserved by it for not
1522 less than three (3) years:

- 1523 (1) Initial claims for benefits,
1524 (2) Continued claims for benefits,
1525 (3) Correspondence and master index cards in
1526 connection with such claims for benefits, and

1527 (4) Individual wage slips filed by employers
1528 subject to the provisions of the Unemployment Compensation Law.

1529 (b) Records which have been preserved by it for not
1530 less than six (6) months after becoming inactive:

- 1531 (1) Work applications,
- 1532 (2) Cross-index cards for work applications,
- 1533 (3) Test records,
- 1534 (4) Employer records,
- 1535 (5) Work orders,
- 1536 (6) Clearance records,
- 1537 (7) Counseling records,
- 1538 (8) Farm placement records, and
- 1539 (9) Correspondence relating to all such records.

1540 Nothing herein contained shall be construed as authorizing
1541 the destruction or disposal of basic fiscal records reflecting the
1542 financial operations of the said department and no records may be
1543 destroyed without the approval of the Director of the Department
1544 of Archives and History.

1545 **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is
1546 amended as follows:

1547 71-5-131. All letters, reports, communications, or any other
1548 matters, either oral or written, from the employer or employee to
1549 each other or to the department or any of its agents,
1550 representatives or employees, which shall have been written, sent,
1551 delivered or made in connection with the requirements and
1552 administration of this chapter shall be absolutely privileged and
1553 shall not be made the subject matter or basis of any suit for
1554 slander or libel in any court of the State of Mississippi unless
1555 the same be false in fact and maliciously written, sent, delivered
1556 or made for the purpose of causing a denial of benefits under this
1557 chapter.

1558 **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is
1559 amended as follows:

1560 71-5-133. In any case where an employing unit or any
1561 officer, member or agent thereof, or any other person having

1562 possession of the records thereof, shall fail or refuse upon
1563 demand by the department or its duly appointed agents to produce
1564 or permit the examination or copying of any book, paper, account,
1565 record or other data pertaining to payrolls or employment or
1566 ownership of interests or stock in any employing unit, or bearing
1567 upon the correctness of any report, or for the purpose of making a
1568 report as required by this chapter where none has been made, then
1569 and in that event the department or its duly authorized agents
1570 may, by the issuance of a subpoena, require the attendance of such
1571 employing unit or any officer, member or agent thereof, or any
1572 other person having possession of the records thereof, and take
1573 testimony with respect to any such matter and may require any such
1574 person to produce any books or records specified in such subpoena.
1575 The department or its authorized agents at any such hearing shall
1576 have power to administer oaths to any such person or persons.
1577 When any person called as a witness by a subpoena signed by the
1578 department or its agents and served upon him by the sheriff of a
1579 county of which such person is a resident, or wherein is located
1580 the principal office of such employing unit or wherein such
1581 records are located or kept, shall fail to obey such subpoena to
1582 appear before the department or its authorized agent, or shall
1583 refuse to testify or to answer any questions or to produce any
1584 book, record, paper or other data when required to do so, such
1585 failure or refusal shall be reported to the Attorney General, who
1586 shall thereupon institute proceedings by the filing of a petition
1587 in the name of the State of Mississippi, on the relation of the
1588 department, in the circuit court or other court of competent
1589 jurisdiction of the county where such witness resides, or wherein
1590 such records are located or kept, to compel the obedience of such
1591 witness. Such petition shall set forth the facts and
1592 circumstances of the demand for and refusal or failure to permit
1593 the examination or copying of such records, or the failure or
1594 refusal of such witness to testify in answer to such subpoena or
1595 to produce the records so required by such subpoena. Such court,
1596 upon the filing and docketing of such petition, shall thereupon

1597 promptly issue an order to the defendants named in said petition
1598 to produce forthwith in such court, or at a place in such county
1599 designated in such order for the examination or copying by the
1600 department or its duly appointed agents, the records, books or
1601 documents so described, and to testify concerning matters
1602 described in such petition. Unless such defendants to such
1603 petition shall appear in said court upon a day specified in such
1604 order, which said day shall be not more than ten (10) days after
1605 the date of issuance of such order, and offer, under oath, good
1606 and sufficient reasons why such examination or copying should not
1607 be permitted, or why such subpoena should not be obeyed, such
1608 court shall thereupon deliver to the department or its agents, for
1609 examination or copying, the records, books and documents so
1610 described in said petition and so produced in such court, and
1611 shall order said defendants to appear in answer to the subpoena of
1612 said department or its agents, and to testify concerning matters
1613 inquired about by said department. Any employing unit or any
1614 officer, member or agent thereof, or any other person having
1615 possession of the records thereof, who shall willfully disobey
1616 such order of the court after the same shall have been served upon
1617 him shall be guilty of indirect contempt of such court from which
1618 such order shall have issued, and may be adjudged in contempt of
1619 said court and punished therefor as provided by law.

1620 **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is
1621 amended as follows:

1622 71-5-135. If any employing unit fails to make any report
1623 required by this chapter, the department or its authorized agents
1624 shall give written notice by mail to such employing unit to make
1625 and file such report within fifteen (15) days from the date of
1626 such notice. If such employing unit, by its proper members,
1627 officers or agents, shall fail or refuse to make and file such
1628 reports within such time, then and in that event such report shall
1629 be made by the department or its authorized agents from the best
1630 information available, and the amount of contributions due shall

1631 be computed thereon; and such report shall be prima facie correct
1632 for the purposes of this chapter.

1633 **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is
1634 amended as follows:

1635 71-5-137. In the discharge of the duties imposed by this
1636 chapter, the department, any referee, the members of the board of
1637 review, and any duly authorized representative of any of them
1638 shall have power to administer oaths and affirmations, to take
1639 depositions, certify to official acts, and issue subpoenas to
1640 compel the attendance of witnesses and the production of books,
1641 papers, correspondence, memoranda and other records deemed
1642 necessary as evidence in connection with a disputed claim or the
1643 administration of this chapter.

1644 **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is
1645 amended as follows:

1646 71-5-139. In case of contumacy or refusal to obey a subpoena
1647 issued to any person, any court in this state within the
1648 jurisdiction of which the inquiry is carried on, or within the
1649 jurisdiction of which said person guilty of contumacy or refusal
1650 to obey is found or resides or transacts business, upon
1651 application by the department, the board of review, any referee,
1652 or any duly authorized representative of any of them, shall have
1653 jurisdiction to issue to such person an order requiring such
1654 person to appear before the department, the Board of Review, any
1655 referee, or any duly authorized representative of any of them,
1656 there to produce evidence if so ordered or there to give testimony
1657 touching the matter under investigation or in question. Any
1658 failure to obey such order of the court may be punished by said
1659 court as a contempt thereof. Any person who shall, without just
1660 cause, fail or refuse to attend and testify or to answer any
1661 lawful inquiry or to produce books, papers, correspondence,
1662 memoranda and other records if it is in his power so to do, in
1663 obedience to a subpoena of the department, the Board of Review,
1664 any referee, or any duly authorized representative of any of them,
1665 shall be punished by a fine of not more than Two Hundred Dollars

1666 (\$200.00), or by imprisonment for not longer than sixty (60) days,
1667 or by both such fine and imprisonment; and each day such violation
1668 continues shall be deemed to be a separate offense.

1669 **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is
1670 amended as follows:

1671 71-5-141. No person shall be excused from attending and
1672 testifying or from producing books, papers, correspondence,
1673 memoranda and other records before the department, the Board of
1674 Review, any referee, or any duly authorized representative of any
1675 of them, or in obedience to the subpoena of any of them in any
1676 cause or proceeding before the department, the Board of Review or
1677 an appeal tribunal, on the ground that the testimony or evidence,
1678 documentary or otherwise, required of him may tend to incriminate
1679 him or subject him to a penalty or forfeiture; but no individual
1680 shall be prosecuted or subjected to any penalty or forfeiture for
1681 or on account of any transaction, matter or thing concerning which
1682 he is compelled, after having claimed his privilege against
1683 self-incrimination, to testify or produce evidence, documentary or
1684 otherwise, except that such individual so testifying shall not be
1685 exempt from prosecution and punishment for perjury committed in so
1686 testifying.

1687 **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is
1688 amended as follows:

1689 71-5-143. In the administration of this chapter, the
1690 department shall cooperate, to the fullest extent consistent with
1691 the provisions of this chapter, with the Social Security Board
1692 created by the Social Security Act, approved August 14, 1935, as
1693 amended; shall make such reports in such form and containing such
1694 information as the Social Security Board may from time to time
1695 require, and shall comply with such provisions as the Social
1696 Security Board may from time to time find necessary to assure the
1697 correctness and verification of such reports; and shall comply
1698 with the reasonable, valid and lawful regulations prescribed by
1699 the Social Security Board pursuant to and under the authority of
1700 the Social Security Act, governing the expenditures of such sums

1701 as may be allotted and paid to this state under Title III of the
1702 Social Security Act, as amended, for the purpose of assisting in
1703 the administration of this chapter.

1704 Upon request therefor, the department shall furnish to any
1705 agency of the United States charged with the administration of
1706 public works, or assistance through public employment, the name,
1707 address, ordinary occupation and employment status of each
1708 recipient of benefits, and such recipient's rights to further
1709 benefits under this chapter.

1710 **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is
1711 amended as follows:

1712 71-5-201. The Mississippi State Employment Service is hereby
1713 established in the Mississippi Department of Employment Security,
1714 Office of the Governor. The department, in the conduct of such
1715 service, shall establish and maintain free public employment
1716 offices in such number and in such places as may be necessary for
1717 the proper administration of this article and for the purpose of
1718 performing such functions as are within the purview of the act of
1719 Congress entitled "An act to provide for the establishment of a
1720 national employment system and for cooperation with the states in
1721 the promotion of such system, and for other purposes" (29 USCS
1722 Section 49 et seq). Any existing free public employment offices
1723 maintained by the state but not heretofore under the jurisdiction
1724 of the department shall be transferred to the jurisdiction of the
1725 department, and upon such transfer all duties and powers conferred
1726 upon any other department, agency or officers of this state
1727 relating to the establishment, maintenance and operation of free
1728 public employment offices shall be vested in the department. The
1729 said Mississippi State Employment Service shall be administered by
1730 the department, which is charged with the duty to cooperate with
1731 any official or agency of the United States having powers or
1732 duties under the provisions of the act of Congress, as amended,
1733 and to do and perform all things necessary to secure to this state
1734 the benefits of the said act of Congress, as amended, in the
1735 promotion and maintenance of a system of public employment

1736 offices. The provisions of said act of Congress, as amended, are
1737 hereby accepted by this state, in conformity with 29 USCS Section
1738 49c, and this state will observe and comply with the requirements
1739 thereof. The department is hereby designated and constituted the
1740 agency of this state for the purposes of said act. The department
1741 may cooperate with or enter into agreements with the Railroad
1742 Retirement Board or veteran's organization with respect to the
1743 establishment, maintenance and use of free employment service
1744 facilities.

1745 **SECTION 34.** Section 71-5-357, Mississippi Code of 1972, is
1746 amended as follows:

1747 71-5-357. Benefits paid to employees of nonprofit
1748 organizations shall be financed in accordance with the provisions
1749 of this section. For the purpose of this section, a nonprofit
1750 organization is an organization (or group of organizations)
1751 described in Section 501(c)(3) of the Internal Revenue Code of
1752 1954 which is exempt from income tax under Section 501(a) of such
1753 code (26 USCS Section 501).

1754 (a) Any nonprofit organization which, pursuant to
1755 Section 71-5-11, subsection H(3), is or becomes subject to this
1756 chapter shall pay contributions under the provisions of Sections
1757 71-5-351 through 71-5-355 unless it elects, in accordance with
1758 this paragraph, to pay to the department for the unemployment fund
1759 an amount equal to the amount of regular benefits and one-half
1760 (1/2) of the extended benefits paid, that is attributable to
1761 service in the employ of such nonprofit organization, to
1762 individuals for weeks of unemployment which begin during the
1763 effective period of such election.

1764 (i) Any nonprofit organization which becomes
1765 subject to this chapter may elect to become liable for payments in
1766 lieu of contributions for a period of not less than twelve (12)
1767 months, beginning with the date on which such subjectivity begins,
1768 by filing a written notice of its election with the department not
1769 later than thirty (30) days immediately following the date of the
1770 determination of such subjectivity.

1771 (ii) Any nonprofit organization which makes an
1772 election in accordance with subparagraph (i) of this paragraph
1773 will continue to be liable for payments in lieu of contributions
1774 unless it files with the department a written termination notice
1775 not later than thirty (30) days prior to the beginning of the tax
1776 year for which such termination shall first be effective.

1777 (iii) Any nonprofit organization which has been
1778 paying contributions under this chapter may change to a
1779 reimbursable basis by filing with the department, not later than
1780 thirty (30) days prior to the beginning of any tax year, a written
1781 notice of election to become liable for payments in lieu of
1782 contributions. Such election shall not be terminable by the
1783 organization for that and the next tax year.

1784 (iv) The department may for good cause extend the
1785 period within which a notice of election or a notice of
1786 termination must be filed, and may permit an election to be
1787 retroactive.

1788 (v) The department, in accordance with such
1789 regulations as it may prescribe, shall notify each nonprofit
1790 organization of any determination which it may make of its status
1791 as an employer, of the effective date of any election which it
1792 makes and of any termination of such election. Such
1793 determinations shall be subject to reconsideration, appeal and
1794 review in accordance with the provisions of Sections 71-5-351
1795 through 71-5-355.

1796 (b) Payments in lieu of contributions shall be made in
1797 accordance with the provisions of subparagraph (i) of this
1798 paragraph.

1799 (i) At the end of each calendar quarter, or at the
1800 end of any other period as determined by the department, the
1801 department shall bill each nonprofit organization (or group of
1802 such organizations) which has elected to make payments in lieu of
1803 contributions, for an amount equal to the full amount of regular
1804 benefits plus one-half (1/2) of the amount of extended benefits

1805 paid during such quarter or other prescribed period that is
1806 attributable to service in the employ of such organization.

1807 (ii) Payment of any bill rendered under
1808 subparagraph (i) of this paragraph shall be made not later than
1809 forty-five (45) days after such bill was mailed to the last known
1810 address of the nonprofit organization or was otherwise delivered
1811 to it, unless there has been an application for review and
1812 redetermination in accordance with subparagraph (v) of this
1813 paragraph.

1814 1. All of the enforcement procedures for the
1815 collection of delinquent contributions contained in Sections
1816 71-5-363 through 71-5-383 shall be applicable in all respects for
1817 the collection of delinquent payments due by nonprofit
1818 organizations who have elected to become liable for payments in
1819 lieu of contributions.

1820 2. If any nonprofit organization is
1821 delinquent in making payments in lieu of contributions, the
1822 department may terminate such organization's election to make
1823 payments in lieu of contributions as of the beginning of the next
1824 tax year, and such termination shall be effective for the balance
1825 of such tax year.

1826 (iii) Payments made by any nonprofit organization
1827 under the provisions of this paragraph shall not be deducted or
1828 deductible, in whole or in part, from the remuneration of
1829 individuals in the employ of the organization.

1830 (iv) Payments due by employers who elect to
1831 reimburse the fund in lieu of contributions as provided in this
1832 paragraph may not be noncharged under any condition. The
1833 reimbursement must be on a dollar-for-dollar basis (One Dollar
1834 (\$1.00) reimbursement for each dollar paid in benefits) in every
1835 case, so that the trust fund shall be reimbursed in full, such
1836 reimbursement to include, but not be limited to, benefits or
1837 payments erroneously or incorrectly paid, or paid as a result of a
1838 determination of eligibility which is subsequently reversed, or
1839 paid as a result of claimant fraud. Provided that political

1840 subdivisions who are reimbursing employers may elect to pay to the
1841 fund an amount equal to five-tenths percent (.5%) of the taxable
1842 wages paid during the calendar year with respect to employment,
1843 and those employers who so elect shall be relieved of liability
1844 for reimbursement of benefits paid under the same conditions that
1845 benefits are not charged to the experience rating record of a
1846 contributing employer as provided in Section 71-5-355(2)(b)(ii)
1847 other than Clause 5 thereof. Benefits paid in such circumstances
1848 for which reimbursing employers are relieved of liability for
1849 reimbursement shall not be considered attributable to service in
1850 the employment of such reimbursing employer.

1851 (v) The amount due specified in any bill from the
1852 department shall be conclusive on the organization unless, not
1853 later than fifteen (15) days after the bill was mailed to its last
1854 known address or otherwise delivered to it, the organization files
1855 an application for redetermination by the department, setting
1856 forth the grounds for such application or appeal. The department
1857 shall promptly review and reconsider the amount due specified in
1858 the bill and shall thereafter issue a redetermination in any case
1859 in which such application for redetermination has been filed. Any
1860 such redetermination shall be conclusive on the organization
1861 unless, not later than fifteen (15) days after the redetermination
1862 was mailed to its last known address or otherwise delivered to it,
1863 the organization files an appeal to the Circuit Court of the First
1864 Judicial District of Hinds County, Mississippi, in accordance with
1865 the provisions of law with respect to review of civil causes by
1866 certiorari.

1867 (vi) Past due payments of amounts in lieu of
1868 contributions shall be subject to the same interest and penalties
1869 that, pursuant to Section 71-5-363, apply to past due
1870 contributions.

1871 (c) Each employer that is liable for payments in lieu
1872 of contributions shall pay to the department for the fund the
1873 amount of regular benefits plus the amount of one-half (1/2) of
1874 extended benefits paid are attributable to service in the employ

1875 of such employer. If benefits paid to an individual are based on
1876 wages paid by more than one (1) employer and one or more of such
1877 employers are liable for payments in lieu of contributions, the
1878 amount payable to the fund by each employer that is liable for
1879 such payments shall be determined in accordance with the
1880 provisions of subparagraph (i) or subparagraph (ii) of this
1881 paragraph.

1882 (i) If benefits paid to an individual are based on
1883 wages paid by one or more employers that are liable for payment in
1884 lieu of contributions and on wages paid by one or more employers
1885 who are liable for contributions, the amount of benefits payable
1886 by each employer that is liable for payments in lieu of
1887 contributions shall be an amount which bears the same ratio to the
1888 total benefits paid to the individual as the total base-period
1889 wages paid to the individual by such employer bear to the total
1890 base-period wages paid to the individual by all of his base-period
1891 employers.

1892 (ii) If benefits paid to an individual are based
1893 on wages paid by two (2) or more employers that are liable for
1894 payments in lieu of contributions, the amount of benefits payable
1895 by each such employer shall be an amount which bears the same
1896 ratio to the total benefits paid to the individual as the total
1897 base-period wages paid to the individual by such employer bear to
1898 the total base-period wages paid to the individual by all of his
1899 base-period employers.

1900 (d) In the discretion of the department, any nonprofit
1901 organization that elects to become liable for payments in lieu of
1902 contributions shall be required, within thirty (30) days after the
1903 effective date of its election, to execute and file with the
1904 department a surety bond approved by the department, or it may
1905 elect instead to deposit with the department money or securities.
1906 The amount of such bond or deposit shall be determined in
1907 accordance with the provisions of this paragraph.

1908 (i) The amount of the bond or deposit required by
1909 paragraph (d) shall be equal to two and seven-tenths percent

1910 (2.7%) of the organization's taxable wages paid for employment as
1911 defined in Section 71-5-11, subsection I(4), for the four (4)
1912 calendar quarters immediately preceding the effective date of the
1913 election, the renewal date in the case of a bond, or the biennial
1914 anniversary of the effective date of election in the case of a
1915 deposit of money or securities, whichever date shall be most
1916 recent and applicable. If the nonprofit organization did not pay
1917 wages in each of such four (4) calendar quarters, the amount of
1918 the bond or deposit shall be as determined by the department.

1919 (ii) Any bond deposited under paragraph (d) shall
1920 be in force for a period of not less than two (2) tax years and
1921 shall be renewed with the approval of the department at such times
1922 as the department may prescribe, but not less frequently than at
1923 intervals of two (2) years as long as the organization continues
1924 to be liable for payments in lieu of contributions. The
1925 department shall require adjustments to be made in a previously
1926 filed bond as it deems appropriate. If the bond is to be
1927 increased, the adjusted bond shall be filed by the organization
1928 within thirty (30) days of the date notice of the required
1929 adjustment was mailed or otherwise delivered to it. Failure by
1930 any organization covered by such bond to pay the full amount of
1931 payments in lieu of contributions when due, together with any
1932 applicable interest and penalties provided in paragraph (b)(v) of
1933 this section, shall render the surety liable on said bond to the
1934 extent of the bond, as though the surety was such organization.

1935 (iii) Any deposit of money or securities in
1936 accordance with paragraph (d) shall be retained by the department
1937 in an escrow account until liability under the election is
1938 terminated, at which time it shall be returned to the
1939 organization, less any deductions as hereinafter provided. The
1940 department may deduct from the money deposited under paragraph (d)
1941 by a nonprofit organization, or sell the securities it has so
1942 deposited, to the extent necessary to satisfy any due and unpaid
1943 payments in lieu of contributions and any applicable interest and
1944 penalties provided for in paragraph (b)(v) of this section. The

1945 department shall require the organization, within thirty (30) days
1946 following any deduction from a money deposit or sale of deposited
1947 securities under the provisions hereof, to deposit sufficient
1948 additional money or securities to make whole the organization's
1949 deposit at the prior level. Any cash remaining from the sale of
1950 such securities shall be a part of the organization's escrow
1951 account. The department may, at any time, review the adequacy of
1952 the deposit made by any organization. If, as a result of such
1953 review, it determines that an adjustment is necessary, it shall
1954 require the organization to make additional deposit within thirty
1955 (30) days of written notice of its determination or shall return
1956 to it such portion of the deposit as it no longer considers
1957 necessary, whichever action is appropriate. Disposition of income
1958 from securities held in escrow shall be governed by the applicable
1959 provisions of the state law.

1960 (iv) If any nonprofit organization fails to file a
1961 bond or make a deposit, or to file a bond in an increased amount,
1962 or to increase or make whole the amount of a previously made
1963 deposit as provided under this subparagraph, the department may
1964 terminate such organization's election to make payments in lieu of
1965 contributions, and such termination shall continue for not less
1966 than the four (4) consecutive calendar-quarter periods beginning
1967 with the quarter in which such termination becomes effective;
1968 provided, that the department may extend for good cause the
1969 applicable filing, deposit or adjustment period by not more than
1970 thirty (30) days.

1971 (v) Group account shall be established according
1972 to regulations prescribed by the department.

1973 (e) Any employer which elects to make payments in lieu
1974 of contributions into the Unemployment Compensation Fund as
1975 provided in this paragraph shall not be liable to make such
1976 payments with respect to the benefits paid to any individual whose
1977 base-period wages include wages for previously uncovered services
1978 as defined in Section 71-5-511(e) to the extent that the

1979 Unemployment Compensation Fund is reimbursed for such benefits
1980 pursuant to Section 121 of Public Law 94-566.

1981 **SECTION 35.** Section 71-5-359, Mississippi Code of 1972, is
1982 amended as follows:

1983 71-5-359. (1) (a) Before January 1, 1978, each state board
1984 or other instrumentality of this state or one or more other states
1985 covered under Section 71-5-11, subsection H(3), shall pay
1986 contributions under the provisions of Sections 71-5-351 through
1987 71-5-355 for all of the hospitals or institutions of higher
1988 learning under its jurisdiction unless it elects, in the same
1989 manner and under the same conditions as provided for nonprofit
1990 organizations in subsections (a), (b) and (c) of Section 71-5-357,
1991 to pay to the department for the unemployment fund an amount equal
1992 to the regular benefits and one-half (1/2) of the extended
1993 benefits paid that are attributable to service in the employ of
1994 such hospitals or institutions. When an election is made, the
1995 amounts required to be paid in lieu of contributions shall be
1996 billed and payment made as provided in Section 71-5-357 with
1997 respect to similar payments by nonprofit organizations. A state
1998 board having jurisdiction over two (2) or more state-owned
1999 hospitals or state-owned institutions of higher learning shall be
2000 treated as a single employer for the employment in all of said
2001 hospitals or institutions of higher learning for purposes of
2002 computing contribution rates and payment of contributions, or for
2003 purposes of reimbursing the fund, unless it elects, in accordance
2004 with this section, to have one or more of said hospitals or
2005 institutions of higher learning treated as a separate employer.

2006 (b) A state board may elect to have one or more
2007 state-owned hospitals or one or more state-owned institutions of
2008 higher learning under its jurisdiction treated as a separate
2009 employer for the purposes of this section, provided it files with
2010 the department, not later than thirty (30) days prior to the
2011 beginning of any tax year, a written notice of such election. Any
2012 such election shall be effective throughout such tax year, and
2013 shall continue in effect unless the state board files with the

2014 department a written notice of termination of such election not
2015 less than thirty (30) days prior to the beginning of the tax year
2016 for which such termination is to be effective.

2017 (2) (a) From January 1, 1978, through December 31, 1978,
2018 the Commission of Budget and Accounting shall, in the manner
2019 provided in subsection (2)(c) of this section, pay, upon warrant
2020 issued by the State Auditor of Public Accounts, to the department
2021 for the unemployment compensation fund an amount equal to the
2022 regular benefits and one-half (1/2) of the extended benefits paid
2023 that are attributable to service in the employ of a state agency.
2024 The amount required to be reimbursed by a certain agency shall be
2025 billed to the Commission of Budget and Accounting and shall be
2026 paid from the Employment Compensation Revolving Fund pursuant to
2027 subsection (2)(c) of this section not later than thirty (30) days
2028 after such bill was mailed, unless there has been an application
2029 for review and redetermination in accordance with Section
2030 71-5-357(b)(v).

2031 (b) The Department of Finance and Administration shall,
2032 in the manner provided in subsection (2)(c) of this section, pay,
2033 upon warrant issued by the State Auditor, or the successor to
2034 these duties, to the department for the Unemployment Compensation
2035 Fund an amount equal to the regular benefits and the extended
2036 benefits paid that are attributable to service in the employ of a
2037 state agency. The amount required to be reimbursed by a certain
2038 agency shall be billed to the Department of Finance and
2039 Administration and shall be paid from the Employment Compensation
2040 Revolving Fund pursuant to subsection (2)(c) of this section not
2041 later than thirty (30) days after such bill was mailed, unless
2042 there has been an application for review and redetermination in
2043 accordance with Section 71-5-357(b)(v).

2044 (c) Each agency of state government shall deposit
2045 monthly for a period of twenty-four (24) months an amount equal to
2046 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand
2047 Dollars (\$6,000.00) paid to each employee thereof during the next
2048 preceding year into the Employment Compensation Revolving Fund

2049 hereby created in the State Treasury. The Department of Finance
2050 and Administration shall determine the percentage to be applied to
2051 the amount of covered wages paid in order to maintain a balance in
2052 the revolving fund of not less than two percent (2%) of the
2053 covered wages paid during the next preceding year. The State
2054 Treasurer shall invest all funds in the Employment Compensation
2055 Revolving Fund and all interest earned shall be credited to the
2056 Employment Compensation Revolving Fund.

2057 The reimbursement of benefits paid by the Mississippi
2058 Employment Security Commission shall be paid by the Department of
2059 Finance and Administration from the Employment Compensation
2060 Revolving Fund upon warrants issued by the State Auditor of Public
2061 Accounts, or the successor to these duties; and the said auditor
2062 shall issue his warrants upon requisitions signed by the
2063 Department of Finance and Administration. Provided, however, that
2064 the Department of Finance and Administration may, if it so elects,
2065 contract for the performance of the duties prescribed by
2066 subsections (2)(b) and (c), and other duties necessarily related
2067 thereto.

2068 (d) From January 1, 1978, through December 31, 1978,
2069 any political subdivision of this state shall pay to the
2070 department for the unemployment fund an amount equal to the
2071 regular benefits and one-half (1/2) of the extended benefits paid
2072 that are attributable to service in the employ of such political
2073 subdivision unless it elects to make contributions to the
2074 unemployment fund as provided in subsection (2)(j) of this
2075 section. The amount required to be reimbursed shall be billed and
2076 shall be paid as provided in Section 71-5-357, with respect to
2077 similar payments for nonprofit organizations.

2078 (e) On and after January 1, 1979, any political
2079 subdivision of this state shall pay to the department for the
2080 unemployment fund an amount equal to the regular benefits and the
2081 extended benefits paid that are attributable to service in the
2082 employ of such political subdivision unless it elects to make
2083 contributions to the unemployment fund as provided in subsection

2084 (2)(j) of this section. The amount required to be reimbursed
2085 shall be billed and shall be paid as provided in Section 71-5-357,
2086 with respect to similar payments for nonprofit organizations.

2087 (f) Each political subdivision unless it elects to make
2088 contributions to the unemployment fund as provided in subsection
2089 (2)(j) of this section, shall establish a revolving fund and
2090 deposit therein monthly for a period of twenty-four (24) months an
2091 amount equal to one-twelfth of one percent (1/12 of 1%) of the
2092 first Six Thousand Dollars (\$6,000.00) paid to each employee
2093 thereof during the next preceding year plus an amount each month
2094 equal to one-third (1/3) of any reimbursement paid to the
2095 department for the next preceding quarter. After January 1, 1980,
2096 the balance in the revolving fund shall be maintained at an amount
2097 not less than two percent (2%) of the covered wages paid during
2098 the next preceding year. Provided, however, that the department
2099 shall by regulation establish a procedure to allow reimbursing
2100 political subdivisions to elect to maintain the balance in the
2101 revolving fund as required under this paragraph or to annually
2102 execute a surety bond to be approved by the department in an
2103 amount not less than two percent (2%) of the covered wages paid
2104 during the next preceding year.

2105 (g) In the event any political subdivision becomes
2106 delinquent in payments due under this chapter, upon due notice,
2107 and upon certification of the delinquency by the department to the
2108 Department of Finance and Administration, the State Tax
2109 Commission, the Department of Environmental Quality and the
2110 Department of Insurance, or any of them, such agencies shall
2111 direct the issuance of warrants which in the aggregate shall be
2112 the amount of such delinquency payable to the department and drawn
2113 upon any funds in the State Treasury which may be available to
2114 such political subdivision in satisfaction of any such
2115 delinquency. This remedy shall be in addition to any other
2116 collection remedies in this chapter or otherwise provided by law.

2117 (h) Payments made by any political subdivision under
2118 the provisions of this section shall not be deducted or

2119 deductible, in whole or in part, from the remuneration of
2120 individuals in the employ of the organization.

2121 (i) Any governmental entity shall not be liable to make
2122 payments to the unemployment fund with respect to the benefits
2123 paid to any individual whose base-period wages include wages for
2124 previously uncovered services as defined in Section 71-5-511,
2125 subsection (e), to the extent that the unemployment compensation
2126 fund is reimbursed for such benefits pursuant to Section 121 of
2127 Public Law 94-566.

2128 (j) Any political subdivision of this state may elect
2129 to make contributions to the unemployment fund instead of making
2130 reimbursement for benefits paid as provided in subsections (2)(d),
2131 (e) and (f) of this section. A political subdivision which makes
2132 this election shall so notify the department, not later than July
2133 1, 1978; and shall be subject to the provisions of Section
2134 71-5-351, with regard to the payment of contributions. A
2135 political subdivision which makes this election shall pay
2136 contributions equal to two percent (2%) of wages paid by it during
2137 each calendar quarter it is subject to this chapter. The
2138 department shall by regulation establish a procedure to allow
2139 political subdivisions the option periodically to elect either the
2140 reimbursement or the contribution method of financing unemployment
2141 compensation coverage.

2142 **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is
2143 amended as follows:

2144 71-5-451. There is hereby established as a special fund,
2145 separate and apart from all public monies or funds of this state,
2146 an Unemployment Compensation Fund, which shall be administered by
2147 the department exclusively for:

- 2148 (a) All contributions collected under this chapter;
2149 (b) Interest earned upon any monies in the fund;
2150 (c) Any property or securities acquired through the use
2151 of monies belonging to the fund;
2152 (d) All earnings of such property or securities;

2153 (e) All monies credited to this state's account in the
2154 Unemployment Trust Fund pursuant to the Social Security Act, 42
2155 USCS, Section 1104; and

2156 (f) By way of reimbursement in accordance with Section
2157 204 of the Federal-State Extended Unemployment Compensation Act of
2158 1970 (84 Stat. 711). All monies in the fund shall be mingled and
2159 undivided.

2160 **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is
2161 amended as follows:

2162 71-5-457. (1) Except as otherwise provided in subsection
2163 (5), money credited to the account of this state in the
2164 Unemployment Trust Fund by the Secretary of the Treasury of the
2165 United States of America pursuant to the Social Security Act, 42
2166 USCS Section 1103, may be requisitioned and used for the payment
2167 of expenses incurred for the administration of this law pursuant
2168 to a specific appropriation by the Legislature, provided that the
2169 expenses are incurred and the money is requisitioned after the
2170 enactment of an appropriation law which:

2171 (a) Specifies the purposes for which such money is
2172 appropriated and the amounts appropriated therefor;

2173 (b) Limits the period within which such money may be
2174 obligated to a period ending not more than two (2) years after the
2175 date of the enactment of the appropriation law; and

2176 (c) Limits the amount which may be obligated during a
2177 twelve-month period beginning on July 1 and ending on the next
2178 June 30 to an amount which does not exceed the amount by which:

2179 (i) The aggregate of the amounts credited to the
2180 account of this state pursuant to the Social Security Act, 42 USCS
2181 Section 1103, during the same twelve-month period and the
2182 thirty-four (34) preceding twelve-month periods exceeds.

2183 (ii) The aggregate of the amounts obligated
2184 pursuant to this section and charged against the amounts credited
2185 to the account of this state during such thirty-five (35)
2186 twelve-month periods.

2187 For the purposes of this section, amounts obligated during
2188 any such twelve-month period shall be charged against equivalent
2189 amounts which were first credited and which are not already so
2190 charged; except that no amount obligated for administration during
2191 any such twelve-month period may be charged against any amount
2192 credited during such a twelve-month period earlier than the
2193 thirty-fourth preceding such period.

2194 (2) Money credited to the account of this state pursuant to
2195 the Social Security Act, 42 USCS Section 1103, may not be
2196 withdrawn or used except for the payment of benefits and for the
2197 payment of expenses for the administration of this law and of
2198 public employment offices pursuant to this section.

2199 (3) Money appropriated as provided herein for the payment of
2200 expenses of administration shall be requisitioned as needed for
2201 the payment of obligations incurred under such appropriation and,
2202 upon requisition, shall be deposited in the Employment Security
2203 Administration Fund, from which such payments shall be made.
2204 Money so deposited shall, until expended, remain a part of the
2205 Unemployment Compensation Fund and, if it will not be expended,
2206 shall be returned promptly to the account of this state in the
2207 Unemployment Trust Fund.

2208 (4) The thirty-five-year limitation provided in this section
2209 is no longer in force, effective October 1, 1991.

2210 (5) Notwithstanding subsection (1), monies credited with
2211 respect to federal fiscal years 1999, 2000 and 2001 shall be used
2212 by the department solely for the administration of the
2213 unemployment compensation program.

2214 **SECTION 38.** Section 71-5-511, Mississippi Code of 1972, is
2215 amended as follows:

2216 71-5-511. An unemployed individual shall be eligible to
2217 receive benefits with respect to any week only if the department
2218 finds that:

2219 (a) (i) He has registered for work at and thereafter
2220 has continued to report to an employment office in accordance with
2221 such regulations as the department may prescribe; except that the

2222 department may, by regulation, waive or alter either or both of
2223 the requirements of this subparagraph as to such types of cases or
2224 situations with respect to which it finds that compliance with
2225 such requirements would be oppressive or would be inconsistent
2226 with the purposes of this chapter; and

2227 (ii) He participates in reemployment services,
2228 such as job search assistance services, if, in accordance with a
2229 profiling system established by the department, it has been
2230 determined that he is likely to exhaust regular benefits and needs
2231 reemployment services, unless the department determines that:

2232 1. The individual has completed such
2233 services; or

2234 2. There is justifiable cause for the
2235 claimant's failure to participate in such services.

2236 (b) He has made a claim for benefits in accordance with
2237 the provisions of Section 71-5-515 and in accordance with such
2238 regulations as the department may prescribe thereunder.

2239 (c) He is able to work and is available for work.

2240 (d) He has been unemployed for a waiting period of one
2241 (1) week. No week shall be counted as a week of unemployment for
2242 the purposes of this subsection:

2243 (i) Unless it occurs within the benefit year which
2244 includes the week with respect to which he claims payment of
2245 benefits;

2246 (ii) If benefits have been paid with respect
2247 thereto;

2248 (iii) Unless the individual was eligible for
2249 benefits with respect thereto, as provided in Sections 71-5-511
2250 and 71-5-513, except for the requirements of this subsection.

2251 (e) For weeks beginning on or before July 1, 1982, he
2252 has, during his base period, been paid wages for insured work
2253 equal to not less than thirty-six (36) times his weekly benefit
2254 amount; he has been paid wages for insured work during at least
2255 two (2) quarters of his base period; and he has, during that
2256 quarter of his base period in which his total wages were highest,

2257 been paid wages for insured work equal to not less than sixteen
2258 (16) times the minimum weekly benefit amount. For benefit years
2259 beginning after July 1, 1982, he has, during his base period, been
2260 paid wages for insured work equal to not less than forty (40)
2261 times his weekly benefit amount; he has been paid wages for
2262 insured work during at least two (2) quarters of his base period,
2263 and he has, during that quarter of his base period in which his
2264 total wages were highest, been paid wages for insured work equal
2265 to not less than twenty-six (26) times the minimum weekly benefit
2266 amount. For purposes of this subsection, wages shall be counted
2267 as "wages for insured work" for benefit purposes with respect to
2268 any benefit year only if such benefit year begins subsequent to
2269 the date on which the employing unit by which such wages were paid
2270 has satisfied the conditions of Section 71-5-11, subsection H, or
2271 Section 71-5-361, subsection (3), with respect to becoming an
2272 employer.

2273 (f) No individual may receive benefits in a benefit
2274 year unless, subsequent to the beginning of the next preceding
2275 benefit year during which he received benefits, he performed
2276 service in "employment" as defined in Section 71-5-11, subsection
2277 I, and earned remuneration for such service in an amount equal to
2278 not less than eight (8) times his weekly benefit amount applicable
2279 to his said next preceding benefit year.

2280 (g) Benefits based on service in employment defined in
2281 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,
2282 subsection (4) shall be payable in the same amount, on the same
2283 terms, and subject to the same conditions as compensation payable
2284 on the basis of other service subject to this chapter, except that
2285 benefits based on service in an instructional, research or
2286 principal administrative capacity in an institution of higher
2287 learning (as defined in Section 71-5-11, subsection M) with
2288 respect to service performed prior to January 1, 1978, shall not
2289 be paid to an individual for any week of unemployment which begins
2290 during the period between two (2) successive academic years, or
2291 during a similar period between two (2) regular terms, whether or

2292 not successive, or during a period of paid sabbatical leave
2293 provided for in the individual's contract, if the individual has a
2294 contract or contracts to perform services in any such capacity for
2295 any institution or institutions of higher learning for both such
2296 academic years or both such terms.

2297 (h) Benefits based on service in employment defined in
2298 Section 71-5-11, subsection I(3) and (4), shall be payable in the
2299 same amount, on the same terms and subject to the same conditions
2300 as compensation payable on the basis of other service subject to
2301 this chapter; except that:

2302 (i) With respect to service performed in an
2303 instructional, research or principal administrative capacity for
2304 an educational institution, benefits shall not be paid based on
2305 such services for any week of unemployment commencing during the
2306 period between two (2) successive academic years, or during a
2307 similar period between two (2) regular but not successive terms,
2308 or during a period of paid sabbatical leave provided for in the
2309 individual's contract, to any individual, if such individual
2310 performs such services in the first of such academic years or
2311 terms and if there is a contract or a reasonable assurance that
2312 such individual will perform services in any such capacity for any
2313 educational institution in the second of such academic years or
2314 terms, and provided that Section 71-5-511, subsection (g), shall
2315 apply with respect to such services prior to January 1, 1978. In
2316 no event shall benefits be paid unless the individual employee was
2317 terminated by the employer.

2318 (ii) With respect to services performed in any
2319 other capacity for an educational institution, benefits shall not
2320 be paid on the basis of such services to any individual for any
2321 week which commences during a period between two (2) successive
2322 academic years or terms, if such individual performs such services
2323 in the first of such academic years or terms and there is a
2324 reasonable assurance that such individual will perform such
2325 services in the second of such academic years or terms, except
2326 that if compensation is denied to any individual under this

2327 subparagraph and such individual was not offered an opportunity to
2328 perform such services for the educational institution for the
2329 second of such academic years or terms, such individual shall be
2330 entitled to a retroactive payment of compensation for each week
2331 for which the individual filed a timely claim for compensation and
2332 for which compensation was denied solely by reason of this clause.
2333 In no event shall benefits be paid unless the individual employee
2334 was terminated by the employer.

2335 (iii) With respect to services described in
2336 subsection (h)(i) and (ii), benefits shall not be payable on the
2337 basis of services in any such capacities to any individual for any
2338 week which commences during an established and customary vacation
2339 period or holiday recess if such individual performs such services
2340 in the first of such academic years or terms, or in the period
2341 immediately before such vacation period or holiday recess, and
2342 there is a reasonable assurance that such individual will perform
2343 such services in the period immediately following such vacation
2344 period or holiday recess.

2345 (iv) With respect to any services described in
2346 subsection (h)(i) and (ii), benefits shall not be payable on the
2347 basis of services in any such capacities as specified in
2348 subsection (h)(i), (ii) and (iii) to any individual who performed
2349 such services in an educational institution while in the employ of
2350 an educational service agency. For purposes of this subsection,
2351 the term "educational service agency" means a governmental agency
2352 or governmental entity which is established and operated
2353 exclusively for the purpose of providing such services to one or
2354 more educational institutions.

2355 (v) With respect to services to which Sections
2356 71-5-357 and 71-5-359 apply, if such services are provided to or
2357 on behalf of an educational institution, benefits shall not be
2358 payable under the same circumstances and subject to the same terms
2359 and conditions as described in subsection (h)(i), (ii), (iii) and
2360 (iv).

2361 (i) Subsequent to December 31, 1977, benefits shall not
2362 be paid to any individual on the basis of any services
2363 substantially all of which consist of participating in sports or
2364 athletic events or training or preparing to so participate, for
2365 any week which commences during the period between two (2)
2366 successive sports seasons (or similar periods) if such individual
2367 performs such services in the first of such seasons (or similar
2368 periods) and there is a reasonable assurance that such individual
2369 will perform such services in the later of such seasons (or
2370 similar periods).

2371 (j) (i) Subsequent to December 31, 1977, benefits
2372 shall not be payable on the basis of services performed by an
2373 alien, unless such alien is an individual who was lawfully
2374 admitted for permanent residence at the time such services were
2375 performed, was lawfully present for purposes of performing such
2376 services, or was permanently residing in the United States under
2377 color of law at the time such services were performed (including
2378 an alien who was lawfully present in the United States as a result
2379 of the application of the provisions of Section 203(a)(7) or
2380 Section 212(d)(5) of the Immigration and Nationality Act).

2381 (ii) Any data or information required of
2382 individuals applying for benefits to determine whether benefits
2383 are not payable to them because of their alien status shall be
2384 uniformly required from all applicants for benefits.

2385 (iii) In the case of an individual whose
2386 application for benefits would otherwise be approved, no
2387 determination that benefits to such individual are not payable
2388 because of his alien status shall be made, except upon a
2389 preponderance of the evidence.

2390 (k) An individual shall be deemed prima facie
2391 unavailable for work, and therefore ineligible to receive
2392 benefits, during any period which, with respect to his employment
2393 status, is found by the department to be a holiday or vacation
2394 period.

2395 **SECTION 39.** Section 71-5-513, Mississippi Code of 1972, is
2396 amended as follows:

2397 71-5-513. A. An individual shall be disqualified for
2398 benefits:

2399 (1) (a) For the week, or fraction thereof, which
2400 immediately follows the day on which he left work voluntarily
2401 without good cause, if so found by the department, and for each
2402 week thereafter until he has earned remuneration for personal
2403 services performed for an employer, as in this chapter defined,
2404 equal to not less than eight (8) times his weekly benefit amount,
2405 as determined in each case, provided that marital, filial and
2406 domestic circumstances and obligations shall not be deemed good
2407 cause within the meaning of this subsection. Pregnancy shall not
2408 be deemed to be a marital, filial or domestic circumstance for the
2409 purpose of this subsection.

2410 (b) For the week, or fraction thereof, which
2411 immediately follows the day on which he was discharged for
2412 misconduct connected with his work, if so found by the department,
2413 and for each week thereafter until he has earned remuneration for
2414 personal services performed for an employer, as in this chapter
2415 defined, equal to not less than eight (8) times his weekly benefit
2416 amount, as determined in each case.

2417 (c) The burden of proof of good cause for leaving
2418 work shall be on the claimant, and the burden of proof of
2419 misconduct shall be on the employer.

2420 (2) For the week, or fraction thereof, with respect to
2421 which he willfully makes a false statement, a false representation
2422 of fact, or willfully fails to disclose a material fact for the
2423 purpose of obtaining or increasing benefits under the provisions
2424 of this law, if so found by the department, and such individual's
2425 maximum benefit allowance shall be reduced by the amount of
2426 benefits so paid to him during any such week of disqualification;
2427 and additional disqualification shall be imposed for a period not
2428 exceeding fifty-two (52) weeks, the length of such period of
2429 disqualification and the time when such period begins to be

2430 determined by the department, in its discretion, according to the
2431 circumstances in each case.

2432 (3) If the department finds that he has failed, without
2433 good cause, either to apply for available suitable work when so
2434 directed by the employment office or the department, to accept
2435 suitable work when offered him, or to return to his customary
2436 self-employment (if any) when so directed by the department, such
2437 disqualification shall continue for the week in which such failure
2438 occurred and for not more than the twelve (12) weeks which
2439 immediately follow such week, as determined by the department
2440 according to the circumstances in each case.

2441 (a) In determining whether or not any work is
2442 suitable for an individual, the department shall consider among
2443 other factors the degree of risk involved to his health, safety
2444 and morals, his physical fitness and prior training, his
2445 experience and prior earnings, his length of unemployment and
2446 prospects for securing local work in his customary occupation, and
2447 the distance of the available work from his residence; provided,
2448 however, that offered employment paying the minimum wage or
2449 higher, if such minimum or higher wage is that prevailing for his
2450 customary occupation or similar work in the locality, shall be
2451 deemed to be suitable employment after benefits have been paid to
2452 the individual for a period of eight (8) weeks.

2453 (b) Notwithstanding any other provisions of this
2454 chapter, no work shall be deemed suitable and benefits shall not
2455 be denied under this chapter to any otherwise eligible individual
2456 for refusing to accept new work under any of the following
2457 conditions:

2458 (i) If the position offered is vacant due
2459 directly to a strike, lockout or other labor dispute;

2460 (ii) If the wages, hours or other conditions
2461 of the work offered are substantially less favorable to the
2462 individual than those prevailing for similar work in the locality;

2463 (iii) If as a condition of being employed the
2464 individual would be required to join a company union or to resign
2465 from or refrain from joining any bona fide labor organization.

2466 (4) For any week with respect to which the department
2467 finds that his total unemployment is due to a stoppage of work
2468 which exists because of a labor dispute at a factory,
2469 establishment or other premises at which he is or was last
2470 employed; provided, that this subsection shall not apply if it is
2471 shown to the satisfaction of the department:

2472 (a) He is unemployed due to a stoppage of work
2473 occasioned by an unjustified lockout, provided such lockout was
2474 not occasioned or brought about by such individual acting alone or
2475 with other workers in concert; or

2476 (b) He is not participating in or directly
2477 interested in the labor dispute which caused the stoppage of work;
2478 and

2479 (c) He does not belong to a grade or class of
2480 workers of which, immediately before the commencement of stoppage,
2481 there were members employed at the premises at which the stoppage
2482 occurs, any of whom are participating in or directly interested in
2483 the dispute.

2484 Provided, that if in any case separate branches of work which
2485 are commonly conducted as separate businesses in separate premises
2486 are conducted in separate departments of the same premises, each
2487 such department shall, for the purposes of this subsection, be
2488 deemed to be a separate factory, establishment or other premises.

2489 (5) For any week with respect to which he has received
2490 or is seeking unemployment compensation under an unemployment
2491 compensation law of another state or of the United States.

2492 Provided, that if the appropriate agency of such other state or of
2493 the United States finally determines that he is not entitled to
2494 such unemployment compensation benefits, this disqualification
2495 shall not apply. Nothing in this subsection contained shall be
2496 construed to include within its terms any law of the United States

2497 providing unemployment compensation or allowances for honorably
2498 discharged members of the Armed Forces.

2499 (6) For any week with respect to which he is receiving
2500 or has received remuneration in the form of payments under any
2501 governmental or private retirement or pension plan, system or
2502 policy which a base-period employer is maintaining or contributing
2503 to or has maintained or contributed to on behalf of the
2504 individual; provided, that if the amount payable with respect to
2505 any week is less than the benefits which would otherwise be due
2506 under Section 71-5-501, he shall be entitled to receive for such
2507 week, if otherwise eligible, benefits reduced by the amount of
2508 such remuneration. However, on or after the first Sunday
2509 immediately following July 1, 2001, no social security payments,
2510 to which the employee has made contributions, shall be deducted
2511 from unemployment benefits paid for any period of unemployment
2512 beginning on or after the first Sunday following July 1, 2001.
2513 This one hundred percent (100%) exclusion shall not apply to any
2514 other governmental or private retirement or pension plan, system
2515 or policy. If benefits payable under this section, after being
2516 reduced by the amount of such remuneration, are not a multiple of
2517 One Dollar (\$1.00), they shall be adjusted to the next lower
2518 multiple of One Dollar (\$1.00).

2519 (7) For any week with respect to which he is receiving
2520 or has received remuneration in the form of a back pay award, or
2521 other compensation allocable to any week, whether by settlement or
2522 otherwise. Any benefits previously paid for weeks of unemployment
2523 with respect to which back pay awards, or other such compensation,
2524 are made shall constitute an overpayment and such amounts shall be
2525 deducted from the award by the employer prior to payment to the
2526 employee, and shall be transmitted promptly to the department by
2527 the employer for application against the overpayment and credit to
2528 the claimant's maximum benefit amount and prompt deposit into the
2529 fund; provided, however, the removal of any charges made against
2530 the employer as a result of such previously paid benefits shall be
2531 applied to the calendar year and the calendar quarter in which the

2532 overpayment is transmitted to the department, and no attempt shall
2533 be made to relate such a credit to the period to which the award
2534 applies. Any amount of overpayment so deducted by the employer
2535 and not transmitted to the department shall be subject to the same
2536 procedures for collection as is provided for contributions by
2537 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
2538 deducted by the employer shall be established as an overpayment
2539 against the claimant and collected as provided above. It is the
2540 purpose of this paragraph to assure equity in the situations to
2541 which it applies, and it shall be construed accordingly.

2542 B. Notwithstanding any other provision in this chapter, no
2543 otherwise eligible individual shall be denied benefits for any
2544 week because he is in training with the approval of the
2545 department; nor shall such individual be denied benefits with
2546 respect to any week in which he is in training with the approval
2547 of the department by reason of the application of provisions in
2548 Section 71-5-511, subsection (c), relating to availability for
2549 work, or the provisions of subsection A(3) of this section,
2550 relating to failure to apply for, or a refusal to accept, suitable
2551 work.

2552 C. Notwithstanding any other provisions of this chapter, no
2553 otherwise eligible individual shall be denied benefits for any
2554 week because he or she is in training approved under Section
2555 236(a)(1) of the Trade Act of 1974, nor shall such individual be
2556 denied benefits by reason of leaving work to enter such training,
2557 provided the work left is not suitable employment, or because of
2558 the application to any such week in training of provisions in this
2559 law (or any applicable federal unemployment compensation law),
2560 relating to availability for work, active search for work or
2561 refusal to accept work.

2562 For purposes of this section, the term "suitable employment"
2563 means with respect to an individual, work of a substantially equal
2564 or higher skill level than the individual's past adversely
2565 affected employment (as defined for purposes of the Trade Act of
2566 1974), and wages for such work at not less than eighty percent

2567 (80%) of the individual's average weekly wage as determined for
2568 the purposes of the Trade Act of 1974.

2569 **SECTION 40.** Section 71-5-517, Mississippi Code of 1972, is
2570 amended as follows:

2571 71-5-517. An examiner designated by the department shall
2572 take the claim. An initial determination thereon shall be made
2573 promptly and shall include a determination with respect to whether
2574 or not benefits are payable, the week with respect to which
2575 benefits shall commence, the weekly benefit amount payable and the
2576 maximum duration of benefits. In any case in which the payment or
2577 denial of benefits will be determined by the provisions of
2578 subsection A(4) of Section 71-5-513, the examiner shall promptly
2579 transmit all the evidence with respect to that subsection to the
2580 department, which, on the basis of evidence so submitted and such
2581 additional evidence as it may require, shall make an initial
2582 determination with respect thereto. An initial determination may
2583 for good cause be reconsidered. The claimant, his most recent
2584 employing unit and all employers whose experience-rating record
2585 would be charged with benefits pursuant to such determination
2586 shall be promptly notified of such initial determination or any
2587 amended initial determination and the reason therefor. Benefits
2588 shall be denied or, if the claimant is otherwise eligible,
2589 promptly paid in accordance with the initial determination or
2590 amended initial determination. The jurisdiction of the department
2591 over benefit claims which have not been appealed shall be
2592 continuous. The claimant or any party to the initial
2593 determination or amended initial determination may file an appeal
2594 from such initial determination or amended initial determination
2595 within fourteen (14) days after notification thereof, or after the
2596 date such notification was mailed to his last known address.

2597 Notwithstanding any other provision of this section, benefits
2598 shall be paid promptly in accordance with a determination or
2599 redetermination, or the decision of an appeal tribunal, the board
2600 of review or a reviewing court upon the issuance of such
2601 determination, redetermination or decision in favor of the

2602 claimant (regardless of the pendency of the period to apply for
2603 reconsideration, file an appeal, or petition for judicial review,
2604 as the case may be, or the pendency of any such application,
2605 filing or petition), unless and until such determination,
2606 redetermination or decision has been modified or reversed by a
2607 subsequent redetermination or decision, in which event benefits
2608 shall be paid or denied in accordance with such modifying or
2609 reversing redetermination or decision. Any benefits finally
2610 determined to have been erroneously paid shall be set up as an
2611 overpayment to the claimant and must be liquidated before any
2612 future benefits can be paid to the claimant. If, subsequent to
2613 such initial determination or amended initial determination,
2614 benefits with respect to any week for which a claim has been filed
2615 are denied for reasons other than matters included in the initial
2616 determination or amended initial determination, the claimant shall
2617 be promptly notified of the denial and the reason therefor and may
2618 appeal therefrom in accordance with the procedure herein described
2619 for appeals from initial determination or amended initial
2620 determination.

2621 **SECTION 41.** Section 71-5-519, Mississippi Code of 1972, is
2622 amended as follows:

2623 71-5-519. Unless such appeal is withdrawn, an appeal
2624 tribunal appointed by the director, after affording the parties
2625 reasonable opportunity for fair hearing, shall affirm, modify or
2626 reverse the findings of fact and initial determination or amended
2627 initial determination. The parties shall be duly notified of such
2628 tribunal's decision, together with its reasons therefor, which
2629 shall be deemed to be the final decision of the Executive Director
2630 of the Department of Employment Security unless, within fourteen
2631 (14) days after the date of notification or mailing of such
2632 decision, further appeal is initiated pursuant to Section
2633 71-5-523.

2634 **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is
2635 amended as follows:

2636 71-5-523. The executive director may on his own motion
2637 affirm, modify or set aside any decision of an appeal tribunal on
2638 the basis of the evidence previously submitted in such case, or
2639 direct the taking of additional evidence, or may permit any of the
2640 parties to such decision to initiate further appeals before it.
2641 The executive director shall permit such further appeal by any of
2642 the parties to a decision of an appeal tribunal which is not
2643 unanimous, and by the examiner whose decision has been overruled
2644 or modified by an appeal tribunal. The executive director may
2645 remove to himself or transfer to another appeal tribunal the
2646 proceedings on any claim pending before an appeal tribunal. Any
2647 proceedings so removed to the executive director shall be
2648 heard * * * in accordance with the requirements of Section
2649 71-5-519 and within fifteen (15) days after notice of appeal has
2650 been received by the director. No notice of appeal shall be
2651 deemed to be received by the said director, within the meaning of
2652 this section, until all prior appeals pending before the board of
2653 review have been heard. The director shall, within four (4) days
2654 after his decision, so notify the parties to any proceeding of his
2655 findings and decision. * * *

2656 **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is
2657 amended as follows:

2658 71-5-525. The manner in which appealed claims shall be
2659 presented and the conduct of hearings and appeals shall be in
2660 accordance with regulations prescribed by the Executive Director
2661 of the Department of Employment Security for determining the
2662 rights of the parties, whether or not such regulations conform to
2663 common law or statutory rules of evidence and other technical
2664 rules of procedure. A full and complete record shall be kept of
2665 all proceedings in connection with an appealed claim. The
2666 department's entire file relative to the appealed claim shall be a
2667 part of such record and shall be considered as evidence. All
2668 testimony at any hearing upon an appealed claim shall be recorded,
2669 but need not be transcribed unless the claim is further appealed.

2670 **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is
2671 amended as follows:

2672 71-5-529. Any decision of the Executive Director of the
2673 Department of Employment Security, in the absence of an appeal
2674 therefrom as herein provided, shall become final ten (10) days
2675 after the date of notification or mailing thereof; and judicial
2676 review thereof shall be permitted only after any party claiming to
2677 be aggrieved thereby has exhausted his administrative remedies as
2678 provided by this chapter. The department shall be deemed to be a
2679 party to any judicial action involving any such decision, and may
2680 be represented in any such judicial action by any qualified
2681 attorney employed by the department and designated by it for that
2682 purpose or, at the department's request, by the Attorney General.

2683 **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is
2684 amended as follows:

2685 71-5-531. Within ten (10) days after the decision of the
2686 Executive Director of the Department of Employment Security has
2687 become final, any party aggrieved thereby may secure judicial
2688 review thereof by commencing an action, in the circuit court of
2689 the county in which the plaintiff resides, against the department
2690 for the review of such decision, in which action any other party
2691 to the proceeding before the executive director shall be made a
2692 defendant. In cases wherein the plaintiff is not a resident of
2693 the State of Mississippi, such action may be filed in the circuit
2694 court of the county in which the employer resides, the county in
2695 which the cause of action arose, or in the county of employment.
2696 In such action, a petition which need not be verified, but which
2697 shall state the grounds upon which a review is sought, shall be
2698 served upon the department or upon such person as the department
2699 may designate, and such service shall be deemed completed service
2700 on all parties; but there shall be left with the party so served
2701 as many copies of the petition as there are defendants, and the
2702 department shall forthwith mail one (1) such copy to each such
2703 defendant. With its answer, the department shall certify and file
2704 with said court all documents and papers and a transcript of all

2705 testimony taken in the matter, together with the executive
2706 director's findings of fact and decision therein. The department
2707 may also, in its discretion, certify to such court questions of
2708 law involved in any decision. In any judicial proceedings under
2709 this section, the findings of the executive director as to the
2710 facts, if supported by evidence and in the absence of fraud, shall
2711 be conclusive, and the jurisdiction of said court shall be
2712 confined to questions of law. Such actions, and the questions so
2713 certified, shall be heard in a summary manner and shall be given
2714 precedence over all other civil cases. An appeal may be taken
2715 from the decision of the circuit court of the county in which the
2716 plaintiff resides to the Supreme Court of Mississippi, in the same
2717 manner, but not inconsistent with the provisions of this chapter,
2718 as is provided in civil cases. It shall not be necessary, in any
2719 judicial proceeding under this section, to enter exceptions to the
2720 rulings of the Board of Review, and no bond shall be required for
2721 entering such appeal. Upon the final determination of such
2722 judicial proceeding, the executive director shall enter an order
2723 in accordance with such determination. A petition for judicial
2724 review shall not act as a supersedeas or stay unless the executive
2725 director shall so order.

2726 **SECTION 46.** Section 71-5-541, Mississippi Code of 1972, is
2727 amended as follows:

2728 71-5-541. A. (1) In the administration of this chapter,
2729 the department shall cooperate with the Department of Labor to the
2730 fullest extent consistent with the provisions of this chapter and
2731 shall take such action, through the adoption of appropriate rules,
2732 regulations, administrative methods and standards, as may be
2733 necessary to secure to this state and its citizens all advantages
2734 available under the provisions of the Social Security Act that
2735 relate to unemployment compensation, the Federal Unemployment Tax
2736 Act, the Wagner-Peyser Act and the Federal-State Extended
2737 Unemployment Compensation Act of 1970, all as amended.

2738 (2) In the administration of the provisions of this
2739 section, which are enacted to conform with the requirements of the

2740 Federal-State Extended Unemployment Compensation Act of 1970, as
2741 amended, the department shall take such actions as may be
2742 necessary:

2743 (a) To ensure that the provisions are so
2744 interpreted and applied as to meet the requirements of such
2745 federal act as interpreted by the U.S. Department of Labor; and

2746 (b) To secure to this state the full reimbursement
2747 of the federal share of extended benefits paid under this chapter
2748 that are reimbursable under the federal act; and also

2749 (c) To limit the amount of extended benefits paid
2750 as may be necessary so that the reimbursement of the federal share
2751 of extended benefits paid shall remain at one-half (1/2) of the
2752 total extended benefits paid.

2753 B. As used in this section, unless the context clearly
2754 requires otherwise:

2755 (1) "Extended benefit period" means a period which:

2756 (a) Begins with the third week after a week for
2757 which there is a state "on" indicator; and

2758 (b) Ends with either of the following weeks,
2759 whichever occurs later:

2760 (i) The third week after the first week for
2761 which there is a state "off" indicator; or

2762 (ii) The thirteenth consecutive week of such
2763 period.

2764 No extended benefit period may begin by reason of a state
2765 "on" indicator before the fourteenth week following the end of a
2766 prior extended benefit period which was in effect with respect to
2767 this state.

2768 (2) For weeks beginning after September 25, 1982, there
2769 is a "state 'on' indicator" for a week if the rate of insured
2770 unemployment under this chapter for the period consisting of such
2771 week and the immediately preceding twelve (12) weeks:

2772 (a) Equaled or exceeded one hundred twenty percent
2773 (120%) of the average of such rates for the corresponding period

2774 of thirteen (13) weeks ending in each of the preceding two (2)
2775 calendar years; and

2776 (b) Equaled or exceeded five percent (5%).

2777 Provided that the determination of whether there has been a
2778 state "on" or "off" indicator beginning or ending any extended
2779 benefit period shall be made under this subsection as if (i)
2780 paragraph (2) did not contain subparagraph (a) thereof, and (ii)
2781 the figure "5" contained in subparagraph (b) thereof were "6";
2782 except that, notwithstanding any such provision of this
2783 subsection, any week for which there would otherwise be a "state
2784 'on' indicator" shall continue to be such week and shall not be
2785 determined to be a week for which there is a "state 'off'
2786 indicator."

2787 (3) There is a "state 'off' indicator" for a week if,
2788 for the period consisting of such week and the immediately
2789 preceding twelve (12) weeks, either subparagraph (a) or (b) of
2790 paragraph (2) was not satisfied.

2791 (4) "Rate of insured unemployment," for purposes of
2792 paragraphs (2) and (3) of this subsection, means the percentage
2793 derived by dividing:

2794 (a) The average number of continued weeks claimed
2795 for regular state compensation in this state for weeks of
2796 unemployment with respect to the most recent period of thirteen
2797 (13) consecutive weeks, as determined by the department on the
2798 basis of its reports to the U.S. Secretary of Labor; by

2799 (b) The average monthly employment covered under
2800 this chapter for the first four (4) of the most recent six (6)
2801 completed calendar quarters ending before the end of such period
2802 of thirteen (13) weeks.

2803 (5) "Regular benefits" means benefits payable to an
2804 individual under this chapter or under any other state law
2805 (including benefits payable to federal civilian employees and to
2806 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than
2807 extended benefits.

2808 (6) "Extended benefits" means benefits (including
2809 benefits payable to federal civilian employees and to
2810 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an
2811 individual under the provisions of this section for weeks of
2812 unemployment in his eligibility period.

2813 (7) "Eligibility period" of an individual means the
2814 period consisting of the weeks in his benefit year which begin in
2815 an extended benefit period and, if his benefit year ends within
2816 such extended benefit period, any weeks thereafter which begin in
2817 such period.

2818 (8) "Exhaustee" means an individual who, with respect
2819 to any week of unemployment in his eligibility period:

2820 (a) Has received, prior to such week, all of the
2821 regular benefits that were available to him under this chapter or
2822 any other state law (including dependents' allowances and benefits
2823 payable to federal civilian employees and ex-servicemen under 5
2824 USCS Section 8501-8525) in his current benefit year that includes
2825 such week;

2826 For the purposes of this subparagraph, an individual shall be
2827 deemed to have received all of the regular benefits that were
2828 available to him although, as a result of a pending appeal with
2829 respect to wages that were not considered in the original monetary
2830 determination in his benefit year, he may subsequently be
2831 determined to be entitled to added regular benefits; or

2832 (b) Has no, or insufficient, wages on the basis of
2833 which he could establish a new benefit year that would include
2834 such week, his benefit year having expired prior to such week; and

2835 (c) (i) Has no right to unemployment benefits or
2836 allowances, as the case may be, under the Railroad Unemployment
2837 Insurance Act, the Trade Expansion Act of 1962, the Automotive
2838 Products Trade Act of 1965, and such other federal laws as are
2839 specified in regulations issued by the U.S. Secretary of Labor;
2840 and

2841 (ii) Has not received and is not seeking
2842 unemployment benefits under the Unemployment Compensation Law of

2843 the Virgin Islands or of Canada; but if he is seeking such
2844 benefits and the appropriate agency finally determines that he is
2845 not entitled to benefits under such law, he is considered an
2846 exhaustee; provided, that the reference in this subsection to the
2847 Virgin Islands shall be inapplicable effective on the day on which
2848 the United States Secretary of Labor approves under Section
2849 3304(a) of the Internal Revenue Code of 1954, an unemployment
2850 compensation law submitted to the Secretary by the Virgin Islands
2851 for approval.

2852 (9) "State law" means the unemployment insurance law of
2853 any state, approved by the U.S. Secretary of Labor under Section
2854 3304 of the Internal Revenue Code of 1954 (26 USCS Section 3304).

2855 C. Except when the result would be inconsistent with the
2856 other provisions of this section, as provided in the regulations
2857 of the department, the provisions of this chapter which apply to
2858 claims for, or the payment of, regular benefits shall apply to
2859 claims for, and the payment of, extended benefits.

2860 D. An individual shall be eligible to receive extended
2861 benefits with respect to any week of unemployment in his
2862 eligibility period only if the department finds that with respect
2863 to such week:

2864 (1) He is an "exhaustee" as defined in subsection B(8)
2865 of this section.

2866 (2) He has satisfied the requirements of this chapter
2867 for the receipt of regular benefits that are applicable to
2868 individuals claiming extended benefits, including not being
2869 subject to a disqualification for the receipt of benefits.

2870 (3) For a week beginning after September 25, 1982, he
2871 has, during his base period, been paid wages for insured work
2872 equal to not less than forty (40) times his weekly benefit amount;
2873 he has been paid wages for insured work during at least two (2)
2874 quarters of his base period, and he has, during that quarter of
2875 his base period in which his total wages were highest, been paid
2876 wages for insured work equal to not less than twenty-six (26)
2877 times the minimum weekly benefit amount.

2878 E. The weekly extended benefit amount payable to an
2879 individual for a week of total unemployment in his eligibility
2880 period shall be an amount equal to the weekly benefit amount
2881 payable to him during his applicable benefit year; provided,
2882 however, that benefits paid to individuals during eligibility
2883 periods beginning before October 1, 1983, shall be computed to the
2884 next higher multiple of One Dollar (\$1.00), if not a multiple of
2885 One Dollar (\$1.00); and benefits paid to individuals during
2886 eligibility periods beginning on or after October 1, 1983, shall
2887 be computed to the next lower multiple of One Dollar (\$1.00), if
2888 not a multiple of One Dollar (\$1.00). Provided further, that in
2889 no event shall the weekly extended benefit amount payable to an
2890 individual be more than two (2) times the amount of the
2891 reimbursement of the federal share of extended benefits paid.

2892 F. (1) The total extended benefit amount payable to any
2893 eligible individual with respect to his applicable benefit year
2894 shall be the least of the following amounts:

2895 (a) Fifty percent (50%) of the total amount of
2896 regular benefits which were payable to him under this chapter in
2897 his applicable benefit year; provided, however, that benefits paid
2898 to individuals during eligibility periods beginning before October
2899 1, 1983, shall be computed to the next higher multiple of One
2900 Dollar (\$1.00), if not a multiple of One Dollar (\$1.00), and
2901 benefits paid to individuals during eligibility periods beginning
2902 on or after October 1, 1983, shall be computed to the next lower
2903 multiple of One Dollar (\$1.00), if not a multiple of One Dollar
2904 (\$1.00); or

2905 (b) Thirteen (13) times his weekly benefit amount
2906 which was payable to him under this chapter for a week of total
2907 unemployment in the applicable benefit year.

2908 (2) The total extended benefits otherwise payable to an
2909 individual who is filing an interstate claim under the interstate
2910 benefit payment plan shall not exceed two (2) weeks whenever an
2911 extended benefit period is not in effect for such week in the
2912 state where the claim is filed.

2913 (3) Provided further, that in no event shall the total
2914 extended benefit amount payable to any eligible individual with
2915 respect to his applicable benefit year be more than two (2) times
2916 the amount of the reimbursement of the federal share of extended
2917 benefits paid.

2918 G. (1) Whenever an extended benefit period is to become
2919 effective in this state as a result of a state "on" indicator, or
2920 an extended benefit period is to be terminated in this state as a
2921 result of state "off" indicators, the department shall make an
2922 appropriate public announcement.

2923 (2) Computations required by the provisions of
2924 subsection B(4) shall be made by the department, in accordance
2925 with regulations prescribed by the U.S. Secretary of Labor.

2926 H. Extended benefits paid under the provisions of this
2927 section which are not reimbursable from federal funds shall be
2928 charged to the experience-rating record of base period employers.

2929 I. (1) Notwithstanding the provisions of subsections C and
2930 D of this section, an individual shall be disqualified for receipt
2931 of extended benefits if the department finds that during any week
2932 of his eligibility period:

2933 (a) He has failed either to apply for or to accept
2934 an offer of suitable work (as defined under paragraph (3)) to
2935 which he was referred by the department; or

2936 (b) He has failed to furnish tangible evidence
2937 that he has actively engaged in a systematic and sustained effort
2938 to find work, unless such individual is not actively engaged in
2939 seeking work because such individual is:

2940 (i) Before any court of the United States or
2941 any state pursuant to a lawfully issued summons to appear for jury
2942 duty;

2943 (ii) Hospitalized for treatment of an
2944 emergency or a life-threatening condition.

2945 The entitlement to benefits of any individual who is
2946 determined not to be actively engaged in seeking work in any week
2947 for the foregoing reasons shall be decided pursuant to the able

2948 and available requirements in Section 71-5-511 without regard to
2949 the disqualification provisions otherwise applicable under Section
2950 71-5-541. The conditions prescribed in clauses (i) and (ii) of
2951 this subparagraph (b) must be applied in the same manner to
2952 individuals filing claims for regular benefits.

2953 (2) Such disqualification shall begin with the week in
2954 which such failure occurred and shall continue until he has been
2955 employed in each of eight (8) subsequent weeks (whether or not
2956 consecutive) and has earned remuneration for personal services
2957 performed for an employer, as in this chapter defined, equal to
2958 not less than eight (8) times his weekly extended benefit amount.

2959 (3) For the purpose of subparagraph (a) of paragraph
2960 (1) the term "suitable work" means any work which is within the
2961 individual's capabilities to perform, if:

2962 (a) The gross average weekly remuneration payable
2963 for the work exceeds the sum of the individual's weekly extended
2964 benefit amount plus the amount, if any, of supplemental
2965 unemployment benefits (as defined in Section 501(c)(17)(D) of the
2966 Internal Revenue Code of 1954) payable to such individual for such
2967 week;

2968 (b) The wages payable for the work equal the
2969 higher of the minimum wages provided by Section 6(a)(1) of the
2970 Fair Labor Standards Act of 1938 (without regard to any
2971 exemption), or the state or local minimum wage; and

2972 (c) The position was offered to the individual in
2973 writing or was listed with the state employment service; and

2974 (d) Such work otherwise meets the definition of
2975 "suitable work" for regular benefits contained in Section
2976 71-5-513A(4) to the extent that such criteria of suitability are
2977 not inconsistent with the provisions of this paragraph (3); and

2978 (e) The individual cannot furnish satisfactory
2979 evidence to the department that his prospects for obtaining work
2980 in his customary occupation within a reasonably short period are
2981 good. If such evidence is deemed satisfactory for this purpose,
2982 the determination of whether any work is suitable with respect to

2983 such individual shall be made in accordance with the definition of
2984 suitable work contained in Section 71-5-513A(4) without regard to
2985 the definition specified by this paragraph (3).

2986 (4) Notwithstanding any provisions of subsection I to
2987 the contrary, no work shall be deemed to be suitable work for an
2988 individual which does not accord with the labor standard
2989 provisions set forth herein under Section 71-5-513A(4).

2990 (5) The employment service shall refer any claimant
2991 entitled to extended benefits under this section to any suitable
2992 work which meets the criteria prescribed in paragraph (3).

2993 (6) An individual shall be disqualified for extended
2994 benefits for the week, or fraction thereof, which immediately
2995 follows the day on which he left work voluntarily without good
2996 cause (as defined in Section 71-5-513A(1)), was discharged for
2997 misconduct connected with his work, or refused suitable work
2998 (except as provided in subsection I of this section), and for each
2999 week thereafter until he has earned remuneration for personal
3000 services performed for an employer, as in this chapter defined,
3001 equal to not less than eight (8) times his weekly benefit amount,
3002 as determined in each case.

3003 (7) The provisions of paragraphs I(1) through (6) of
3004 this section shall not apply to claims for weeks of unemployment
3005 beginning after March 6, 1993, and before January 1, 1995, and
3006 during that period the provisions of this chapter applicable to
3007 claims for regular compensation shall apply.

3008 J. Notwithstanding any other provisions of this chapter, if
3009 the benefit year of any individual ends within an extended benefit
3010 period, the remaining balance of extended benefits that such
3011 individual would, but for this section, be entitled to receive in
3012 that extended benefit period, with respect to weeks of
3013 unemployment beginning after the end of the benefit year, shall be
3014 reduced (but not below zero) by the product of the number of weeks
3015 for which the individual received any amounts as trade
3016 readjustment allowances within that benefit year, multiplied by
3017 the individual's weekly benefit amount for extended benefits.

3018 **SECTION 47.** Section 73-30-25, Mississippi Code of 1972, is
3019 amended as follows:

3020 73-30-25. It is not the intent of this chapter to regulate
3021 against members of other duly regulated professions in this state
3022 who do counseling in the normal course of the practice of their
3023 own profession. This chapter does not apply to:

3024 (a) Any person registered, certified or licensed by the
3025 state to practice any other occupation or profession while
3026 rendering counseling services in the performance of the occupation
3027 or profession for which he is registered, certified or licensed;

3028 (b) Certified school counselors when they are
3029 practicing counseling within the scope of their employment;

3030 (c) Certified vocational counselors when they are
3031 practicing vocational counseling within the scope of their
3032 employment;

3033 (d) Counselors in post-secondary institutions when they
3034 are practicing within the scope of their employment;

3035 (e) Student interns or trainees in counseling pursuing
3036 a course of study in counseling in a regionally or nationally
3037 accredited institution of higher learning or training institution
3038 if activities and services constitute a part of the supervised
3039 course of study, provided that such persons be designated a
3040 counselor intern;

3041 (f) Professionals employed by regionally or nationally
3042 accredited post-secondary institutions as counselor educators when
3043 they are practicing counseling within the scope of their
3044 employment;

3045 (g) Professionals registered, certified or licensed by
3046 a recognized state or national professional association that has a
3047 published code of ethics and requires adherence to same;

3048 (h) Duly ordained ministers or clergy while functioning
3049 in their ministerial capacity and duly accredited Christian
3050 Science practitioners;

3051 (i) Professional employees of regional mental health
3052 centers, state mental hospitals, vocational rehabilitation

3053 institutions, youth court counselors and employees of the
3054 Mississippi Department of Employment Security or other
3055 governmental agency so long as they practice within the scope of
3056 their employment;

3057 (j) Professional employees of alcohol or drug abuse
3058 centers or treatment facilities, whether privately or publicly
3059 funded, so long as they practice within the scope of their
3060 employment;

3061 (k) Private employment counselors;

3062 (l) Any nonresident temporarily employed in this state
3063 to render counseling services for not more than thirty (30) days
3064 in any year, if in the opinion of the board the person would
3065 qualify for a license under this chapter and if the person holds
3066 any license required for counselors in his home state or country;
3067 and

3068 (m) Any social workers holding a master's degree in
3069 social work from a school accredited by the Council on Social Work
3070 Education and who do counseling in the normal course of the
3071 practice of their own profession.

3072 **SECTION 48.** Section 43-1-30, Mississippi Code of 1972, is
3073 amended as follows:

3074 43-1-30. (1) There is hereby created the Mississippi TANF
3075 Implementation Council. It shall serve as the independent, single
3076 state advisory and review council for assuring Mississippi's
3077 compliance with the federal Personal Responsibility and Work
3078 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as
3079 amended. The council shall further cooperation between
3080 government, education and the private sector in meeting the needs
3081 of the TANF program. It shall also further cooperation between
3082 the business and labor communities, education and training
3083 delivery systems, and between businesses in developing highly
3084 skilled workers for high skill, high paying jobs in Mississippi.

3085 (2) The council shall be comprised of thirteen (13) public
3086 members and certain ex officio nonvoting members. All public

3087 members of the council shall be appointed as follows by the
3088 Governor:

3089 Ten (10) members shall be representatives from business and
3090 industry, provided that no fewer than five (5) members are from
3091 the manufacturing and industry sector who are also serving as
3092 members of private industry councils established within the state,
3093 and one (1) member may be a representative of a nonprofit
3094 organization. Three (3) members shall be recipients or former
3095 recipients of TANF assistance appointed from the state at large.

3096 The ex officio nonvoting members of the council shall consist
3097 of the following, or their designees:

3098 (a) The Executive Director of the Mississippi
3099 Department of Human Services;

3100 (b) The Executive Director of the Mississippi
3101 Department of Employment Security;

3102 (c) The Executive Director of the Mississippi
3103 Development Authority;

3104 (d) The State Superintendent of Education;

3105 (e) The Director of the State Board for Community and
3106 Junior Colleges;

3107 (f) The Executive Director of the Division of Medicaid;

3108 (g) The Commissioner of the Mississippi Department of
3109 Corrections; and

3110 (h) The Director of the Mississippi Cooperative
3111 Extension Service.

3112 (3) The Governor shall designate one (1) public member to
3113 serve as chairman of the council for a term of two (2) years and
3114 until a successor as chairman is appointed and qualified.

3115 (4) The term of office for public members appointed by the
3116 Governor shall be four (4) years and until their successors are
3117 appointed and qualified.

3118 (5) Any vacancy shall be filled for the unexpired term by
3119 the Governor in the manner of the original appointment, unless
3120 otherwise specified in this section.

3121 (6) Public members shall receive a per diem as authorized in
3122 Section 25-3-69, for each day actually engaged in meetings of the
3123 council, and shall be reimbursed for mileage and necessary
3124 expenses incurred in the performance of their duties, as provided
3125 in Section 25-3-41.

3126 (7) The council shall:

3127 (a) Annually review and recommend policies and programs
3128 to the Governor and the Legislature that will implement and meet
3129 federal requirements under the TANF program.

3130 (b) Annually review and recommend policies and programs
3131 to the Governor and to the Legislature that will enable citizens
3132 of Mississippi to acquire the skills necessary to maximize their
3133 economic self-sufficiency.

3134 (c) Review the provision of services and the use of
3135 funds and resources under the TANF program, and under all
3136 state-financed job training and job retraining programs, and
3137 advise the Governor and the Legislature on methods of coordinating
3138 such provision of services and use of funds and resources
3139 consistent with the laws and regulations governing such programs.

3140 (d) Assist in developing outcome and output measures to
3141 measure the success of the Department of Human Services' efforts
3142 in implementing the TANF program. These recommendations shall be
3143 made to the Department of Human Services at such times as required
3144 in the event that the department implements new programs to comply
3145 with the TANF program requirements.

3146 (e) Collaborate with the Department of Economic and
3147 Community development, local planning and development districts
3148 and local industrial development boards, and shall develop an
3149 economic development plan for the creation of manufacturing jobs
3150 in each of the counties in the state that has an unemployment rate
3151 of ten percent (10%) or more, which shall include, but not be
3152 limited to, procedures for business development, entrepreneurship
3153 and financial and technical assistance.

3154 (8) A majority of the members of the council shall
3155 constitute a quorum for the conduct of meetings and all actions of

3156 the council shall be by a majority of the members present at a
3157 meeting.

3158 (9) The council shall adopt rules and regulations as it
3159 deems necessary to carry out its responsibilities under this
3160 section and under applicable federal human resources programs.

3161 (10) The council may make and enter into contracts and
3162 interagency agreements as may be necessary and proper.

3163 (11) The council is authorized to commit and expend monies
3164 appropriated to it by the Legislature for its authorized purposes.
3165 The council is authorized to solicit, accept and expend public and
3166 private gifts, grants, awards and contributions related to
3167 furtherance of its statutory duties.

3168 (12) Funds for the operations of the council shall be
3169 derived from federal funds for the operation of state councils
3170 pursuant to applicable federal human resources programs and from
3171 such other monies appropriated to it by the Legislature.

3172 **SECTION 49.** Section 43-17-5, Mississippi Code of 1972, is
3173 amended as follows:

3174 43-17-5. (1) The amount of Temporary Assistance for Needy
3175 Families (TANF) benefits which may be granted for any dependent
3176 child and a needy caretaker relative shall be determined by the
3177 county department with due regard to the resources and necessary
3178 expenditures of the family and the conditions existing in each
3179 case, and in accordance with the rules and regulations made by the
3180 Department of Human Services which shall not be less than the
3181 Standard of Need in effect for 1988, and shall be sufficient when
3182 added to all other income (except that any income specified in the
3183 federal Social Security Act, as amended, may be disregarded) and
3184 support available to the child to provide such child with a
3185 reasonable subsistence compatible with decency and health. The
3186 first family member in the dependent child's budget may receive an
3187 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;
3188 the second family member in the dependent child's budget may
3189 receive an amount not to exceed Thirty-six Dollars (\$36.00) per
3190 month; and each additional family member in the dependent child's

3191 budget an amount not to exceed Twenty-four Dollars (\$24.00) per
3192 month. The maximum for any individual family member in the
3193 dependent child's budget may be exceeded for foster or medical
3194 care or in cases of mentally retarded or physically handicapped
3195 children. TANF benefits granted shall be specifically limited
3196 only (a) to children existing or conceived at the time the
3197 caretaker relative initially applies and qualifies for such
3198 assistance, unless this limitation is specifically waived by the
3199 department, or (b) to a child born following a twelve (12)
3200 consecutive month period of discontinued benefits by the caretaker
3201 relative.

3202 (2) TANF cash benefits in Mississippi shall be provided by
3203 monthly checks mailed to the recipient family until such time as
3204 an on-line electronic benefits transfer system for TANF benefit
3205 payments is implemented pursuant to Section 43-1-28.

3206 (3) The Department of Human Services shall deny TANF
3207 benefits to the following categories of individuals, except for
3208 individuals and families specifically exempt or excluded for good
3209 cause as allowed by federal statute or regulation:

3210 (a) Families without a minor child residing with the
3211 custodial parent or other adult caretaker relative of the child;

3212 (b) Families which include an adult who has received
3213 TANF assistance for sixty (60) months after the commencement of
3214 the Mississippi TANF program, whether or not such period of time
3215 is consecutive;

3216 (c) Families not assigning to the state any rights a
3217 family member may have, on behalf of the family member or of any
3218 other person for whom the family member has applied for or is
3219 receiving such assistance, to support from any other person, as
3220 required by law;

3221 (d) Families who fail to cooperate in establishing
3222 paternity or obtaining child support, as required by law;

3223 (e) Any individual who has not attained eighteen (18)
3224 years of age, is not married to the head of household, has a minor
3225 child at least twelve (12) weeks of age in his or her care, and

3226 has not successfully completed a high school education or its
3227 equivalent, if such individual does not participate in educational
3228 activities directed toward the attainment of a high school diploma
3229 or its equivalent, or an alternative educational or training
3230 program approved by the department;

3231 (f) Any individual who has not attained eighteen (18)
3232 years of age, is not married, has a minor child in his or her
3233 care, and does not reside in a place or residence maintained by a
3234 parent, legal guardian or other adult relative or the individual
3235 as such parent's, guardian's or adult relative's own home;

3236 (g) Any minor child who has been, or is expected by a
3237 parent or other caretaker relative of the child to be, absent from
3238 the home for a period of more than thirty (30) days;

3239 (h) Any individual who is a parent or other caretaker
3240 relative of a minor child who fails to notify the department of
3241 the absence of the minor child from the home for the thirty-day
3242 period specified in paragraph (g), by the end of the five-day
3243 period that begins with the date that it becomes clear to the
3244 individual that the minor child will be absent for the thirty-day
3245 period;

3246 (i) Any individual who fails to comply with the
3247 provisions of the Employability Development Plan signed by the
3248 individual which prescribe those activities designed to help the
3249 individual become and remain employed, or to participate
3250 satisfactorily in the assigned work activity, as authorized under
3251 subsections (6)(c) and (d);

3252 (j) A parent or caretaker relative who has not engaged
3253 in an allowable work activity once the department determines the
3254 parent or caretaker relative is ready to engage in work, or once
3255 the parent or caretaker relative has received TANF assistance
3256 under the program for twenty-four (24) months, whether or not
3257 consecutive, whichever is earlier;

3258 (k) Any individual who is fleeing to avoid prosecution,
3259 or custody or confinement after conviction, under the laws of the
3260 jurisdiction from which the individual flees, for a crime, or an

3261 attempt to commit a crime, which is a felony under the laws of the
3262 place from which the individual flees, or who is violating a
3263 condition of probation or parole imposed under federal or state
3264 law;

3265 (l) Aliens who are not qualified under federal law;

3266 (m) For a period of ten (10) years following
3267 conviction, individuals convicted in federal or state court of
3268 having made a fraudulent statement or representation with respect
3269 to the individual's place of residence in order to receive TANF,
3270 food stamps or Supplemental Security Income (SSI) assistance under
3271 Title XVI or Title XIX simultaneously from two (2) or more states;
3272 and

3273 (n) Individuals who are recipients of federal
3274 Supplemental Security Income (SSI) assistance.

3275 (4) (a) Any person who is otherwise eligible for TANF
3276 benefits, including custodial and noncustodial parents, shall be
3277 required to attend school and meet the monthly attendance
3278 requirement as provided in this subsection if all of the following
3279 apply:

3280 (i) The person is under age twenty (20);

3281 (ii) The person has not graduated from a public or
3282 private high school or obtained a GED equivalent;

3283 (iii) The person is physically able to attend
3284 school and is not excused from attending school; and

3285 (iv) If the person is a parent or caretaker
3286 relative with whom a dependent child is living, child care is
3287 available for the child.

3288 The monthly attendance requirement under this subsection
3289 shall be attendance at the school in which the person is enrolled
3290 for each day during a month that the school conducts classes in
3291 which the person is enrolled, with not more than two (2) absences
3292 during the month for reasons other than the reasons listed in
3293 paragraph (e)(iv) of this subsection. Persons who fail to meet
3294 participation requirements in this subsection shall be subject to
3295 sanctions as provided in paragraph (f) of this subsection.

3296 (b) As used in this subsection, "school" means any one
3297 (1) of the following:

3298 (i) A school as defined in Section 37-13-91(2);

3299 (ii) A vocational, technical and adult education
3300 program; or

3301 (iii) A course of study meeting the standards
3302 established by the State Department of Education for the granting
3303 of a declaration of equivalency of high school graduation.

3304 (c) If any compulsory-school-age child, as defined in
3305 Section 37-13-91(2), to which TANF eligibility requirements apply
3306 is not in compliance with the compulsory school attendance
3307 requirements of Section 37-13-91(6), the superintendent of schools
3308 of the school district in which the child is enrolled or eligible
3309 to attend shall notify the county department of human services of
3310 the child's noncompliance. The Department of Human Services shall
3311 review school attendance information as provided under this
3312 paragraph at all initial eligibility determinations and upon
3313 subsequent report of unsatisfactory attendance.

3314 (d) The signature of a person on an application for
3315 TANF benefits constitutes permission for the release of school
3316 attendance records for that person or for any child residing with
3317 that person. The department shall request information from the
3318 child's school district about the child's attendance in the school
3319 district's most recently completed semester of attendance. If
3320 information about the child's previous school attendance is not
3321 available or cannot be verified, the department shall require the
3322 child to meet the monthly attendance requirement for one (1)
3323 semester or until the information is obtained. The department
3324 shall use the attendance information provided by a school district
3325 to verify attendance for a child. The department shall review
3326 with the parent or caretaker relative a child's claim that he or
3327 she has a good cause for not attending school.

3328 A school district shall provide information to the department
3329 about the attendance of a child who is enrolled in a public school
3330 in the district within five (5) working days of the receipt of a

3331 written request for such information from the department. The
3332 school district shall define how many hours of attendance count as
3333 a full day and shall provide that information, upon request, to
3334 the department. In reporting attendance, the school district may
3335 add partial days' absence together to constitute a full day's
3336 absence.

3337 (e) A child who is required to attend school to meet
3338 the requirements under this subsection shall comply except when
3339 there is good cause, which shall be demonstrated by any of the
3340 following circumstances:

3341 (i) The minor parent is the caretaker of a child
3342 less than twelve (12) weeks old; or

3343 (ii) The department determines that child care
3344 services are necessary for the minor parent to attend school and
3345 there is no child care available; or

3346 (iii) The child is prohibited by the school
3347 district from attending school and an expulsion is pending. This
3348 exemption no longer applies once the teenager has been expelled;
3349 however, a teenager who has been expelled and is making
3350 satisfactory progress towards obtaining a GED equivalent shall be
3351 eligible for TANF benefits; or

3352 (iv) The child failed to attend school for one or
3353 more of the following reasons:

- 3354 1. Illness, injury or incapacity of the child
3355 or the minor parent's child;
- 3356 2. Court-required appearances or temporary
3357 incarceration;
- 3358 3. Medical or dental appointments for the
3359 child or minor parent's child;
- 3360 4. Death of a close relative;
- 3361 5. Observance of a religious holiday;
- 3362 6. Family emergency;
- 3363 7. Breakdown in transportation;
- 3364 8. Suspension; or

3365 9. Any other circumstance beyond the control
3366 of the child, as defined in regulations of the department.

3367 (f) Upon determination that a child has failed without
3368 good cause to attend school as required, the department shall
3369 provide written notice to the parent or caretaker relative
3370 (whoever is the primary recipient of the TANF benefits) that
3371 specifies:

3372 (i) That the family will be sanctioned in the next
3373 possible payment month because the child who is required to attend
3374 school has failed to meet the attendance requirement of this
3375 subsection;

3376 (ii) The beginning date of the sanction, and the
3377 child to whom the sanction applies;

3378 (iii) The right of the child's parents or
3379 caretaker relative (whoever is the primary recipient of the TANF
3380 benefits) to request a fair hearing under this subsection.

3381 The child's parent or caretaker relative (whoever is the
3382 primary recipient of the TANF benefits) may request a fair hearing
3383 on the department's determination that the child has not been
3384 attending school. If the child's parents or caretaker relative
3385 does not request a fair hearing under this subsection, or if,
3386 after a fair hearing has been held, the hearing officer finds that
3387 the child without good cause has failed to meet the monthly
3388 attendance requirement, the department shall discontinue or deny
3389 TANF benefits to the child thirteen (13) years old, or older, in
3390 the next possible payment month. The department shall discontinue
3391 or deny twenty-five percent (25%) of the family grant when a child
3392 six (6) through twelve (12) years of age without good cause has
3393 failed to meet the monthly attendance requirement. Both the child
3394 and family sanction may apply when children in both age groups
3395 fail to meet the attendance requirement without good cause. A
3396 sanction applied under this subsection shall be effective for one
3397 (1) month for each month that the child failed to meet the monthly
3398 attendance requirement. In the case of a dropout, the sanction
3399 shall remain in force until the parent or caretaker relative

3400 provides written proof from the school district that the child has
3401 reenrolled and met the monthly attendance requirement for one (1)
3402 calendar month. Any month in which school is in session for at
3403 least ten (10) days during the month may be used to meet the
3404 attendance requirement under this subsection. This includes
3405 attendance at summer school. The sanction shall be removed the
3406 next possible payment month.

3407 (5) All parents or caretaker relatives shall have their
3408 dependent children receive vaccinations and booster vaccinations
3409 against those diseases specified by the State Health Officer
3410 pursuant to Section 41-23-37 in accordance with the vaccination
3411 and booster vaccination schedule prescribed by the State Health
3412 Officer for children of that age, in order for the parents or
3413 caretaker relatives to be eligible or remain eligible to receive
3414 TANF benefits. Proof of having received such vaccinations and
3415 booster vaccinations shall be given by presenting the certificates
3416 of vaccination issued by any health care provider licensed to
3417 administer vaccinations, and submitted on forms specified by the
3418 State Board of Health. If the parents without good cause do not
3419 have their dependent children receive the vaccinations and booster
3420 vaccinations as required by this subsection and they fail to
3421 comply after thirty (30) days' notice, the department shall
3422 sanction the family's TANF benefits by twenty-five percent (25%)
3423 for the next payment month and each subsequent payment month until
3424 the requirements of this subsection are met.

3425 (6) (a) If the parent or caretaker relative applying for
3426 TANF assistance is an employable person, as determined by the
3427 Department of Human Services, the person shall be required to
3428 engage in an allowable work activity once the department
3429 determines the parent or caretaker relative is ready to engage in
3430 work, or once the parent or caretaker relative has received TANF
3431 assistance under the program for twenty-four (24) months, whether
3432 or not consecutive, whichever is earlier. No TANF benefits shall
3433 be given to any person to whom this section applies who fails
3434 without good cause to comply with the Employability Development

3435 Plan prepared by the department for the person, or who has refused
3436 to accept a referral or offer of employment, training or education
3437 in which he or she is able to engage, subject to the penalties
3438 prescribed in subsection (6)(e). A person shall be deemed to have
3439 refused to accept a referral or offer of employment, training or
3440 education if he or she:

3441 (i) Willfully fails to report for an interview
3442 with respect to employment when requested to do so by the
3443 department; or

3444 (ii) Willfully fails to report to the department
3445 the result of a referral to employment; or

3446 (iii) Willfully fails to report for allowable work
3447 activities as prescribed in subsections (6)(c) and (d).

3448 (b) The Department of Human Services shall operate a
3449 statewide work program for TANF recipients to provide work
3450 activities and supportive services to enable families to become
3451 self-sufficient and improve their competitive position in the work
3452 force in accordance with the requirements of the federal Personal
3453 Responsibility and Work Opportunity Reconciliation Act of 1996
3454 (Public Law 104-193), as amended, and the regulations promulgated
3455 thereunder. All adults who are not specifically exempt shall be
3456 referred by the department for allowable work activities. An
3457 adult may be exempt from the mandatory work activity requirement
3458 for the following reasons:

3459 (i) Incapacity;

3460 (ii) Temporary illness or injury, verified by
3461 physician's certificate;

3462 (iii) Is in the third trimester of pregnancy,
3463 verified by physician's certificate;

3464 (iv) Caretaker of a child under twelve (12)
3465 months, for not more than twelve (12) months of the sixty-month
3466 maximum benefit period;

3467 (v) Caretaker of an ill or incapacitated person,
3468 as verified by physician's certificate;

3469 (vi) Age, if over sixty (60) or under eighteen
3470 (18) years of age;

3471 (vii) Receiving treatment for substance abuse, if
3472 the person is in compliance with the substance abuse treatment
3473 plan;

3474 (viii) In a two-parent family, the caretaker of a
3475 severely disabled child, as verified by a physician's certificate;
3476 or

3477 (ix) History of having been a victim of domestic
3478 violence, which has been reported as required by state law and is
3479 substantiated by police reports or court records, and being at
3480 risk of further domestic violence, shall be exempt for a period as
3481 deemed necessary by the department but not to exceed a total of
3482 twelve (12) months, which need not be consecutive, in the
3483 sixty-month maximum benefit period. For the purposes of this
3484 subparagraph (ix), "domestic violence" means that an individual
3485 has been subjected to:

3486 1. Physical acts that resulted in, or
3487 threatened to result in, physical injury to the individual;

3488 2. Sexual abuse;

3489 3. Sexual activity involving a dependent
3490 child;

3491 4. Being forced as the caretaker relative of
3492 a dependent child to engage in nonconsensual sexual acts or
3493 activities;

3494 5. Threats of, or attempts at, physical or
3495 sexual abuse;

3496 6. Mental abuse; or

3497 7. Neglect or deprivation of medical care.

3498 (c) For all families, all adults who are not
3499 specifically exempt shall be required to participate in work
3500 activities for at least the minimum average number of hours per
3501 week specified by federal law or regulation, not fewer than twenty
3502 (20) hours per week (thirty-five (35) hours per week for

3503 two-parent families) of which are attributable to the following
3504 allowable work activities:

- 3505 (i) Unsubsidized employment;
- 3506 (ii) Subsidized private employment;
- 3507 (iii) Subsidized public employment;
- 3508 (iv) Work experience (including work associated
3509 with the refurbishing of publicly assisted housing), if sufficient
3510 private employment is not available;
- 3511 (v) On-the-job training;
- 3512 (vi) Job search and job readiness assistance
3513 consistent with federal TANF regulations;
- 3514 (vii) Community service programs;
- 3515 (viii) Vocational educational training (not to
3516 exceed twelve (12) months with respect to any individual);
- 3517 (ix) The provision of child care services to an
3518 individual who is participating in a community service program;
- 3519 (x) Satisfactory attendance at high school or in a
3520 course of study leading to a high school equivalency certificate,
3521 for heads of household under age twenty (20) who have not
3522 completed high school or received such certificate;
- 3523 (xi) Education directly related to employment, for
3524 heads of household under age twenty (20) who have not completed
3525 high school or received such equivalency certificate.

3526 (d) The following are allowable work activities which
3527 may be attributable to hours in excess of the minimum specified in
3528 subsection (6)(c):

- 3529 (i) Job skills training directly related to
3530 employment;
- 3531 (ii) Education directly related to employment for
3532 individuals who have not completed high school or received a high
3533 school equivalency certificate;
- 3534 (iii) Satisfactory attendance at high school or in
3535 a course of study leading to a high school equivalency, for
3536 individuals who have not completed high school or received such
3537 equivalency certificate;

3538 (iv) Job search and job readiness assistance
3539 consistent with federal TANF regulations.

3540 (e) If any adult or caretaker relative refuses to
3541 participate in allowable work activity as required under this
3542 subsection (6), the following full family TANF benefit penalty
3543 will apply, subject to due process to include notification,
3544 conciliation and a hearing if requested by the recipient:

3545 (i) For the first violation, the department shall
3546 terminate the TANF assistance otherwise payable to the family for
3547 a two-month period or until the person has complied with the
3548 required work activity, whichever is longer;

3549 (ii) For the second violation, the department
3550 shall terminate the TANF assistance otherwise payable to the
3551 family for a six-month period or until the person has complied
3552 with the required work activity, whichever is longer;

3553 (iii) For the third violation, the department
3554 shall terminate the TANF assistance otherwise payable to the
3555 family for a twelve-month period or until the person has complied
3556 with the required work activity, whichever is longer;

3557 (iv) For the fourth violation, the person shall be
3558 permanently disqualified.

3559 For a two-parent family, unless prohibited by state or
3560 federal law, Medicaid assistance shall be terminated only for the
3561 person whose failure to participate in allowable work activity
3562 caused the family's TANF assistance to be sanctioned under this
3563 subsection (6)(e), unless an individual is pregnant, but shall not
3564 be terminated for any other person in the family who is meeting
3565 that person's applicable work requirement or who is not required
3566 to work. Minor children shall continue to be eligible for
3567 Medicaid benefits regardless of the disqualification of their
3568 parent or caretaker relative for TANF assistance under this
3569 subsection (6), unless prohibited by state or federal law.

3570 (f) Any person enrolled in a two-year or four-year
3571 college program who meets the eligibility requirements to receive
3572 TANF benefits, and who is meeting the applicable work requirements

3573 and all other applicable requirements of the TANF program, shall
3574 continue to be eligible for TANF benefits while enrolled in the
3575 college program for as long as the person meets the requirements
3576 of the TANF program, unless prohibited by federal law.

3577 (g) No adult in a work activity required under this
3578 subsection (6) shall be employed or assigned (i) when any other
3579 individual is on layoff from the same or any substantially
3580 equivalent job within six (6) months before the date of the TANF
3581 recipient's employment or assignment; or (ii) if the employer has
3582 terminated the employment of any regular employee or otherwise
3583 caused an involuntary reduction of its work force in order to fill
3584 the vacancy so created with an adult receiving TANF assistance.
3585 The Mississippi Department of Employment Security, established
3586 under Section 71-5-101, shall appoint one or more impartial
3587 hearing officers to hear and decide claims by employees of
3588 violations of this paragraph (f). The hearing officer shall hear
3589 all the evidence with respect to any claim made hereunder and such
3590 additional evidence as he may require and shall make a
3591 determination and the reason therefor. The claimant shall be
3592 promptly notified of the decision of the hearing officer and the
3593 reason therefor. Within ten (10) days after the decision of the
3594 hearing officer has become final, any party aggrieved thereby may
3595 secure judicial review thereof by commencing an action, in the
3596 circuit court of the county in which the claimant resides, against
3597 the department for the review of such decision, in which action
3598 any other party to the proceeding before the hearing officer shall
3599 be made a defendant. Any such appeal shall be on the record which
3600 shall be certified to the court by the department in the manner
3601 provided in Section 71-5-531, and the jurisdiction of the court
3602 shall be confined to questions of law which shall render its
3603 decision as provided in that section.

3604 (7) The Department of Human Services may provide child care
3605 for eligible participants who require such care so that they may
3606 accept employment or remain employed. The department may also
3607 provide child care for those participating in the TANF program

3608 when it is determined that they are satisfactorily involved in
3609 education, training or other allowable work activities. The
3610 department may contract with Head Start agencies to provide child
3611 care services to TANF recipients. The department may also arrange
3612 for child care by use of contract or vouchers, provide vouchers in
3613 advance to a caretaker relative, reimburse a child care provider,
3614 or use any other arrangement deemed appropriate by the department,
3615 and may establish different reimbursement rates for child care
3616 services depending on the category of the facility or home. Any
3617 center-based or group home child care facility under this
3618 subsection shall be licensed by the State Department of Health
3619 pursuant to law. When child care is being provided in the child's
3620 own home, in the home of a relative of the child, or in any other
3621 unlicensed setting, the provision of such child care may be
3622 monitored on a random basis by the Department of Human Services or
3623 the State Department of Health. Transitional child care
3624 assistance may be continued if it is necessary for parents to
3625 maintain employment once support has ended, unless prohibited
3626 under state or federal law. Transitional child care assistance
3627 may be provided for up to twenty-four (24) months after the last
3628 month during which the family was eligible for TANF assistance, if
3629 federal funds are available for such child care assistance.

3630 (8) The Department of Human Services may provide
3631 transportation or provide reasonable reimbursement for
3632 transportation expenses that are necessary for individuals to be
3633 able to participate in allowable work activity under the TANF
3634 program.

3635 (9) Medicaid assistance shall be provided to a family of
3636 TANF program participants for up to twenty-four (24) consecutive
3637 calendar months following the month in which the participating
3638 family would be ineligible for TANF benefits because of increased
3639 income, expiration of earned income disregards, or increased hours
3640 of employment of the caretaker relative; however, Medicaid
3641 assistance for more than twelve (12) months may be provided only
3642 if a federal waiver is obtained to provide such assistance for

3643 more than twelve (12) months and federal and state funds are
3644 available to provide such assistance.

3645 (10) The department shall require applicants for and
3646 recipients of public assistance from the department to sign a
3647 personal responsibility contract that will require the applicant
3648 or recipient to acknowledge his or her responsibilities to the
3649 state.

3650 (11) The department shall enter into an agreement with the
3651 State Personnel Board and other state agencies that will allow
3652 those TANF participants who qualify for vacant jobs within state
3653 agencies to be placed in state jobs. State agencies participating
3654 in the TANF work program shall receive any and all benefits
3655 received by employers in the private sector for hiring TANF
3656 recipients. This subsection (11) shall be effective only if the
3657 state obtains any necessary federal waiver or approval and if
3658 federal funds are available therefor.

3659 (12) No new TANF program requirement or restriction
3660 affecting a person's eligibility for TANF assistance, or allowable
3661 work activity, which is not mandated by federal law or regulation
3662 may be implemented by the Department of Human Services after the
3663 effective date of this act, unless such is specifically authorized
3664 by an amendment to this section by the Legislature.

3665 **SECTION 50.** Section 43-19-45, Mississippi Code of 1972, is
3666 amended as follows:

3667 43-19-45. (1) The Child Support Unit shall establish a
3668 state parent locator service for the purpose of locating absent
3669 and nonsupporting parents and alleged parents, which will utilize
3670 all appropriate public and private locator sources. In order to
3671 carry out the responsibilities imposed under Sections 43-19-31
3672 through 43-19-53, the Child Support Unit may secure by
3673 administrative subpoena from the customer records of public
3674 utilities and cable television companies the names and addresses
3675 of individuals and the names and addresses of employers of such
3676 individuals that would enable the location of parents or alleged
3677 parents who have a duty to provide support and maintenance for

3678 their children. The Child Support Unit may also administratively
3679 subpoena any and all financial information, including account
3680 numbers, names and social security numbers of record for assets,
3681 accounts, and account balances from any individual, financial
3682 institution, business or other entity, public or private, needed
3683 to establish, modify or enforce a support order. No entity
3684 complying with an administrative subpoena to supply the requested
3685 information of whatever nature shall be liable in any civil action
3686 or proceeding on account of such compliance. Full faith and
3687 credit shall be given to all uniform administrative subpoenas
3688 issued by other state child support units. The recipient of an
3689 administrative subpoena shall supply said Child Support Unit,
3690 other state and federal IV-D agencies, its attorneys,
3691 investigators, probation officers, county or district attorneys in
3692 this state, all information relative to the location, employment,
3693 employment related benefits including, but not limited to,
3694 availability of medical insurance, income and property of such
3695 parents and alleged parents and with all information on hand
3696 relative to the location and prosecution of any person who has, by
3697 means of a false statement or misrepresentation or by
3698 impersonation or other fraudulent device, obtained Temporary
3699 Assistance for Needy Families (TANF) to which he or she was not
3700 entitled, notwithstanding any provision of law making such
3701 information confidential. The Mississippi Department of
3702 Information Technology Services and any other agency in this state
3703 using the facilities of the Mississippi Department of Information
3704 Technology Services are directed to permit the Child Support Unit
3705 access to their files, inclusive of those maintained for other
3706 state agencies, for the purpose of locating absent and
3707 nonsupporting parents and alleged parents, except to the extent
3708 that any such access would violate any valid federal statute or
3709 regulation issued pursuant thereto. The Child Support Unit, other
3710 state and federal IV-D agencies, its attorneys, investigators,
3711 probation officers, or county or district attorneys, shall use
3712 such information only for the purpose of investigating or

3713 enforcing the support liability of such absent parents or alleged
3714 parents or for the prosecution of other persons mentioned herein.
3715 Neither the Child Support Unit nor said authorities shall use the
3716 information, or disclose it, for any other purpose. All records
3717 maintained pursuant to the provisions of Sections 43-19-31 through
3718 43-19-53 shall be confidential and shall be available only to the
3719 Child Support Unit, other state and federal IV-D agencies, the
3720 attorneys, investigators and other staff employed or under
3721 contract under Sections 43-19-31 through 43-19-53, district or
3722 county attorneys, probation departments, child support units in
3723 other states, and courts having jurisdiction in paternity, support
3724 or abandonment proceedings. The Child Support Unit may release to
3725 the public the name, photo, last known address, arrearage amount
3726 and other necessary information of a parent who has a judgment
3727 against him for child support and is currently in arrears in the
3728 payment of this support. Such release may be included in a "Most
3729 Wanted List" or other media in order to solicit assistance.

3730 (2) The Child Support Unit shall have the authority to
3731 secure information from the records of the Mississippi Department
3732 of Employment Security that may be necessary to locate absent and
3733 nonsupporting parents and alleged parents under the provisions of
3734 Sections 43-19-31 through 43-19-53. Upon request of the Child
3735 Support Unit, all departments, boards, bureaus and agencies of the
3736 state shall provide to the Child Support Unit verification of
3737 employment or payment and the address and social security number
3738 of any person designated as an absent or nonsupporting parent or
3739 alleged parent. In addition, upon request of the Child Support
3740 Unit, the Mississippi Department of Employment Security, or any
3741 private employer or payor of any income to a person designated as
3742 an absent or nonsupporting parent or alleged parent, shall provide
3743 to the Child Support Unit verification of employment or payment
3744 and the address and social security number of the person so
3745 designated. Full faith and credit shall be given to such notices
3746 issued by child support units in other states. All such records
3747 and information shall be confidential and shall not be used for

3748 any purposes other than those specified by Sections 43-19-31
3749 through 43-19-53. The violation of the provisions of this
3750 subsection shall be unlawful and any person convicted of violating
3751 the provisions of this subsection shall be guilty of a misdemeanor
3752 and shall pay a fine of not more than Two Hundred Dollars
3753 (\$200.00).

3754 (3) Federal and state IV-D agencies shall have access to the
3755 state parent locator service and any system used by the Child
3756 Support Unit to locate an individual for purposes relating to
3757 motor vehicles or law enforcement. No employer or other source of
3758 income who complies with this section shall be liable in any civil
3759 action or proceeding brought by the obligor or obligee on account
3760 of such compliance.

3761 **SECTION 51.** Section 43-19-46, Mississippi Code of 1972, is
3762 amended as follows:

3763 43-19-46. (1) Each employer, as defined in Section
3764 93-11-101, Mississippi Code of 1972, doing business in Mississippi
3765 shall report to the Directory of New Hires within the Mississippi
3766 Department of Human Services:

3767 (a) The hiring of any person who resides or works in
3768 this state to whom the employer anticipates paying wages; and

3769 (b) The hiring or return to work of any employee who
3770 was laid off, furloughed, separated, granted leave without pay or
3771 was terminated from employment.

3772 (2) Employers shall report, by mailing or by other means
3773 authorized by the Department of Human Services, a copy of the
3774 employee's W-4 form or its equivalent which will result in timely
3775 reporting. Each employer shall submit reports within fifteen (15)
3776 days of the hiring, rehiring or return to work of the employee.
3777 The report shall contain:

3778 (a) The employee's name, address, Social Security
3779 number and the date of birth;

3780 (b) The employer's name, address, and federal and state
3781 withholding tax identification numbers; and

3782 (c) The date upon which the employee began or resumed
3783 employment, or is scheduled to begin or otherwise resume
3784 employment.

3785 (3) The department shall retain the information, which shall
3786 be forwarded to the federal registry of new hires.

3787 (4) The Department of Human Services may operate the
3788 program, may enter into a mutual agreement with the Mississippi
3789 Department of Employment Security or the State Tax Commission, or
3790 both, for the operation of the Directory of New Hires Program, or
3791 the Department of Human Services may contract for such service, in
3792 which case the department shall maintain administrative control of
3793 the program.

3794 (5) In cases in which an employer fails to report
3795 information, as required by this section, an administratively
3796 levied civil penalty in an amount not to exceed Five Hundred
3797 Dollars (\$500.00) shall apply if the failure is the result of a
3798 conspiracy between the employer and employee to not supply the
3799 required report or to supply a false or incomplete report. The
3800 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).
3801 Appeal shall be as provided in Section 43-19-58.

3802 **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is
3803 amended as follows:

3804 57-62-5. As used in this chapter, the following words and
3805 phrases shall have the meanings ascribed in this section unless
3806 the context clearly indicates otherwise:

3807 (a) "Qualified business or industry" means any
3808 corporation, limited liability company, partnership, sole
3809 proprietorship, business trust or other legal entity and subunits
3810 or affiliates thereof, pursuant to rules and regulations of the
3811 MDA, which provides an average annual salary, excluding benefits
3812 which are not subject to Mississippi income taxes, of at least one
3813 hundred twenty-five percent (125%) of the most recently published
3814 state average annual wage or the most recently published average
3815 annual wage of the county in which the qualified business or
3816 industry is located as determined by the Mississippi Department of

3817 Employment Security, whichever is the lesser. An establishment
3818 shall not be considered to be a qualified business or industry
3819 unless it offers, or will offer within one hundred eighty (180)
3820 days of the date it receives the first incentive payment pursuant
3821 to the provisions of this chapter, a basic health benefits plan to
3822 the individuals it employs in new direct jobs in this state which
3823 is approved by the MDA. Qualified business or industry does not
3824 include retail business or gaming business;

3825 (b) "New direct job" means full-time employment in this
3826 state in a qualified business or industry that has qualified to
3827 receive an incentive payment pursuant to this chapter, which
3828 employment did not exist in this state before the date of approval
3829 by the MDA of the application of the qualified business or
3830 industry pursuant to the provisions of this chapter. "New direct
3831 job" shall include full-time employment in this state of employees
3832 who are employed by an entity other than the establishment that
3833 has qualified to receive an incentive payment and who are leased
3834 to the qualified business or industry, if such employment did not
3835 exist in this state before the date of approval by the MDA of the
3836 application of the establishment;

3837 (c) "Full-time job" means a job of at least thirty-five
3838 (35) hours per week;

3839 (d) "Estimated direct state benefits" means the tax
3840 revenues projected by the MDA to accrue to the state as a result
3841 of the qualified business or industry;

3842 (e) "Estimated direct state costs" means the costs
3843 projected by the MDA to accrue to the state as a result of the
3844 qualified business or industry;

3845 (f) "Estimated net direct state benefits" means the
3846 estimated direct state benefits less the estimated direct state
3847 costs;

3848 (g) "Net benefit rate" means the estimated net direct
3849 state benefits computed as a percentage of gross payroll, provided
3850 that:

3851 (i) Except as otherwise provided in this paragraph
3852 (g), the net benefit rate may be variable and shall not exceed
3853 four percent (4%) of the gross payroll; and shall be set in the
3854 sole discretion of the MDA;

3855 (ii) In no event shall incentive payments,
3856 cumulatively, exceed the estimated net direct state benefits;

3857 (h) "Gross payroll" means wages for new direct jobs of
3858 the qualified business or industry; and

3859 (i) "MDA" means the Mississippi Development Authority.

3860 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is
3861 amended as follows:

3862 57-62-9. (1) Except as otherwise provided in this section,
3863 a qualified business or industry that meets the qualifications
3864 specified in the Mississippi Advantage Jobs Act may receive
3865 quarterly incentive payments for a period not to exceed ten (10)
3866 years from the State Tax Commission pursuant to the provisions of
3867 the Mississippi Advantage Jobs Act in an amount which shall be
3868 equal to the net benefit rate multiplied by the actual gross
3869 payroll of new direct jobs for a calendar quarter as verified by
3870 the Mississippi Department of Employment Security, but not to
3871 exceed the amount of money previously paid into the fund by the
3872 employer. A qualified business or industry that is a project as
3873 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
3874 the ten-year period will begin. Such date may not be later than
3875 sixty (60) months after the date the business or industry applied
3876 for incentive payments.

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

3882 (i) The qualified business or industry creates at
3883 least three thousand (3,000) new direct jobs within five (5) years
3884 after the date the business or industry commences commercial
3885 production;

3886 (ii) Within five (5) years after the date the
3887 business or industry commences commercial production, the average
3888 annual wage of the jobs is at least one hundred fifty percent
3889 (150%) of the most recently published state average annual wage or
3890 the most recently published average annual wage of the county in
3891 which the qualified business or industry is located as determined
3892 by the Mississippi Department of Employment Security, whichever is
3893 the lesser. The criteria for the average annual wage requirement
3894 shall be based upon the state average annual wage or the average
3895 annual wage of the county whichever is appropriate, at the time of
3896 creation of the minimum number of jobs, and the threshold
3897 established at that time will remain constant for the duration of
3898 the additional period; and

3899 (iii) The qualified business or industry meets and
3900 maintains the job and wage requirements of subparagraphs (i) and
3901 (ii) of this paragraph (a) for four (4) consecutive calendar
3902 quarters.

3903 (b) A qualified business or industry that is a project
3904 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
3905 incentive payments for the additional period provided in paragraph
3906 (a) of this subsection (2) may apply to the MDA to receive
3907 incentive payments for an additional period not to exceed ten (10)
3908 years beyond the expiration date of the additional period provided
3909 in paragraph (a) of this subsection (2) if:

3910 (i) The qualified business or industry creates at
3911 least four thousand (4,000) new direct jobs after qualifying for
3912 the additional incentive period provided in paragraph (a) of this
3913 subsection (2) but before the expiration of the additional period.
3914 For purposes of determining whether the business or industry meets
3915 the minimum jobs requirement of this subparagraph (i), the number
3916 of jobs the business or industry created in order to meet the
3917 minimum jobs requirement of paragraph (a) of this subsection (2)
3918 shall be subtracted from the minimum jobs requirement of this
3919 subparagraph (i);

3920 (ii) The average annual wage of the jobs is at
3921 least one hundred fifty percent (150%) of the most recently
3922 published state average annual wage or the most recently published
3923 average annual wage of the county in which the qualified business
3924 or industry is located as determined by the Mississippi Department
3925 of Employment Security, whichever is the lesser. The criteria for
3926 the average annual wage requirement shall be based upon the state
3927 average annual wage or the average annual wage of the county
3928 whichever is appropriate, at the time of creation of the minimum
3929 number of jobs, and the threshold established at that time will
3930 remain constant for the duration of the additional period; and

3931 (iii) The qualified business or industry meets and
3932 maintains the job and wage requirements of subparagraphs (i) and
3933 (ii) of this paragraph (b) for four (4) consecutive calendar
3934 quarters.

3935 (3) In order to receive incentive payments, an establishment
3936 shall apply to the MDA. The application shall be on a form
3937 prescribed by the MDA and shall contain such information as may be
3938 required by the MDA to determine if the applicant is qualified.

3939 (4) In order to qualify to receive such payments, the
3940 establishment applying shall be required to:

3941 (a) Be engaged in a qualified business or industry;

3942 (b) Provide an average salary, excluding benefits which
3943 are not subject to Mississippi income taxes, of at least one
3944 hundred twenty-five percent (125%) of the most recently published
3945 state average annual wage or the most recently published average
3946 annual wage of the county in which the qualified business or
3947 industry is located as determined by the Mississippi Department of
3948 Employment Security, whichever is the lesser. The criteria for
3949 this requirement shall be based upon the state average annual wage
3950 or the average annual wage of the county whichever is appropriate,
3951 at the time of application, and the threshold established upon
3952 application will remain constant for the duration of the project;

3953 (c) The business or industry must create and maintain a
3954 minimum of ten (10) full-time jobs in counties that have an

3955 average unemployment rate over the previous twelve-month period
3956 which is at least one hundred fifty percent (150%) of the most
3957 recently published state unemployment rate, as determined by the
3958 Mississippi Department of Employment Security or in Tier Three
3959 counties as determined under Section 57-73-21. In all other
3960 counties, the business or industry must create and maintain a
3961 minimum of twenty-five (25) full-time jobs. The criteria for this
3962 requirement shall be based on the designation of the county at the
3963 time of the application. The threshold established upon the
3964 application will remain constant for the duration of the project.
3965 The business or industry must meet its job creation commitment
3966 within twenty-four (24) months of the application approval.
3967 However, if the qualified business or industry is applying for
3968 incentive payments for an additional period under subsection (2)
3969 of this section, the business or industry must comply with the
3970 applicable job and wage requirements of subsection (2) of this
3971 section.

3972 (5) The MDA shall determine if the applicant is qualified to
3973 receive incentive payments. If the applicant is determined to be
3974 qualified by the MDA, the MDA shall conduct a cost/benefit
3975 analysis to determine the estimated net direct state benefits and
3976 the net benefit rate applicable for a period not to exceed ten
3977 (10) years and to estimate the amount of gross payroll for the
3978 period. If the applicant is determined to be qualified to receive
3979 incentive payments for an additional period under subsection (2)
3980 of this section, the MDA shall conduct a cost/benefit analysis to
3981 determine the estimated net direct state benefits and the net
3982 benefit rate applicable for the appropriate additional period and
3983 to estimate the amount of gross payroll for the additional period.
3984 In conducting such cost/benefit analysis, the MDA shall consider
3985 quantitative factors, such as the anticipated level of new tax
3986 revenues to the state along with the cost to the state of the
3987 qualified business or industry, and such other criteria as deemed
3988 appropriate by the MDA, including the adequacy of retirement
3989 benefits that the business or industry provides to individuals it

3990 employs in new direct jobs in this state. In no event shall
3991 incentive payments, cumulatively, exceed the estimated net direct
3992 state benefits. Once the qualified business or industry is
3993 approved by the MDA, an agreement shall be deemed to exist between
3994 the qualified business or industry and the State of Mississippi,
3995 requiring the continued incentive payment to be made as long as
3996 the qualified business or industry retains its eligibility.

3997 (6) Upon approval of such an application, the MDA shall
3998 notify the State Tax Commission and shall provide it with a copy
3999 of the approved application and the estimated net direct state
4000 benefits. The State Tax Commission may require the qualified
4001 business or industry to submit such additional information as may
4002 be necessary to administer the provisions of this chapter. The
4003 qualified business or industry shall report to the State Tax
4004 Commission periodically to show its continued eligibility for
4005 incentive payments. The qualified business or industry may be
4006 audited by the State Tax Commission to verify such eligibility.

4007 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is
4008 amended as follows:

4009 57-75-5. Words and phrases used in this chapter shall have
4010 meanings as follows, unless the context clearly indicates a
4011 different meaning:

4012 (a) "Act" means the Mississippi Major Economic Impact
4013 Act as originally enacted or as hereafter amended.

4014 (b) "Authority" means the Mississippi Major Economic
4015 Impact Authority created pursuant to the act.

4016 (c) "Bonds" means general obligation bonds, interim
4017 notes and other evidences of debt of the State of Mississippi
4018 issued pursuant to this chapter.

4019 (d) "Facility related to the project" means and
4020 includes any of the following, as the same may pertain to the
4021 project within the project area: (i) facilities to provide
4022 potable and industrial water supply systems, sewage and waste
4023 disposal systems and water, natural gas and electric transmission
4024 systems to the site of the project; (ii) airports, airfields and

4025 air terminals; (iii) rail lines; (iv) port facilities; (v)
4026 highways, streets and other roadways; (vi) public school
4027 buildings, classrooms and instructional facilities, training
4028 facilities and equipment, including any functionally related
4029 facilities; (vii) parks, outdoor recreation facilities and
4030 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
4031 art centers, cultural centers, folklore centers and other public
4032 facilities; (ix) health care facilities, public or private; and
4033 (x) fire protection facilities, equipment and elevated water
4034 tanks.

4035 (e) "Person" means any natural person, corporation,
4036 association, partnership, receiver, trustee, guardian, executor,
4037 administrator, fiduciary, governmental unit, public agency,
4038 political subdivision, or any other group acting as a unit, and
4039 the plural as well as the singular.

4040 (f) "Project" means:

4041 (i) Any industrial, commercial, research and
4042 development, warehousing, distribution, transportation,
4043 processing, mining, United States government or tourism enterprise
4044 together with all real property required for construction,
4045 maintenance and operation of the enterprise with an initial
4046 capital investment of not less than Three Hundred Million Dollars
4047 (\$300,000,000.00) from private or United States government sources
4048 together with all buildings, and other supporting land and
4049 facilities, structures or improvements of whatever kind required
4050 or useful for construction, maintenance and operation of the
4051 enterprise; or with an initial capital investment of not less than
4052 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
4053 or United States government sources together with all buildings
4054 and other supporting land and facilities, structures or
4055 improvements of whatever kind required or useful for construction,
4056 maintenance and operation of the enterprise and which creates at
4057 least one thousand (1,000) net new full-time jobs; or which
4058 creates at least one thousand (1,000) net new full-time jobs which
4059 provides an average salary, excluding benefits which are not

4060 subject to Mississippi income taxation, of at least one hundred
4061 twenty-five percent (125%) of the most recently published average
4062 annual wage of the state as determined by the Mississippi
4063 Employment Security Commission. "Project" shall include any
4064 addition to or expansion of an existing enterprise if such
4065 addition or expansion has an initial capital investment of not
4066 less than Three Hundred Million Dollars (\$300,000,000.00) from
4067 private or United States government sources, or has an initial
4068 capital investment of not less than One Hundred Fifty Million
4069 Dollars (\$150,000,000.00) from private or United States government
4070 sources together with all buildings and other supporting land and
4071 facilities, structures or improvements of whatever kind required
4072 or useful for construction, maintenance and operation of the
4073 enterprise and which creates at least one thousand (1,000) net new
4074 full-time jobs; or which creates at least one thousand (1,000) net
4075 new full-time jobs which provides an average salary, excluding
4076 benefits which are not subject to Mississippi income taxation, of
4077 at least one hundred twenty-five percent (125%) of the most
4078 recently published average annual wage of the state as determined
4079 by the Mississippi Department of Employment Security. "Project"
4080 shall also include any ancillary development or business resulting
4081 from the enterprise, of which the authority is notified, within
4082 three (3) years from the date that the enterprise entered into
4083 commercial production, that the project area has been selected as
4084 the site for the ancillary development or business.

4085 (ii) Any major capital project designed to
4086 improve, expand or otherwise enhance any active duty United States
4087 Air Force or Navy training bases or naval stations, their support
4088 areas or their military operations, upon designation by the
4089 authority that any such base was or is at risk to be recommended
4090 for closure or realignment pursuant to the Defense Base Closure
4091 and Realignment Act of 1990; or any major development project
4092 determined by the authority to be necessary to acquire base
4093 properties and to provide employment opportunities through
4094 construction of projects as defined in Section 57-3-5, which shall

4095 be located on or provide direct support service or access to such
4096 military installation property as such property exists on July 1,
4097 1993, in the event of closure or reduction of military operations
4098 at the installation. From and after July 1, 1997, projects
4099 described in this subparagraph (ii) shall not be considered to be
4100 within the meaning of the term "project" for purposes of this
4101 section, unless such projects are commenced before July 1, 1997,
4102 and shall not be eligible for any funding provided under the
4103 Mississippi Major Economic Impact Act.

4104 (iii) Any enterprise to be maintained, improved or
4105 constructed in Tishomingo County by or for a National Aeronautics
4106 and Space Administration facility in such county.

4107 (iv) 1. Any major capital project with an initial
4108 capital investment from private sources of not less than Seven
4109 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
4110 at least three thousand (3,000) jobs meeting criteria established
4111 by the Mississippi Development Authority.

4112 2. "Project" shall also include any ancillary
4113 development or business resulting from an enterprise operating a
4114 project as defined in item 1 of this paragraph (f)(iv), of which
4115 the authority is notified, within three (3) years from the date
4116 that the enterprise entered into commercial production, that the
4117 state has been selected as the site for the ancillary development
4118 or business.

4119 (v) Any manufacturing, processing or industrial
4120 project determined by the authority, in its sole discretion, to
4121 contribute uniquely and significantly to the economic growth and
4122 development of the state, and which meets the following criteria:

4123 1. The project shall create at least two
4124 thousand (2,000) net new full-time jobs meeting criteria
4125 established by the authority, which criteria shall include, but
4126 not be limited to, the requirement that such jobs must be held by
4127 persons eligible for employment in the United States under
4128 applicable state and federal law.

4129 2. The project and any facility related to
4130 the project shall include a total investment from private sources
4131 of not less than Sixty Million Dollars (\$60,000,000.00), or from
4132 any combination of sources of not less than Eighty Million Dollars
4133 (\$80,000,000.00).

4134 (vi) Any real property owned or controlled by the
4135 National Aeronautics and Space Administration, the United States
4136 government, or any agency thereof, which is legally conveyed to
4137 the State of Mississippi or to the State of Mississippi for the
4138 benefit of the Mississippi Major Economic Impact Authority, its
4139 successors and assigns pursuant to Section 212 of Public Law
4140 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4141 (vii) Any major capital project related to the
4142 establishment, improvement, expansion and/or other enhancement of
4143 any active duty military installation and having a minimum capital
4144 investment from any source or combination of sources other than
4145 the State of Mississippi of at least Forty Million Dollars
4146 (\$40,000,000.00), and which will create at least four hundred
4147 (400) military installation related full-time jobs, which jobs may
4148 be military jobs, civilian jobs or a combination of military and
4149 civilian jobs. The authority shall require that binding
4150 commitments be entered into requiring that the minimum
4151 requirements for the project provided for in this subparagraph
4152 shall be met not later than July 1, 2008.

4153 (viii) Any major capital project with an initial
4154 capital investment from any source or combination of sources of
4155 not less than Ten Million Dollars (\$10,000,000.00) which will
4156 create at least eighty (80) full-time jobs which provide an
4157 average annual salary, excluding benefits which are not subject to
4158 Mississippi income taxes, of at least one hundred thirty-five
4159 percent (135%) of the most recently published average annual wage
4160 of the state or the most recently published average annual wage of
4161 the county in which the project is located as determined by the
4162 Mississippi Employment Security Commission, whichever is the

4163 lesser. The authority shall require that binding commitments be
4164 entered into requiring that:

4165 1. The minimum requirements for the project
4166 provided for in this subparagraph shall be met, and

4167 2. That if such commitments are not met, all
4168 or a portion of the funds provided by the state for the project as
4169 determined by the authority shall be repaid.

4170 (ix) Any regional retail shopping mall with an
4171 initial capital investment from private sources in excess of One
4172 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
4173 footage in excess of eight hundred thousand (800,000) square feet,
4174 which will create at least seven hundred (700) full-time jobs with
4175 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
4176 authority shall require that binding commitments be entered into
4177 requiring that:

4178 1. The minimum requirements for the project
4179 provided for in this subparagraph shall be met, and

4180 2. That if such commitments are not met, all
4181 or a portion of the funds provided by the state for the project as
4182 determined by the authority shall be repaid.

4183 (x) Any major capital project with an initial
4184 capital investment from any source or combination of sources of
4185 not less than Seventy-five Million Dollars (\$75,000,000.00) which
4186 will create at least one hundred twenty-five (125) full-time jobs
4187 which provide an average annual salary, excluding benefits which
4188 are not subject to Mississippi income taxes, of at least one
4189 hundred thirty-five percent (135%) of the most recently published
4190 average annual wage of the state or the most recently published
4191 average annual wage of the county in which the project is located
4192 as determined by the Mississippi Department of Employment
4193 Security, whichever is the greater. The authority shall require
4194 that binding commitments be entered into requiring that:

4195 1. The minimum requirements for the project
4196 provided for in this subparagraph shall be met; and

4197 2. That if such commitments are not met, all
4198 or a portion of the funds provided by the state for the project as
4199 determined by the authority shall be repaid.

4200 (xi) Any potential major capital project that the
4201 authority has determined is feasible to recruit.

4202 (g) "Project area" means the project site, together
4203 with any area or territory within the state lying within
4204 sixty-five (65) miles of any portion of the project site whether
4205 or not such area or territory be contiguous; provided, however,
4206 that for the project defined in paragraph (f)(iv) of this section
4207 the term "project area" means any area or territory within the
4208 state. The project area shall also include all territory within a
4209 county if any portion of such county lies within sixty-five (65)
4210 miles of any portion of the project site. "Project site" means
4211 the real property on which the principal facilities of the
4212 enterprise will operate.

4213 (h) "Public agency" means:

4214 (i) Any department, board, commission, institution
4215 or other agency or instrumentality of the state;

4216 (ii) Any city, town, county, political
4217 subdivision, school district or other district created or existing
4218 under the laws of the state or any public agency of any such city,
4219 town, county, political subdivision or district or any other
4220 public entity created or existing under local and private
4221 legislation;

4222 (iii) Any department, commission, agency or
4223 instrumentality of the United States of America; and

4224 (iv) Any other state of the United States of
4225 America which may be cooperating with respect to location of the
4226 project within the state, or any agency thereof.

4227 (i) "State" means State of Mississippi.

4228 (j) "Fee-in-lieu" means a negotiated fee to be paid by
4229 the project in lieu of any franchise taxes imposed on the project
4230 by Chapter 13, Title 27, Mississippi Code of 1972. The
4231 fee-in-lieu shall not be less than Twenty-five Thousand Dollars

4232 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an
4233 enterprise operating an existing project defined in Section
4234 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated
4235 for other existing enterprises that fall within the definition of
4236 the term "project."

4237 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is
4238 amended as follows:

4239 57-80-7. (1) From and after December 31, 2000, and until
4240 December 31, 2005, the following counties may apply to the MDA for
4241 the issuance of a certificate of public convenience and necessity:

4242 (a) Any county of this state which has an annualized
4243 unemployment rate that is at least two hundred percent (200%) of
4244 the state's unemployment rate as of December 31 of any year from
4245 2000 through 2005, as determined by the Mississippi Department of
4246 Employment Security's most recently published data;

4247 (b) Any county of this state in which thirty percent
4248 (30%) or more of the population of the county is at or below the
4249 federal poverty level according to the official data compiled by
4250 the United States Census Bureau as of August 30, 2000, for
4251 counties that apply before December 31, 2002, or the most recent
4252 official data compiled by the United States Census Bureau for
4253 counties that apply from and after December 31, 2002; or

4254 (c) Any county of this state having an eligible
4255 supervisors district.

4256 (2) The application, at a minimum, must contain (a) the
4257 Mississippi Department of Employment Security's most recently
4258 published figures that reflect the annualized unemployment rate of
4259 the applying county as of December 31 or the most recent official
4260 data by the United States Census Bureau required by subsection (1)
4261 of this section, as the case may be, and (b) an order or
4262 resolution of the county consenting to the designation of the
4263 county as a growth and prosperity county.

4264 (3) Any municipality of a designated growth and prosperity
4265 county or within an eligible supervisors district and not more
4266 than eight (8) miles from the boundary of the county that meets

4267 the criteria of subsection (1)(b) of this section may by order or
4268 resolution of the municipality consent to participation in the
4269 Growth and Prosperity Program.

4270 (4) No incentive or tax exemption shall be given under this
4271 chapter without the consent of the affected county or
4272 municipality.

4273 **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is
4274 amended as follows:

4275 69-2-5. (1) The Mississippi Cooperative Extension Service
4276 shall act as a clearinghouse for the dissemination of information
4277 regarding programs and services which may be available to help
4278 those persons and businesses which have been adversely affected by
4279 the present emergency in the agricultural community. The
4280 Cooperative Extension Service shall develop a plan of assistance
4281 which shall identify all programs and services available within
4282 the state which can be of assistance to those affected by the
4283 present emergency. The Department of Agriculture and Commerce,
4284 the Department of Finance and Administration, Department of Human
4285 Services, Department of Mental Health, State Department of Health,
4286 Board of Trustees of State Institutions of Higher Learning, State
4287 Board for Community and Junior Colleges, Research and Development
4288 Center, Mississippi Development Authority, Department of
4289 Employment Security, Office of the Governor, Board of Vocational
4290 and Technical Education, Mississippi Authority for Educational
4291 Television, and other agencies of the state which have programs
4292 and services that can be of assistance to those affected by the
4293 present emergency, shall provide information regarding their
4294 programs and services to the Cooperative Extension Service for use
4295 in the clearinghouse. The types of programs and services shall
4296 include, but not be limited to, financial counseling, farm and
4297 small business management, employment services, labor market
4298 information, job re-training, vocational and technical training,
4299 food stamp programs, personal counseling, health services, and
4300 free or low cost legal services. The clearinghouse shall provide
4301 a single contact point to provide program information and referral

4302 services to individuals interested or needing services from state
4303 funded assistance programs affecting agriculture, horticulture,
4304 aquaculture and other agribusinesses or related industries. Such
4305 assistance information shall identify all monies available under
4306 the Small Business Financing Act, the Business Investment Act, the
4307 Emerging Crop Fund legislation and any other sources which may be
4308 used singularly or combined, to provide a comprehensive financing
4309 package. The provisions of this section in establishing a single
4310 contact point for information and referral services shall not be
4311 construed to authorize the hiring of additional personnel.

4312 (2) The Cooperative Extension Service may accept monetary or
4313 in-kind contributions, gifts and grants for the establishment or
4314 operation of the clearinghouse.

4315 (3) The Cooperative Extension Service shall establish a
4316 method for the dissemination of information to those who can be
4317 benefited by the existing programs and services of the state.

4318 (4) The Cooperative Extension Service shall file an annual
4319 report with the Governor, Lieutenant Governor and Speaker of the
4320 House of Representatives regarding the efforts which have been
4321 made in the clearinghouse operation. The report shall also
4322 recommend any additional measures, including legislation, which
4323 may be needed or desired in providing programs and benefits to
4324 those affected by the agricultural emergency.

4325 **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is
4326 amended as follows:

4327 7-1-355. (1) The Mississippi Development Authority is * * *
4328 designated as the sole administrator of all programs for which the
4329 state is the prime sponsor under Title 1(B) of Public Law 105-220,
4330 Workforce Investment Act of 1998, and the regulations promulgated
4331 thereunder, and may take all necessary action to secure to this
4332 state the benefits of such legislation. The Mississippi
4333 Development Authority is empowered to receive and disburse funds
4334 for such programs which become available to it from any source.

4335 (2) The Mississippi Development Authority shall establish
4336 guidelines on the amount and/or percentage of indirect and/or

4337 administrative expenses by the local fiscal agent or the Workforce
4338 Development Center operator. The Mississippi Development
4339 Authority shall develop an accountability system and make an
4340 annual report to the Legislature before December 31 of each year
4341 on Workforce Investment Act activities. The report shall include,
4342 but is not limited to, the following:

4343 (a) The total number of individuals served through the
4344 Workforce Development Centers and the percentage and number of
4345 individuals for which a quarterly follow-up is provided;

4346 (b) The number of individuals who receive core services
4347 by each center;

4348 (c) The number of individuals who receive intensive
4349 services by each center;

4350 (d) The number of Workforce Investment Act vouchers
4351 issued by the Workforce Development Centers, including:

4352 (i) A list of schools and colleges to which these
4353 vouchers were issued and the average cost per school of the
4354 vouchers; and

4355 (ii) A list of the types of programs for which
4356 these vouchers were issued;

4357 (e) The number of individuals placed in a job through
4358 Workforce Development Centers;

4359 (f) The monies and the amount retained for
4360 administrative and other costs received from Workforce Investment
4361 Act funds for each agency or organization that Workforce
4362 Investment Act funds flow through as a percentage and actual
4363 dollar amount of all Workforce Investment funds received.

4364 **SECTION 58.** Sections 37-151-69, 37-151-71 and 37-151-73,
4365 Mississippi Code of 1972, which authorize a Mississippi Workforce
4366 Development Council, local district councils and one-stop career
4367 centers, are hereby repealed.

4368 **SECTION 59.** Sections 71-5-103 and 71-5-105, Mississippi Code
4369 of 1972, which provide for the organization and compensation of
4370 members of the Mississippi Employment Security Commission, are
4371 hereby repealed.

4372 **SECTION 60.** Section 57-73-25, Mississippi Code of 1972, is
4373 amended as follows:

4374 57-73-25. (1) A fifty percent (50%) income tax credit shall
4375 be granted to any employer (as defined in subsection (4) of this
4376 section) sponsoring * * * skills training. The fifty percent
4377 (50%) credit shall be granted to employers that participate in
4378 employer-sponsored training programs through any community/junior
4379 college in the district within which the employer is located or
4380 training approved by such community/junior college. * * * The
4381 credit is applied to qualified training * * * expenses, which are
4382 expenses related to instructors, instructional materials and
4383 equipment, and the construction and maintenance of facilities by
4384 such employer designated for training purposes which is
4385 attributable to training * * * provided through such
4386 community/junior college or training approved by such
4387 community/junior college. The credits allowed under this section
4388 shall only be used by the actual employer qualifying for the
4389 credits. The credit shall not exceed fifty percent (50%) of the
4390 income tax liability in a tax year and may be carried forward for
4391 the five (5) successive years if the amount allowable as credit
4392 exceeds the income tax liability in a tax year; however,
4393 thereafter, if the amount allowable as a credit exceeds the tax
4394 liability, the amount of excess shall not be refundable or carried
4395 forward to any other taxable year. The credit authorized under
4396 this section shall not exceed Two Thousand Five Hundred Dollars
4397 (\$2,500.00) * * * per employee during any one year. Nothing in
4398 this section shall be interpreted in any manner as to prevent the
4399 continuing operation of state-supported university programs.

4400 (2) Employer-sponsored training shall include an evaluation
4401 by the local community or junior college that serves the employer
4402 to ensure that the training provided is job related and conforms
4403 to the definition of "* * * skills training" * * * as hereinafter
4404 defined.

4405 (3) Employers shall be certified as eligible for the tax
4406 credit by the local community or junior college that serves the
4407 employer and the State Tax Commission.

4408 (4) For the purposes of this section:

4409 (a) " * * * Skills training" means any
4410 employer-sponsored training by an appropriate community/junior
4411 college or training approved by such community/junior college that
4412 enhances skills that improve job performance. If the employer
4413 provides pre-employment training, the portion of the
4414 pre-employment training that involves skills training shall be
4415 eligible for the credit.

4416 * * *

4417 (b) "Employer-sponsored training" means training
4418 provided by the appropriate community/junior college in the
4419 district within which the employer is located or training approved
4420 by such community/junior college.

4421 (c) "Employer" means those permanent business
4422 enterprises as defined and set out in Section 57-73-21(2), (3),
4423 (4) and (5).

4424 (5) The tax credits provided for in this section shall be in
4425 addition to all other tax credits heretofore granted by the laws
4426 of the state.

4427 (6) A community/junior college may commit to provide
4428 employer-sponsored * * * skills training * * * program for an
4429 employer for a multiple number of years, not to exceed five (5)
4430 years.

4431 (7) The State Board for Community and Junior Colleges shall
4432 make a report to the Legislature by January 30 of each year
4433 summarizing the number of participants, the junior or community
4434 college through which the training was offered and the type
4435 training offered.

4436 * * *

4437 **SECTION 61.** This act shall take effect and be in force from
4438 and after July 1, 2004; provided, however, that Section 4 of this
4439 act shall take effect and be in force from and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.

SS26\HB973A.J

John O. Gilbert
Secretary of the Senate