

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2555

1 AN ACT TO REENACT SECTIONS 37-153-1 THROUGH 37-153-13,
 2 MISSISSIPPI CODE OF 1972, TO DELETE THE AUTOMATIC REPEALER ON
 3 THOSE STATUTES WHICH ESTABLISH AND PRESCRIBE THE MEMBERSHIP OF THE
 4 MISSISSIPPI WORKFORCE INVESTMENT BOARD; TO REENACT SECTIONS
 5 71-5-5, 71-5-11, 71-5-19, 71-5-101, 71-5-107 THROUGH 71-5-143,
 6 71-5-201, 71-5-357, 71-5-359, 71-5-451, 71-5-457, 71-5-511,
 7 71-5-513, 71-5-517, 71-5-519, 71-5-523, 71-5-525, 71-5-529,
 8 71-5-531, 71-5-541, 73-30-25, 43-1-30, 43-17-5, 43-19-45,
 9 43-19-46, 57-62-5, 57-62-9, 57-75-5, 57-80-7 AND 69-2-5,
 10 MISSISSIPPI CODE OF 1972, TO DELETE THE AUTOMATIC REPEALER ON
 11 THOSE STATUTES WHICH TRANSFER THE POWERS AND RESPONSIBILITIES OF
 12 THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION TO THE MISSISSIPPI
 13 DEPARTMENT OF EMPLOYMENT SECURITY, OFFICE OF THE GOVERNOR; TO
 14 REPEAL SECTION 60 OF CHAPTER 572, LAWS OF 2004, WHICH IS THE
 15 AUTOMATIC REPEALER ON THOSE STATUTES TRANSFERRING THE MISSISSIPPI
 16 EMPLOYMENT SECURITY COMMISSION TO THE MISSISSIPPI DEPARTMENT OF
 17 EMPLOYMENT SECURITY, OFFICE OF THE GOVERNOR; AND FOR RELATED
 18 PURPOSES.

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

20 **SECTION 1.** Section 37-153-1, Mississippi Code of 1972, is
 21 reenacted as follows:

22 37-153-1. This chapter shall be known and may be cited as
 23 the "Mississippi Comprehensive Workforce Training and Education
 24 Consolidation Act of 2004."

25 **SECTION 2.** Section 37-153-3, Mississippi Code of 1972, is
 26 reenacted as follows:

27 37-153-3. It is the intent of the Legislature by the passage
 28 of Laws, 2004, Chapter 572, to establish one (1) comprehensive
 29 workforce development system in the State of Mississippi that is
 30 focused on achieving results, using resources efficiently and
 31 ensuring that workers and employers can easily access needed
 32 services. This system shall reflect a consolidation of the
 33 Mississippi Workforce Development Advisory Council and the
 34 Mississippi State Workforce Investment Act Board. The purpose of
 35 Laws, 2004, Chapter 572, is to provide workforce activities,

36 through a statewide system that maximizes cooperation among state
37 agencies, that increase the employment, retention and earnings of
38 participants, and increase occupational skill attainment by
39 participants and as a result, improve the quality of the
40 workforce, reduce welfare dependency and enhance the productivity
41 and competitiveness of the State of Mississippi.

42 **SECTION 3.** Section 37-153-5, Mississippi Code of 1972, is
43 reenacted as follows:

44 37-153-5. For purposes of this chapter, the following words
45 and phrases shall have the meanings respectively ascribed in this
46 section unless the context clearly indicates otherwise:

47 (a) "State board" means the Mississippi State Workforce
48 Investment Board;

49 (b) "District councils" means the Local Workforce
50 Development Councils;

51 (c) "Local workforce investment board" means the board
52 that oversees the workforce development activities of local
53 workforce areas under the federal Workforce Investment Act.

54 **SECTION 4.** Section 37-153-7, Mississippi Code of 1972, is
55 reenacted as follows:

56 37-153-7. (1) There is created the Mississippi State
57 Workforce Investment Board. The Mississippi State Workforce
58 Investment Board shall be composed of thirty-nine (39) voting
59 members, of which a majority shall be representatives of business
60 and industry in accordance with the federal Workforce Investment
61 Act.

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

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

66 (ii) The Executive Director of the Mississippi
67 Municipal League;

68 (iii) One (1) elected mayor;

69 (iv) One (1) elected county supervisor;
70 (v) Two (2) representatives of labor
71 organizations, who have been nominated by state labor federations;
72 (vi) Two (2) representatives of individuals and
73 organizations that have experience with respect to youth
74 activities;

75 (vii) One (1) representative of the Mississippi
76 Association of Planning and Development Districts;

77 (viii) One (1) representative from each of the
78 four (4) workforce areas in the state, who has been nominated by
79 the community colleges in each respective area, with the consent
80 of the elected county supervisors within the respective workforce
81 area; and

82 (ix) Nineteen (19) representatives of business
83 owners nominated by business and industry organizations, which may
84 include representatives of the various planning and development
85 districts in Mississippi.

86 (b) The following state officials shall be members of
87 the board:

88 (i) The Executive Director of the Mississippi
89 Department of Employment Security;

90 (ii) The Executive Director of the Department of
91 Rehabilitation Services;

92 (iii) The State Superintendent of Public
93 Education;

94 (iv) The Executive Director of the Mississippi
95 Development Authority;

96 (v) The Executive Director of the Mississippi
97 Department of Human Services;

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

100 (c) The Governor, or his designee, shall serve as a
101 member.

102 (d) Four (4) legislators, who shall serve in a
103 nonvoting capacity, two (2) of whom shall be appointed by the
104 Lieutenant Governor from the membership of the Mississippi Senate,
105 and two (2) of whom shall be appointed by the Speaker of the House
106 from the membership of the Mississippi House of Representatives.

107 (e) The membership of the board shall reflect the
108 diversity of the State of Mississippi.

109 (f) The Governor shall designate the Chairman of the
110 Mississippi State Workforce Investment Board from among the voting
111 members of the board, and a quorum of the board shall consist of a
112 majority of the voting members of the board.

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

117 (h) The Mississippi Department of Employment Security
118 shall be responsible for providing necessary administrative,
119 clerical and budget support for the State Workforce Investment
120 Board.

121 (2) The Mississippi Department of Employment Security shall
122 establish limits on administrative costs for each portion of
123 Mississippi's Workforce Development System consistent with the
124 federal Workforce Investment Act or any future federal workforce
125 legislation.

126 (3) The Mississippi State Workforce Investment Board shall
127 have the following duties:

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

134 (b) Assist the Governor in the development and
135 continuous improvement of the statewide workforce investment
136 system that shall include:

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

139 (ii) Review local workforce development plans that
140 reflect the use of funds from the federal Workforce Investment
141 Act, Wagner-Peyser Act and the Mississippi Comprehensive Workforce
142 Training and Education Consolidation Act.

143 (c) Recommend the designation of local workforce
144 investment areas as required in Section 116 of the federal
145 Workforce Investment Act of 1998. There shall be four (4)
146 workforce investment areas that are generally aligned with the
147 planning and development district structure in Mississippi.
148 Planning and development districts will serve as the fiscal agents
149 to manage Workforce Investment Act funds, oversee and support the
150 local workforce investment boards aligned with the area and the
151 local programs and activities as delivered by the one-stop
152 employment and training system. The planning and development
153 districts will perform this function through the provisions of the
154 county cooperative service districts created under Sections
155 19-3-101 through 19-3-115; however, planning and development
156 districts currently performing this function under the Interlocal
157 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
158 continue to do so.

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

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

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

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

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

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

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

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

187 (g) Assist the Governor in reducing duplication of
188 services by urging the Local Workforce Investment Boards to
189 designate the local community/junior college as the operator of
190 the WIN Job Center. Incentive grants of Two Hundred Thousand
191 Dollars (\$200,000.00) from federal Workforce Investment Act funds
192 may be awarded to the local workforce boards where the
193 community/junior college district is designated as the WIN Job
194 Center. These grants must be provided to the community and junior
195 colleges for the extraordinary costs of coordinating with the
196 Workforce Investment Act, advanced technology centers and advanced
197 skills centers. In no case shall these funds be used to supplant

198 state resources being used for operation of workforce development
199 programs.

200 (h) To provide authority, in accordance with any
201 executive order of the Governor, for developing the necessary
202 collaboration among state agencies at the highest level for
203 accomplishing the purposes of this chapter;

204 (i) To monitor the effectiveness of the workforce
205 development centers and WIN job centers;

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

212 (k) To work with industry to identify barriers that
213 inhibit the delivery of quality workforce education and the
214 responsiveness of educational institutions to the needs of
215 industry;

216 (l) To provide periodic assessments on effectiveness
217 and results of the overall Mississippi comprehensive workforce
218 development system and district councils; and

219 (m) To assist the Governor in carrying out any other
220 responsibility required by the federal Workforce Investment Act of
221 1998, as amended.

222 (4) The Mississippi State Workforce Investment Board shall
223 coordinate all training programs and funds in the State of
224 Mississippi.

225 Each state agency director responsible for workforce training
226 activities shall advise the Mississippi State Workforce Investment
227 Board of appropriate federal and state requirements. Each such
228 state agency director shall remain responsible for the actions of
229 his agency; however, each state agency and director shall work
230 cooperatively, and shall be individually and collectively

231 responsible to the Governor for the successful implementation of
232 the statewide workforce investment system. The Governor, as the
233 Chief Executive Officer of the state, shall have complete
234 authority to enforce cooperation among all entities within the
235 state that utilize federal or state funding for the conduct of
236 workforce development activities.

237 **SECTION 5.** Section 37-153-9, Mississippi Code of 1972, is
238 reenacted as follows:

239 37-153-9. (1) In accordance with the federal Workforce
240 Investment Act of 1998, there shall be established, for each of
241 the four (4) state workforce areas prescribed in Section 37-153-3
242 (2)(c), a local Workforce Investment Board to set policy for the
243 portion of the state workforce investment system within the local
244 area and carry out the provisions of the Workforce Investment Act.

245 (2) Each community college district shall have an affiliated
246 District Workforce Development Council. The district council
247 shall be composed of a diverse group of fifteen (15) persons
248 appointed by the board of trustees of the affiliated public
249 community or junior college. The members of each district council
250 shall be selected from persons recommended by the chambers of
251 commerce, employee groups, industrial foundations, community
252 organizations and local governments located in the community
253 college district of the affiliated community college with one (1)
254 appointee being involved in basic literacy training. However, at
255 least eight (8) members of each district council shall be chief
256 executive officers, plant managers that are representatives of
257 employers in that district or service sector executives. The
258 District Workforce Development Council affiliated with each
259 respective community or junior college shall advise the president
260 of the community or junior college on the operation of its
261 workforce development center/one-stop center.

262 The Workforce Development Council shall have the following
263 advisory duties:

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

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

268 (ii) Sets short-term and long-term goals for
269 industry-specific training and upgrading and for general
270 development of the workforce; and

271 (iii) Provides for coordination of all training
272 programs, including ABE/GED, Skills Enhancement and Industrial
273 Services, and shall work collaboratively with the State Literacy
274 Resource Center;

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

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

279 (d) To encourage continuous improvement through
280 evaluation and assessment; and

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

283 **SECTION 6.** Section 37-153-11, Mississippi Code of 1972, is
284 reenacted as follows:

285 37-153-11. (1) There are created workforce development
286 centers to provide assessment, training and placement services to
287 individuals needing retraining, training and upgrading for small
288 business and local industry. Each workforce development center
289 shall be affiliated with a separate public community or junior
290 college district.

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

295 (3) Each workforce development center, working in concert
296 with its affiliated district council, shall offer and arrange

297 services to accomplish the purposes of this chapter, including,
298 but not limited to, the following:

299 (a) For individuals needing training and retraining:

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

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

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

306 (iv) Vocational and technical training, full-time
307 or part-time; and

308 (v) Short-term skills training for educationally
309 and economically disadvantaged adults in cooperation with
310 federally established employment and training programs;

311 (b) For specific small businesses, industries or firms
312 within the district:

313 (i) Job analysis, testing and curriculum
314 development;

315 (ii) Development of specific long-range training
316 plans;

317 (iii) Industry or firm-related preemployment
318 training;

319 (iv) Workplace basic skills and literacy training;

320 (v) Customized skills training;

321 (vi) Assistance in developing the capacity for
322 Total Quality Management training;

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

327 (viii) Development of business plans;

328 (c) For public schools within the district technical
329 assistance to secondary schools in curriculum coordination,

330 development of tech prep programs, instructional development and
331 resource coordination; and

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

335 (4) Each workforce development center shall compile and make
336 accessible to the Mississippi Workforce Investment Board necessary
337 information for use in evaluating outcomes of its efforts and in
338 improving the quality of programs at each community college, and
339 shall include information on literacy initiatives. Each workforce
340 development center shall, through an interagency management
341 information system, maintain records on new small businesses,
342 placement, length of time on the job after placement and wage
343 rates of those placed in a form containing such information as
344 established by the state council.

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

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

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

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

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

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

362 (ii) Establishing rigorous and comprehensive local
363 preemployment training programs;

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

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

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

370 (vi) Developing data for strategic planning;

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

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

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

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

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

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

389 (j) To collaborate, partner and contract for services
390 with community-based organizations and disadvantaged businesses in
391 the delivery of workforce training and career information
392 especially to youth, as defined by the federal Workforce
393 Investment Act, and to those adults who are in low income jobs or
394 whose individual skill levels are so low as to be unable initially

395 to be aided by a workforce development center. Community-based
396 organizations and disadvantaged businesses must meet
397 performance-based certification requirements set by the State
398 Board for Community and Junior Colleges.

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

401 71-5-5. The Legislature 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 reenacted 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 G. "Executive director" means the Executive Director of the
477 Mississippi Department of Employment Security, Office of the
478 Governor, appointed under Section 71-5-107.

479 H. "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 I. "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
558 to Section 71-5-361(3), any other employing unit which has elected
559 to 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 J. "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 However, for purposes of this subsection, the term
600 "employment" shall include services described in subsection
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; however, 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 subsection I(3) and (4) of this
635 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; however,
915 the department is authorized and directed to enter into agreements
916 with the proper agencies under such act or acts of Congress, which
917 agreements shall become effective ten (10) days after publication
918 thereof in the manner provided in Section 71-5-117 for general

919 rules, to provide reciprocal treatment to individuals who have,
920 after acquiring potential rights to benefits under this chapter,
921 acquired rights to unemployment compensation under such act or
922 acts of Congress or who have, after acquiring potential rights to
923 unemployment compensation under such act or acts of Congress,
924 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 (l) 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 a barber or beautician
988 whose work station is leased to him or her by the owner of the
989 shop in which he or she works and who is compensated directly by
990 the patrons he or she serves and who is free from direction and
991 control by the lessor.

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

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

998 M. "Fund" means the Unemployment Compensation Fund
999 established by this chapter, to which all contributions required
1000 and from which all benefits provided under this chapter shall be
1001 paid.

1002 N. "Hospital" means an institution which has been licensed,
1003 certified, or approved by the State Department of Health as a
1004 hospital.

1005 O. "Institution of higher learning," for the purposes of
1006 this section, means an educational institution which:

1007 (1) Admits as regular students only individuals having
1008 a certificate of graduation from a high school, or the recognized
1009 equivalent of such a certificate;

1010 (2) Is legally authorized in this state to provide a
1011 program of education beyond high school;

1012 (3) Provides an educational program for which it awards
1013 a bachelor's or higher degree, or provides a program which is
1014 acceptable for full credit toward such a degree, a program of
1015 postgraduate or postdoctoral studies, or a program of training to
1016 prepare students for gainful employment in a recognized
1017 occupation;

1018 (4) Is a public or other nonprofit institution;

1019 (5) Notwithstanding any of the foregoing provisions of
1020 this subsection, all colleges and universities in this state are
1021 institutions of higher learning for purposes of this section.

1022 P. (1) "State" includes, in addition to the states of the
1023 United States of America, the District of Columbia, Commonwealth
1024 of Puerto Rico and the Virgin Islands.

1025 (2) The term "United States" when used in a
1026 geographical sense includes the states, the District of Columbia,
1027 Commonwealth of Puerto Rico and the Virgin Islands.

1028 (3) The provisions of subsections (1) and (2) of
1029 paragraph P, as including the Virgin Islands, shall become
1030 effective on the day after the day on which the United States
1031 Secretary of Labor approves for the first time under Section
1032 3304(a) of the Internal Revenue Code of 1954 an unemployment
1033 compensation law submitted to the secretary by the Virgin Islands
1034 for such approval.

1035 Q. "Unemployment."

1036 (1) An individual shall be deemed "unemployed" in any
1037 week during which he performs no services and with respect to
1038 which no wages are payable to him, or in any week of less than
1039 full-time work if the wages payable to him with respect to such
1040 week are less than his weekly benefit amount as computed and
1041 adjusted in Section 71-5-505. The department shall prescribe
1042 regulations applicable to unemployed individuals, making such
1043 distinctions in the procedure as to total unemployment, part-total
1044 unemployment, partial unemployment of individuals attached to
1045 their regular jobs, and other forms of short-time work, as the
1046 department deems necessary.

1047 (2) An individual's week of total unemployment shall be
1048 deemed to commence only after his registration at an employment
1049 office, except as the department may by regulation otherwise
1050 prescribe.

1051 R. (1) "Wages" means all remuneration for personal
1052 services, including commissions and bonuses and the cash value of
1053 all remuneration in any medium other than cash, except that
1054 "wages," for purposes of determining employer's coverage and
1055 payment of contributions for agricultural and domestic service
1056 means cash remuneration only. The reasonable cash value of
1057 remuneration in any medium other than cash shall be estimated and
1058 determined in accordance with rules prescribed by the department;
1059 however, that the term "wages" shall not include:

1060 (a) The amount of any payment made to, or on
1061 behalf of, an employee under a plan or system established by an
1062 employer which makes provision for his employees generally or for
1063 a class or classes of his employees (including any amount paid by
1064 an employer for insurance or annuities, or into a fund, to provide
1065 for any such payment), on account of:

1066 (i) Retirement, or
1067 (ii) Sickness or accident disability, or
1068 (iii) Medical or hospitalization expenses in
1069 connection with sickness or actual disability, or

1070 (iv) Death, provided the employee:

1071 (A) Has not the option to receive,
1072 instead of provision for such death benefit, any part of such
1073 payment or, if such death benefit is insured, any part of the
1074 premiums (or contributions to premiums) paid by his employer, and

1075 (B) Has not the right, under the
1076 provisions of the plan or system or policy of insurance providing
1077 for such death benefit, to assign such benefit or to receive a
1078 cash consideration in lieu of such benefit, either upon his
1079 withdrawal from the plan or system providing for such benefit or
1080 upon termination of such plan or system or policy of insurance or
1081 of his employment with such employer;

1082 (b) Dismissal payments which the employer is not
1083 legally required to make;

1084 (c) Payment by an employer (without deduction from
1085 the remuneration of an employee) of the tax imposed by the
1086 Internal Revenue Code, 26 USCS Section 3101;

1087 (d) From and after January 1, 1992, the amount of
1088 any payment made to or on behalf of an employee for a "cafeteria"
1089 plan, which meets the following requirements:

1090 (i) Qualifies under Section 125 of the
1091 Internal Revenue Code;

1092 (ii) Covers only employees;

1093 (iii) Covers only noncash benefits;

1094 (iv) Does not include deferred compensation
1095 plans.

1096 (2) [Not enacted].

1097 S. "Week" means calendar week or such period of seven (7)
1098 consecutive days as the department may by regulation prescribe.
1099 The department may by regulation prescribe that a week shall be
1100 deemed to be in, within, or during any benefit year which includes
1101 any part of such week.

1102 T. "Insured work" means "employment" for "employers."

1103 U. The term "includes" and "including," when used in a
1104 definition contained in this chapter, shall not be deemed to
1105 exclude other things otherwise within the meaning of the term
1106 defined.

1107 V. "Employee leasing arrangement" means any agreement
1108 between an employee leasing firm and a client, whereby specified
1109 client responsibilities such as payment of wages, reporting of
1110 wages for unemployment insurance purposes, payment of unemployment
1111 insurance contributions and other such administrative duties are
1112 to be performed by an employee leasing firm, on an ongoing basis.

1113 W. "Employee leasing firm" means any entity which provides
1114 specified duties for a client company such as payment of wages,
1115 reporting of wages for unemployment insurance purposes, payment of
1116 unemployment insurance contributions and other administrative

1117 duties, in connection with the client's employees, that are
1118 directed and controlled by the client and that are providing
1119 ongoing services for the client.

1120 X. "Temporary help firm" means an entity which hires its own
1121 employees and provides those employees to other individuals or
1122 organizations to perform some service, to support or supplement
1123 the existing work force in special situations such as employee
1124 absences, temporary skill shortages, seasonal workloads and
1125 special assignments and projects, with the expectation that the
1126 worker's position will be terminated upon the completion of the
1127 specified task or function.

1128 **SECTION 10.** Section 71-5-19, Mississippi Code of 1972, is
1129 reenacted as follows:

1130 71-5-19. (1) Whoever makes a false statement or
1131 representation knowing it to be false, or knowingly fails to
1132 disclose a material fact, to obtain or increase any benefit or
1133 other payment under this chapter or under an employment security
1134 law of any other state, of the federal government or of a foreign
1135 government, either for himself or for any other person, shall be
1136 punished by a fine of not less than One Hundred Dollars (\$100.00)
1137 nor more than Five Hundred Dollars (\$500.00), or by imprisonment
1138 for not longer than thirty (30) days, or by both such fine and
1139 imprisonment; and each such false statement or representation or
1140 failure to disclose a material fact shall constitute a separate
1141 offense.

1142 (2) Any employing unit, any officer or agent of an employing
1143 unit or any other person who makes a false statement or
1144 representation knowing it to be false, or who knowingly fails to
1145 disclose a material fact, to prevent or reduce the payment of
1146 benefits to any individual entitled thereto, or to avoid becoming
1147 or remaining subject hereto, or to avoid or reduce any
1148 contribution or other payment required from any employing unit
1149 under this chapter, or who willfully fails or refuses to make any

1150 such contribution or other payment, or to furnish any reports
1151 required hereunder or to produce or permit the inspection or
1152 copying of records as required hereunder, shall be punished by a
1153 fine of not less than One Hundred Dollars (\$100.00) nor more than
1154 One Thousand Dollars (\$1,000.00), or by imprisonment for not
1155 longer than sixty (60) days, or by both such fine and
1156 imprisonment; and each such false statement, or representation, or
1157 failure to disclose a material fact, and each day of such failure
1158 or refusal shall constitute a separate offense. In lieu of such
1159 fine and imprisonment, the employing unit or representative, or
1160 both employing unit and representative, if such representative is
1161 an employing unit in this state and is found to be a party to such
1162 violation, shall not be eligible for a contributions rate of less
1163 than five and four-tenths percent (5.4%) for the tax year in which
1164 such violation is discovered by the department and for the next
1165 two (2) succeeding tax years.

1166 (3) Any person who shall willfully violate any provision of
1167 this chapter or any other rule or regulation thereunder, the
1168 violation of which is made unlawful or the observance of which is
1169 required under the terms of this chapter and for which a penalty
1170 is neither prescribed herein nor provided by any other applicable
1171 statute, shall be punished by a fine of not less than One Hundred
1172 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),
1173 or by imprisonment for not longer than sixty (60) days, or by both
1174 such fine and imprisonment; and each day such violation continues
1175 shall be deemed to be a separate offense. In lieu of such fine
1176 and imprisonment, the employing unit or representative, or both
1177 employing unit and representative, if such representative is an
1178 employing unit in this state and is found to be a party to such
1179 violation, shall not be eligible for a contributions rate of less
1180 than five and four-tenths percent (5.4%) for the tax year in which
1181 the violation is discovered by the department and for the next two
1182 (2) succeeding tax years.

1183 (4) Any person who, by reason of the nondisclosure or
1184 misrepresentation by him or by another of a material fact,
1185 irrespective of whether such nondisclosure or misrepresentation
1186 was known or fraudulent, or who, for any other reason has received
1187 any such benefits under this chapter, while any conditions for the
1188 receipt of benefits imposed by this chapter were not fulfilled in
1189 his case, or while he was disqualified from receiving benefits,
1190 shall, in the discretion of the department, either be liable to
1191 have such sum deducted from any future benefits payable to him
1192 under this chapter or shall be liable to repay to the department
1193 for the Unemployment Compensation Fund a sum equal to the amount
1194 so received by him; and such sum shall be collectible in the
1195 manner provided in Sections 71-5-363 through 71-5-383 for the
1196 collection of past-due contributions. However, no such deduction
1197 shall be made, nor shall any action be taken for the collection of
1198 any such overpayments, after five (5) years have elapsed from the
1199 date of the receipt of the benefits at issue; and any such
1200 judgment against such person for collection of such overpayments
1201 shall not be a lien upon the property of the person for a longer
1202 period than five (5) years from the date of the filing of the
1203 lien, and any such notice of lien shall not be refiled by the
1204 department.

1205 (5) The department, by agreement with another state or the
1206 United States, as provided under Section 303(g) of the Social
1207 Security Act, may recover any overpayment of benefits paid to any
1208 individual under the laws of this state or of another state or
1209 under an unemployment benefit program of the United States. Any
1210 overpayments subject to this subsection may be deducted from any
1211 future benefits payable to the individual under the laws of this
1212 state or of another state or under an unemployment program of the
1213 United States.

1214 **SECTION 11.** Section 71-5-101, Mississippi Code of 1972, is
1215 reenacted as follows:

1216 71-5-101. There is established the Mississippi Department of
1217 Employment Security, Office of the Governor. The Department of
1218 Employment Security shall be the Mississippi Employment Security
1219 Commission and shall retain all powers and duties as granted to
1220 the Mississippi Employment Security Commission. Wherever the term
1221 "Employment Security Commission" appears in any law, the same
1222 shall mean the Mississippi Department of Employment Security,
1223 Office of the Governor. The Executive Director of the Department
1224 of Employment Security may assign to the appropriate offices such
1225 powers and duties deemed appropriate to carry out the lawful
1226 functions of the department.

1227 **SECTION 12.** Section 71-5-107, Mississippi Code of 1972, is
1228 reenacted as follows:

1229 71-5-107. The department shall administer this chapter
1230 through a full-time salaried executive director, to be appointed
1231 by the Governor, with the advice and consent of the Senate. He
1232 shall be responsible for the administration of this chapter under
1233 authority delegated to him by the Governor.

1234 **SECTION 13.** Section 71-5-109, Mississippi Code of 1972, is
1235 reenacted as follows:

1236 71-5-109. There is created a Board of Review consisting of
1237 three (3) members to be appointed by the executive director. The
1238 executive director shall designate one (1) member of the Board of
1239 Review as chairman. Each member shall be paid a salary or per
1240 diem at a rate to be determined by the executive director, and
1241 such expenses as may be allowed by the executive director. All
1242 salaries, per diem and expenses of the Board of Review shall be
1243 paid from the Employment Security Administration Fund.

1244 **SECTION 14.** Section 71-5-111, Mississippi Code of 1972, is
1245 reenacted as follows:

1246 71-5-111. There is created in the State Treasury a special
1247 fund to be known as the Employment Security Administration Fund.
1248 All monies which are deposited or paid into this fund are

1249 appropriated and made available to the department. All monies in
1250 this fund shall be expended solely for the purpose of defraying
1251 the cost of administration of this chapter, and for no other
1252 purpose whatsoever. The fund shall consist of all monies
1253 appropriated by this state and all monies received from the United
1254 States of America, or any agency thereof, or from any other source
1255 for such purpose. Notwithstanding any provision of this section,
1256 all monies requisitioned and deposited in this fund pursuant to
1257 Section 71-5-457 shall remain part of the Employment Security
1258 Administration Fund and shall be used only in accordance with the
1259 conditions specified in that section. All monies in this fund
1260 shall be deposited, administered and disbursed in the same manner
1261 and under the same conditions and requirements as is provided by
1262 law for other special funds in the State Treasury. The State
1263 Treasurer shall be liable on his official bond for the faithful
1264 performance of his duties in connection with the Employment
1265 Security Administration Fund under this chapter.

1266 **SECTION 15.** Section 71-5-112, Mississippi Code of 1972, is
1267 reenacted as follows:

1268 71-5-112. All funds received by the Mississippi Employment
1269 Security Commission shall clear through the State Treasury as
1270 provided and required by Sections 71-5-111 and 71-5-453. All
1271 expenditures from the administration fund of the department
1272 authorized by Section 71-5-111 shall be expended only pursuant to
1273 appropriation approved by the Legislature and as provided by law.

1274 **SECTION 16.** Section 71-5-113, Mississippi Code of 1972, is
1275 reenacted as follows:

1276 71-5-113. All monies received from the Social Security Board
1277 or its successors for the administration of this chapter shall be
1278 expended solely for the purposes and in the amounts found
1279 necessary by the Social Security Board or its successors for the
1280 proper and efficient administration of this chapter.

1281 It shall be the duty of the department to take appropriate
1282 action with respect to the replacement, within a reasonable time,
1283 of any monies received from the Social Security Board, or its
1284 successors, for the administration of this chapter, and monies
1285 used to match grants pursuant to the provisions of the
1286 Wagner-Peyser Act, which the board, or its successors, find,
1287 because of any action or contingency, have been lost or have been
1288 expended for purposes other than, or in amounts in excess of those
1289 found necessary by the Social Security Board, or its successors,
1290 for the proper administration of this chapter. Funds which have
1291 been expended by the department or its agents in accordance with
1292 the budget approved by the Social Security Board, or its
1293 successors, or in accordance with the general standards and
1294 limitations promulgated by the Social Security Board, or its
1295 successors, prior to such expenditure (where proposed expenditures
1296 have not been specifically disapproved by the Social Security
1297 Board, or its successors), shall not be deemed to require
1298 replacement. To effectuate the purposes of this paragraph, it
1299 shall be the duty of the department to take such action to
1300 safeguard the expenditure of the funds referred to herein as it
1301 deems necessary. In the event of a loss of such funds or an
1302 improper expenditure thereof as herein defined, it shall be the
1303 duty of the department to notify the Governor of any such loss or
1304 improper expenditure and submit to him a request for an
1305 appropriation in the amount thereof. The Governor shall transmit
1306 to the next regular session of the Legislature following such
1307 notification, the department's request for an appropriation in an
1308 amount necessary to replace funds which have been lost or
1309 improperly expended as defined above. Such request of the
1310 department for an appropriation shall not be subject to the
1311 provisions of Sections 27-103-101 through 27-103-139. The
1312 Legislature recognizes its obligation to replace such funds as may

1313 be necessary and shall make necessary appropriations in accordance
1314 with such requests.

1315 **SECTION 17.** Section 71-5-114, Mississippi Code of 1972, is
1316 reenacted as follows:

1317 71-5-114. There is created in the State Treasury a special
1318 fund, to be known as the "Special Employment Security
1319 Administration Fund," into which shall be deposited or transferred
1320 all interest, penalties and damages collected on and after July 1,
1321 1982, pursuant to Sections 71-5-363 through 71-5-379. Interest,
1322 penalties and damages collected on delinquent payments deposited
1323 during any calendar quarter in the clearing account in the
1324 Unemployment Compensation Fund shall, as soon as practicable after
1325 the close of such calendar quarter, be transferred to the Special
1326 Employment Security Administration Fund. All monies in this fund
1327 shall be deposited, administered and disbursed in the same manner
1328 and under the same conditions and requirements as is provided by
1329 law for other special funds in the State Treasury. The State
1330 Treasurer shall be liable on his official bond for the faithful
1331 performance of his duties in connection with the Special
1332 Employment Security Administration Fund under this chapter. Those
1333 monies shall not be expended or made available for expenditure in
1334 any manner which would permit their substitution for (or permit a
1335 corresponding reduction in) federal funds which would, in the
1336 absence of those monies, be available to finance expenditures for
1337 the administration of the state unemployment compensation and
1338 employment service laws. Nothing in this section shall prevent
1339 those monies in this fund from being used as a revolving fund to
1340 cover expenditures necessary and proper under the law for which
1341 federal funds have been duly requested but not yet received,
1342 subject to the charging of such expenditures against such funds
1343 when necessary. The monies in this fund may be used by the
1344 department for the payment of costs of administration of the
1345 employment security laws of this state which are found not to be

1346 or not to have been properly and validly chargeable against funds
1347 obtained from federal sources. All monies in this Special
1348 Employment Security Administration Fund shall be continuously
1349 available to the department for expenditure in accordance with the
1350 provisions of this chapter, and shall not lapse at any time. The
1351 monies in this fund are specifically made available to replace, as
1352 contemplated by Section 71-5-113, expenditures from the Employment
1353 Security Administration Fund established by Section 71-5-111,
1354 which have been found, because of any action or contingency, to
1355 have been lost or improperly expended.

1356 The department, whenever it is of the opinion that the money
1357 in the Special Employment Security Administration Fund is more
1358 than ample to pay for all foreseeable needs for which such special
1359 fund is set up, may, by written order, order the transfer
1360 therefrom to the Unemployment Compensation Fund of such amount of
1361 money in the Special Employment Security Administration Fund as it
1362 deems proper, and the same shall thereupon be immediately
1363 transferred to the Unemployment Compensation Fund.

1364 **SECTION 18.** Section 71-5-115, Mississippi Code of 1972, is
1365 reenacted as follows:

1366 71-5-115. It shall be the duty of the executive director to
1367 administer this chapter; and the executive director shall have the
1368 power and authority to adopt, amend or rescind such rules and
1369 regulations, to employ such persons, make such expenditures,
1370 require such reports, make such investigations, and take such
1371 other action as he deems necessary or suitable to that end. Such
1372 rules and regulations shall be effective upon publication in the
1373 manner, not inconsistent with the provisions of this chapter,
1374 which the executive director shall prescribe. The executive
1375 director shall determine the department's own organization and
1376 methods of procedure in accordance with the provisions of this
1377 chapter, and shall have an official seal which shall be judicially
1378 noticed. Not later than the first day of February in each year,

1379 the executive director shall submit to the Governor a report
1380 covering the administration and operation of this chapter during
1381 the preceding fiscal year and shall make such recommendations for
1382 amendments to this chapter as the executive director deems proper.
1383 Whenever the executive director believes that a change in
1384 contribution or benefit rates will become necessary to protect the
1385 solvency of the fund, he shall promptly so inform the Governor and
1386 the Legislature, and make recommendations with respect thereto.

1387 **SECTION 19.** Section 71-5-117, Mississippi Code of 1972, is
1388 reenacted as follows:

1389 71-5-117. General rules may be adopted, amended or rescinded
1390 by the executive director only after public hearing or opportunity
1391 to be heard thereon, of which proper notice has been given.
1392 General rules shall become effective ten (10) days after filing
1393 with the Secretary of State and publication in one or more
1394 newspapers of general circulation in this state. Regulations may
1395 be adopted, amended or rescinded by the executive director and
1396 shall become effective in the manner and at the time prescribed by
1397 the executive director.

1398 **SECTION 20.** Section 71-5-119, Mississippi Code of 1972, is
1399 reenacted as follows:

1400 71-5-119. The department shall cause to be printed for
1401 distribution to the public the text of this chapter, its
1402 regulations and general rules, its reports to the Governor, and
1403 any other material it deems relevant and suitable, and shall
1404 furnish the same to any person upon application therefor.

1405 **SECTION 21.** Section 71-5-121, Mississippi Code of 1972, is
1406 reenacted as follows:

1407 71-5-121. Subject to other provisions of this chapter, the
1408 executive director is authorized to appoint, fix the compensation,
1409 and prescribe the duties and powers of such officers, accountants,
1410 attorneys, experts and other persons as may be necessary in the
1411 performance of department duties; however, all personnel who were

1412 former members of the Armed Forces of the United States of America
1413 shall be given credit regardless of rate, rank or commission. All
1414 positions shall be filled by persons selected and appointed on a
1415 nonpartisan merit basis, in accordance with Section 25-9-101 et
1416 seq., that provides for a state service personnel system. The
1417 executive director shall not employ any person who is an officer
1418 or committee member of any political party organization. The
1419 executive director may delegate to any such person so appointed
1420 such power and authority as he deems reasonable and proper for the
1421 effective administration of this chapter, and may in his
1422 discretion bond any person handling monies or signing checks
1423 hereunder. The veteran status of an individual shall be
1424 considered and preference given in accordance with the provisions
1425 of the State Personnel Board.

1426 The department and its employees are exempt from Sections
1427 25-15-101 and 25-15-103.

1428 The department may use federal granted funds to provide such
1429 group health, life, accident and hospitalization insurance for its
1430 employees as may be agreed upon by the department and the federal
1431 granting authorities.

1432 The department shall adopt a "layoff formula" to be used
1433 wherever it is determined that, because of reduced workload,
1434 budget reductions or in order to effect a more economical
1435 operation, a reduction in force shall occur in any group.

1436 In establishing this formula, the department shall give
1437 effect to the principle of seniority and shall provide that
1438 seniority points may be added for disabled veterans and veterans,
1439 with due regard to the efficiency of the service. Any such layoff
1440 formula shall be implemented according to the policies, rules and
1441 regulations of the State Personnel Board.

1442 **SECTION 22.** Section 71-5-123, Mississippi Code of 1972, is
1443 reenacted as follows:

1444 71-5-123. The executive director shall retain all powers and
1445 duties as granted to the state advisory council appointed by the
1446 former Employment Security Commission. The executive director may
1447 appoint local advisory councils, composed in each case of an equal
1448 number of employer representatives and employee representatives
1449 who may fairly be regarded as representative because of their
1450 vocation, employment or affiliations, and of such members
1451 representing the general public as the executive director may
1452 designate. Such councils shall aid the department in formulating
1453 policies and discussing problems related to the administration of
1454 this chapter and in assuring impartiality and freedom from
1455 political influence in the solution of such problems. Members of
1456 the advisory councils shall receive a per diem in accordance with
1457 Section 25-3-69 for attendance upon meetings of the council, and
1458 shall be reimbursed for actual and necessary traveling expenses.
1459 The per diem and expenses herein authorized shall be paid from the
1460 Employment Security Administration Fund.

1461 **SECTION 23.** Section 71-5-125, Mississippi Code of 1972, is
1462 reenacted as follows:

1463 71-5-125. The department shall take all appropriate steps to
1464 reduce and prevent unemployment; to encourage and assist in the
1465 adoption of practical methods of vocational training, retraining
1466 and vocational guidance; to investigate, recommend, advise and
1467 assist in the establishment and operation, by municipalities,
1468 counties, school districts and the state, of reserves for public
1469 works to be used in times of business depression and unemployment;
1470 to promote the reemployment of unemployed workers throughout the
1471 state in every other way that may be feasible; and to these ends
1472 to carry on and publish the results of investigation and research
1473 studies.

1474 **SECTION 24.** Section 71-5-127, Mississippi Code of 1972, is
1475 reenacted as follows:

1476 71-5-127. Each employing unit shall keep true and accurate
1477 work records, containing such information as the department may
1478 prescribe. Such records shall be open to inspection and be
1479 subject to being copied by the department or its authorized
1480 representatives at any reasonable time and as often as may be
1481 necessary. The department, Board of Review and any referee may
1482 require from any employing unit any sworn or unsworn reports with
1483 respect to persons employed by it which they or any of them deem
1484 necessary for the effective administration of this chapter.
1485 Information thus obtained or obtained from any individual pursuant
1486 to the administration of this chapter shall, except to the extent
1487 necessary for the proper administration of this chapter, be held
1488 confidential and shall not be published or be opened to public
1489 inspection (other than to public employees in the performance of
1490 their public duties) in any manner revealing the individual's or
1491 employing unit's identity, but any claimant (or his legal
1492 representative) at a hearing before an appeal tribunal or the
1493 Board of Review shall be supplied with information from such
1494 records to the extent necessary for the proper presentation of his
1495 claim. Any employee or member of the Board of Review or any
1496 employee of the department who violates any provisions of this
1497 section shall be fined not less than Twenty Dollars (\$20.00) nor
1498 more than Two Hundred Dollars (\$200.00), or imprisoned for not
1499 longer than ninety (90) days, or both. The department may make
1500 the state's records relating to the administration of this chapter
1501 available to the Railroad Retirement Board, and may furnish the
1502 Railroad Retirement Board, at the expense of such board, such
1503 copies thereof as the Railroad Retirement Board deems necessary
1504 for its purposes. The department may afford reasonable
1505 cooperation with every agency of the United States charged with
1506 the administration of any unemployment insurance law.

1507 **SECTION 25.** Section 71-5-129, Mississippi Code of 1972, is
1508 reenacted as follows:

1509 71-5-129. Records hereinafter designated, which are found by
1510 the department to be useless, may be disposed of in accordance
1511 with approved records control schedules.

1512 (a) Records which have been preserved by it for not
1513 less than three (3) years:

- 1514 (1) Initial claims for benefits,
- 1515 (2) Continued claims for benefits,
- 1516 (3) Correspondence and master index cards in
1517 connection with such claims for benefits, and
- 1518 (4) Individual wage slips filed by employers
1519 subject to the provisions of the Unemployment Compensation Law.

1520 (b) Records which have been preserved by it for not
1521 less than six (6) months after becoming inactive:

- 1522 (1) Work applications,
- 1523 (2) Cross-index cards for work applications,
- 1524 (3) Test records,
- 1525 (4) Employer records,
- 1526 (5) Work orders,
- 1527 (6) Clearance records,
- 1528 (7) Counseling records,
- 1529 (8) Farm placement records, and
- 1530 (9) Correspondence relating to all such records.

1531 Nothing herein contained shall be construed as authorizing
1532 the destruction or disposal of basic fiscal records reflecting the
1533 financial operations of the department and no records may be
1534 destroyed without the approval of the Director of the Department
1535 of Archives and History.

1536 **SECTION 26.** Section 71-5-131, Mississippi Code of 1972, is
1537 reenacted as follows:

1538 71-5-131. All letters, reports, communications, or any other
1539 matters, either oral or written, from the employer or employee to
1540 each other or to the department or any of its agents,
1541 representatives or employees, which shall have been written, sent,

1542 delivered or made in connection with the requirements and
1543 administration of this chapter shall be absolutely privileged and
1544 shall not be made the subject matter or basis of any suit for
1545 slander or libel in any court of the State of Mississippi unless
1546 the same be false in fact and maliciously written, sent, delivered
1547 or made for the purpose of causing a denial of benefits under this
1548 chapter.

1549 **SECTION 27.** Section 71-5-133, Mississippi Code of 1972, is
1550 reenacted as follows:

1551 71-5-133. In any case where an employing unit or any
1552 officer, member or agent thereof, or any other person having
1553 possession of the records thereof, shall fail or refuse upon
1554 demand by the department or its duly appointed agents to produce
1555 or permit the examination or copying of any book, paper, account,
1556 record or other data pertaining to payrolls or employment or
1557 ownership of interests or stock in any employing unit, or bearing
1558 upon the correctness of any report, or for the purpose of making a
1559 report as required by this chapter where none has been made, then
1560 and in that event the department or its duly authorized agents
1561 may, by the issuance of a subpoena, require the attendance of such
1562 employing unit or any officer, member or agent thereof, or any
1563 other person having possession of the records thereof, and take
1564 testimony with respect to any such matter and may require any such
1565 person to produce any books or records specified in such subpoena.
1566 The department or its authorized agents at any such hearing shall
1567 have power to administer oaths to any such person or persons.
1568 When any person called as a witness by a subpoena signed by the
1569 department or its agents and served upon him by the sheriff of a
1570 county of which such person is a resident, or wherein is located
1571 the principal office of such employing unit or wherein such
1572 records are located or kept, shall fail to obey such subpoena to
1573 appear before the department or its authorized agent, or shall
1574 refuse to testify or to answer any questions or to produce any

1575 book, record, paper or other data when required to do so, such
1576 failure or refusal shall be reported to the Attorney General, who
1577 shall thereupon institute proceedings by the filing of a petition
1578 in the name of the State of Mississippi, on the relation of the
1579 department, in the circuit court or other court of competent
1580 jurisdiction of the county where such witness resides, or wherein
1581 such records are located or kept, to compel the obedience of such
1582 witness. Such petition shall set forth the facts and
1583 circumstances of the demand for and refusal or failure to permit
1584 the examination or copying of such records, or the failure or
1585 refusal of such witness to testify in answer to such subpoena or
1586 to produce the records so required by such subpoena. Such court,
1587 upon the filing and docketing of such petition, shall thereupon
1588 promptly issue an order to the defendants named in the petition to
1589 produce forthwith in such court, or at a place in such county
1590 designated in such order for the examination or copying by the
1591 department or its duly appointed agents, the records, books or
1592 documents so described, and to testify concerning matters
1593 described in such petition. Unless such defendants to such
1594 petition shall appear in the court upon a day specified in such
1595 order, which day shall be not more than ten (10) days after the
1596 date of issuance of such order, and offer, under oath, good and
1597 sufficient reasons why such examination or copying should not be
1598 permitted, or why such subpoena should not be obeyed, such court
1599 shall thereupon deliver to the department or its agents, for
1600 examination or copying, the records, books and documents so
1601 described in the petition and so produced in such court, and shall
1602 order the defendants to appear in answer to the subpoena of the
1603 department or its agents, and to testify concerning matters
1604 inquired about by the department. Any employing unit or any
1605 officer, member or agent thereof, or any other person having
1606 possession of the records thereof, who shall willfully disobey
1607 such order of the court after the same shall have been served upon

1608 him shall be guilty of indirect contempt of such court from which
1609 such order shall have issued, and may be adjudged in contempt of
1610 the court and punished therefor as provided by law.

1611 **SECTION 28.** Section 71-5-135, Mississippi Code of 1972, is
1612 reenacted as follows:

1613 71-5-135. If any employing unit fails to make any report
1614 required by this chapter, the department or its authorized agents
1615 shall give written notice by mail to such employing unit to make
1616 and file such report within fifteen (15) days from the date of
1617 such notice. If such employing unit, by its proper members,
1618 officers or agents, shall fail or refuse to make and file such
1619 reports within such time, then and in that event such report shall
1620 be made by the department or its authorized agents from the best
1621 information available, and the amount of contributions due shall
1622 be computed thereon; and such report shall be prima facie correct
1623 for the purposes of this chapter.

1624 **SECTION 29.** Section 71-5-137, Mississippi Code of 1972, is
1625 reenacted as follows:

1626 71-5-137. In the discharge of the duties imposed by this
1627 chapter, the department, any referee, the members of the Board of
1628 Review, and any duly authorized representative of any of them
1629 shall have power to administer oaths and affirmations, to take
1630 depositions, certify to official acts, and issue subpoenas to
1631 compel the attendance of witnesses and the production of books,
1632 papers, correspondence, memoranda and other records deemed
1633 necessary as evidence in connection with a disputed claim or the
1634 administration of this chapter.

1635 **SECTION 30.** Section 71-5-139, Mississippi Code of 1972, is
1636 reenacted as follows:

1637 71-5-139. In case of contumacy or refusal to obey a subpoena
1638 issued to any person, any court in this state within the
1639 jurisdiction of which the inquiry is carried on, or within the
1640 jurisdiction of which the person guilty of contumacy or refusal to

1641 obey is found or resides or transacts business, upon application
1642 by the department, the Board of Review, any referee, or any duly
1643 authorized representative of any of them, shall have jurisdiction
1644 to issue to such person an order requiring such person to appear
1645 before the department, the Board of Review, any referee, or any
1646 duly authorized representative of any of them, there to produce
1647 evidence if so ordered or there to give testimony touching the
1648 matter under investigation or in question. Any failure to obey
1649 such order of the court may be punished by the court as a contempt
1650 thereof. Any person who shall, without just cause, fail or refuse
1651 to attend and testify or to answer any lawful inquiry or to
1652 produce books, papers, correspondence, memoranda and other records
1653 if it is in his power so to do, in obedience to a subpoena of the
1654 department, the Board of Review, any referee, or any duly
1655 authorized representative of any of them, shall be punished by a
1656 fine of not more than Two Hundred Dollars (\$200.00), or by
1657 imprisonment for not longer than sixty (60) days, or by both such
1658 fine and imprisonment; and each day such violation continues shall
1659 be deemed to be a separate offense.

1660 **SECTION 31.** Section 71-5-141, Mississippi Code of 1972, is
1661 reenacted as follows:

1662 71-5-141. No person shall be excused from attending and
1663 testifying or from producing books, papers, correspondence,
1664 memoranda and other records before the department, the Board of
1665 Review, any referee, or any duly authorized representative of any
1666 of them, or in obedience to the subpoena of any of them in any
1667 cause or proceeding before the department, the Board of Review or
1668 an appeal tribunal, on the ground that the testimony or evidence,
1669 documentary or otherwise, required of him may tend to incriminate
1670 him or subject him to a penalty or forfeiture; but no individual
1671 shall be prosecuted or subjected to any penalty or forfeiture for
1672 or on account of any transaction, matter or thing concerning which
1673 he is compelled, after having claimed his privilege against

1674 self-incrimination, to testify or produce evidence, documentary or
1675 otherwise, except that such individual so testifying shall not be
1676 exempt from prosecution and punishment for perjury committed in so
1677 testifying.

1678 **SECTION 32.** Section 71-5-143, Mississippi Code of 1972, is
1679 reenacted as follows:

1680 71-5-143. In the administration of this chapter, the
1681 department shall cooperate, to the fullest extent consistent with
1682 the provisions of this chapter, with the Social Security Board
1683 created by the Social Security Act, approved August 14, 1935, as
1684 amended; shall make such reports in such form and containing such
1685 information as the Social Security Board may from time to time
1686 require, and shall comply with such provisions as the Social
1687 Security Board may from time to time find necessary to assure the
1688 correctness and verification of such reports; and shall comply
1689 with the reasonable, valid and lawful regulations prescribed by
1690 the Social Security Board pursuant to and under the authority of
1691 the Social Security Act, governing the expenditures of such sums
1692 as may be allotted and paid to this state under Title III of the
1693 Social Security Act, as amended, for the purpose of assisting in
1694 the administration of this chapter.

1695 Upon request therefor, the department shall furnish to any
1696 agency of the United States charged with the administration of
1697 public works, or assistance through public employment, the name,
1698 address, ordinary occupation and employment status of each
1699 recipient of benefits, and such recipient's rights to further
1700 benefits under this chapter.

1701 **SECTION 33.** Section 71-5-201, Mississippi Code of 1972, is
1702 reenacted as follows:

1703 71-5-201. The Mississippi State Employment Service is
1704 established in the Mississippi Department of Employment Security,
1705 Office of the Governor. The department, in the conduct of such
1706 service, shall establish and maintain free public employment

1707 offices in such number and in such places as may be necessary for
1708 the proper administration of this article and for the purpose of
1709 performing such functions as are within the purview of the act of
1710 Congress entitled "An act to provide for the establishment of a
1711 national employment system and for cooperation with the states in
1712 the promotion of such system, and for other purposes" (29 USCS
1713 Section 49 et seq.). Any existing free public employment offices
1714 maintained by the state but not heretofore under the jurisdiction
1715 of the department shall be transferred to the jurisdiction of the
1716 department, and upon such transfer all duties and powers conferred
1717 upon any other department, agency or officers of this state
1718 relating to the establishment, maintenance and operation of free
1719 public employment offices shall be vested in the department. The
1720 Mississippi State Employment Service shall be administered by the
1721 department, which is charged with the duty to cooperate with any
1722 official or agency of the United States having powers or duties
1723 under the provisions of the act of Congress, as amended, and to do
1724 and perform all things necessary to secure to this state the
1725 benefits of that act of Congress, as amended, in the promotion and
1726 maintenance of a system of public employment offices. The
1727 provisions of that act of Congress, as amended, are accepted by
1728 this state, in conformity with 29 USCS Section 49c, and this state
1729 will observe and comply with the requirements thereof. The
1730 department is designated and constituted the agency of this state
1731 for the purposes of that act. The department may cooperate with
1732 or enter into agreements with the Railroad Retirement Board or
1733 veteran's organization with respect to the establishment,
1734 maintenance and use of free employment service facilities.

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

1737 71-5-357. Benefits paid to employees of nonprofit
1738 organizations shall be financed in accordance with the provisions
1739 of this section. For the purpose of this section, a nonprofit

1740 organization is an organization (or group of organizations)
1741 described in Section 501(c)(3) of the Internal Revenue Code of
1742 1954 which is exempt from income tax under Section 501(a) of such
1743 code (26 USCS Section 501).

1744 (a) Any nonprofit organization which, under Section
1745 71-5-11, subsection I(3), is or becomes subject to this chapter
1746 shall pay contributions under the provisions of Sections 71-5-351
1747 through 71-5-355 unless it elects, in accordance with this
1748 paragraph, to pay to the department for the unemployment fund an
1749 amount equal to the amount of regular benefits and one-half (1/2)
1750 of the extended benefits paid, that is attributable to service in
1751 the employ of such nonprofit organization, to individuals for
1752 weeks of unemployment which begin during the effective period of
1753 such election.

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

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

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

1772 contributions. Such election shall not be terminable by the
1773 organization for that and the next tax year.

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

1778 (v) The department, in accordance with such
1779 regulations as it may prescribe, shall notify each nonprofit
1780 organization of any determination which it may make of its status
1781 as an employer, of the effective date of any election which it
1782 makes and of any termination of such election. Such
1783 determinations shall be subject to reconsideration, appeal and
1784 review in accordance with the provisions of Sections 71-5-351
1785 through 71-5-355.

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

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

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

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

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

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

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

1837 other than Clause 5 thereof. Benefits paid in such circumstances
1838 for which reimbursing employers are relieved of liability for
1839 reimbursement shall not be considered attributable to service in
1840 the employment of such reimbursing employer.

1841 (v) The amount due specified in any bill from the
1842 department shall be conclusive on the organization unless, not
1843 later than fifteen (15) days after the bill was mailed to its last
1844 known address or otherwise delivered to it, the organization files
1845 an application for redetermination by the department, setting
1846 forth the grounds for such application or appeal. The department
1847 shall promptly review and reconsider the amount due specified in
1848 the bill and shall thereafter issue a redetermination in any case
1849 in which such application for redetermination has been filed. Any
1850 such redetermination shall be conclusive on the organization
1851 unless, not later than fifteen (15) days after the redetermination
1852 was mailed to its last known address or otherwise delivered to it,
1853 the organization files an appeal to the Circuit Court of the First
1854 Judicial District of Hinds County, Mississippi, in accordance with
1855 the provisions of law with respect to review of civil causes by
1856 certiorari.

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

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

1870 provisions of subparagraph (i) or subparagraph (ii) of this
1871 paragraph.

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

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

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

1898 (i) The amount of the bond or deposit required by
1899 paragraph (d) shall be equal to two and seven-tenths percent
1900 (2.7%) of the organization's taxable wages paid for employment as
1901 defined in Section 71-5-11, subsection J(4), for the four (4)
1902 calendar quarters immediately preceding the effective date of the

1903 election, the renewal date in the case of a bond, or the biennial
1904 anniversary of the effective date of election in the case of a
1905 deposit of money or securities, whichever date shall be most
1906 recent and applicable. If the nonprofit organization did not pay
1907 wages in each of such four (4) calendar quarters, the amount of
1908 the bond or deposit shall be as determined by the department.

1909 (ii) Any bond deposited under paragraph (d) shall
1910 be in force for a period of not less than two (2) tax years and
1911 shall be renewed with the approval of the department at such times
1912 as the department may prescribe, but not less frequently than at
1913 intervals of two (2) years as long as the organization continues
1914 to be liable for payments in lieu of contributions. The
1915 department shall require adjustments to be made in a previously
1916 filed bond as it deems appropriate. If the bond is to be
1917 increased, the adjusted bond shall be filed by the organization
1918 within thirty (30) days of the date notice of the required
1919 adjustment was mailed or otherwise delivered to it. Failure by
1920 any organization covered by such bond to pay the full amount of
1921 payments in lieu of contributions when due, together with any
1922 applicable interest and penalties provided in paragraph (b)(v) of
1923 this section, shall render the surety liable on the bond to the
1924 extent of the bond, as though the surety was such organization.

1925 (iii) Any deposit of money or securities in
1926 accordance with paragraph (d) shall be retained by the department
1927 in an escrow account until liability under the election is
1928 terminated, at which time it shall be returned to the
1929 organization, less any deductions as hereinafter provided. The
1930 department may deduct from the money deposited under paragraph (d)
1931 by a nonprofit organization, or sell the securities it has so
1932 deposited, to the extent necessary to satisfy any due and unpaid
1933 payments in lieu of contributions and any applicable interest and
1934 penalties provided for in paragraph (b)(v) of this section. The
1935 department shall require the organization, within thirty (30) days

1936 following any deduction from a money deposit or sale of deposited
1937 securities under the provisions hereof, to deposit sufficient
1938 additional money or securities to make whole the organization's
1939 deposit at the prior level. Any cash remaining from the sale of
1940 such securities shall be a part of the organization's escrow
1941 account. The department may, at any time, review the adequacy of
1942 the deposit made by any organization. If, as a result of such
1943 review, it determines that an adjustment is necessary, it shall
1944 require the organization to make additional deposit within thirty
1945 (30) days of written notice of its determination or shall return
1946 to it such portion of the deposit as it no longer considers
1947 necessary, whichever action is appropriate. Disposition of income
1948 from securities held in escrow shall be governed by the applicable
1949 provisions of the state law.

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

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

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

1969 Unemployment Compensation Fund is reimbursed for such benefits
1970 pursuant to Section 121 of Public Law 94-566.

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

1973 71-5-359. (1) (a) Before January 1, 1978, each state board
1974 or other instrumentality of this state or one or more other states
1975 covered under Section 71-5-11, subsection I(3), shall pay
1976 contributions under the provisions of Sections 71-5-351 through
1977 71-5-355 for all of the hospitals or institutions of higher
1978 learning under its jurisdiction unless it elects, in the same
1979 manner and under the same conditions as provided for nonprofit
1980 organizations in subsections (a), (b) and (c) of Section 71-5-357,
1981 to pay to the department for the unemployment fund an amount equal
1982 to the regular benefits and one-half (1/2) of the extended
1983 benefits paid that are attributable to service in the employ of
1984 such hospitals or institutions. When an election is made, the
1985 amounts required to be paid in lieu of contributions shall be
1986 billed and payment made as provided in Section 71-5-357 with
1987 respect to similar payments by nonprofit organizations. A state
1988 board having jurisdiction over two (2) or more state-owned
1989 hospitals or state-owned institutions of higher learning shall be
1990 treated as a single employer for the employment in all of those
1991 hospitals or institutions of higher learning for purposes of
1992 computing contribution rates and payment of contributions, or for
1993 purposes of reimbursing the fund, unless it elects, in accordance
1994 with this section, to have one or more of those hospitals or
1995 institutions of higher learning treated as a separate employer.

1996 (b) A state board may elect to have one or more
1997 state-owned hospitals or one or more state-owned institutions of
1998 higher learning under its jurisdiction treated as a separate
1999 employer for the purposes of this section, provided it files with
2000 the department, not later than thirty (30) days prior to the
2001 beginning of any tax year, a written notice of such election. Any

2002 such election shall be effective throughout such tax year, and
2003 shall continue in effect unless the state board files with the
2004 department a written notice of termination of such election not
2005 less than thirty (30) days prior to the beginning of the tax year
2006 for which such termination is to be effective.

2007 (2) (a) From January 1, 1978, through December 31, 1978,
2008 the Commission of Budget and Accounting shall, in the manner
2009 provided in subsection (2)(c) of this section, pay, upon warrant
2010 issued by the State Auditor of Public Accounts, to the department
2011 for the Unemployment Compensation Fund an amount equal to the
2012 regular benefits and one-half (1/2) of the extended benefits paid
2013 that are attributable to service in the employ of a state agency.
2014 The amount required to be reimbursed by a certain agency shall be
2015 billed to the Commission of Budget and Accounting and shall be
2016 paid from the Employment Compensation Revolving Fund pursuant to
2017 subsection (2)(c) of this section not later than thirty (30) days
2018 after such bill was mailed, unless there has been an application
2019 for review and redetermination in accordance with Section
2020 71-5-357(b)(v).

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

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

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

2057 (d) From January 1, 1978, through December 31, 1978,
2058 any political subdivision of this state shall pay to the
2059 department for the unemployment fund an amount equal to the
2060 regular benefits and one-half (1/2) of the extended benefits paid
2061 that are attributable to service in the employ of such political
2062 subdivision unless it elects to make contributions to the
2063 unemployment fund as provided in subsection (2)(j) of this
2064 section. The amount required to be reimbursed shall be billed and
2065 shall be paid as provided in Section 71-5-357, with respect to
2066 similar payments for nonprofit organizations.

2067 (e) On and after January 1, 1979, any political
2068 subdivision of this state shall pay to the department for the
2069 unemployment fund an amount equal to the regular benefits and the
2070 extended benefits paid that are attributable to service in the
2071 employ of such political subdivision unless it elects to make
2072 contributions to the unemployment fund as provided in subsection
2073 (2)(j) of this section. The amount required to be reimbursed
2074 shall be billed and shall be paid as provided in Section 71-5-357,
2075 with respect to similar payments for nonprofit organizations.

2076 (f) Each political subdivision unless it elects to make
2077 contributions to the unemployment fund as provided in subsection
2078 (2)(j) of this section, shall establish a revolving fund and
2079 deposit therein monthly for a period of twenty-four (24) months an
2080 amount equal to one-twelfth of one percent (1/12 of 1%) of the
2081 first Six Thousand Dollars (\$6,000.00) paid to each employee
2082 thereof during the next preceding year plus an amount each month
2083 equal to one-third (1/3) of any reimbursement paid to the
2084 department for the next preceding quarter. After January 1, 1980,
2085 the balance in the revolving fund shall be maintained at an amount
2086 not less than two percent (2%) of the covered wages paid during
2087 the next preceding year. However, the department shall by
2088 regulation establish a procedure to allow reimbursing political
2089 subdivisions to elect to maintain the balance in the revolving
2090 fund as required under this paragraph or to annually execute a
2091 surety bond to be approved by the department in an amount not less
2092 than two percent (2%) of the covered wages paid during the next
2093 preceding year.

2094 (g) In the event any political subdivision becomes
2095 delinquent in payments due under this chapter, upon due notice,
2096 and upon certification of the delinquency by the department to the
2097 Department of Finance and Administration, the State Tax
2098 Commission, the Department of Environmental Quality and the
2099 Department of Insurance, or any of them, such agencies shall

2100 direct the issuance of warrants which in the aggregate shall be
2101 the amount of such delinquency payable to the department and drawn
2102 upon any funds in the State Treasury which may be available to
2103 such political subdivision in satisfaction of any such
2104 delinquency. This remedy shall be in addition to any other
2105 collection remedies in this chapter or otherwise provided by law.

2106 (h) Payments made by any political subdivision under
2107 the provisions of this section shall not be deducted or
2108 deductible, in whole or in part, from the remuneration of
2109 individuals in the employ of the organization.

2110 (i) Any governmental entity shall not be liable to make
2111 payments to the unemployment fund with respect to the benefits
2112 paid to any individual whose base-period wages include wages for
2113 previously uncovered services as defined in Section 71-5-511,
2114 subsection (e), to the extent that the Unemployment Compensation
2115 Fund is reimbursed for such benefits pursuant to Section 121 of
2116 Public Law 94-566.

2117 (j) Any political subdivision of this state may elect
2118 to make contributions to the unemployment fund instead of making
2119 reimbursement for benefits paid as provided in subsections (2)(d),
2120 (e) and (f) of this section. A political subdivision which makes
2121 this election shall so notify the department, not later than July
2122 1, 1978; and shall be subject to the provisions of Section
2123 71-5-351, with regard to the payment of contributions. A
2124 political subdivision which makes this election shall pay
2125 contributions equal to two percent (2%) of wages paid by it during
2126 each calendar quarter it is subject to this chapter. The
2127 department shall by regulation establish a procedure to allow
2128 political subdivisions the option periodically to elect either the
2129 reimbursement or the contribution method of financing unemployment
2130 compensation coverage.

2131 **SECTION 36.** Section 71-5-451, Mississippi Code of 1972, is
2132 reenacted as follows:

2133 71-5-451. There is established as a special fund, separate
2134 and apart from all public monies or funds of this state, an
2135 Unemployment Compensation Fund, which shall be administered by the
2136 department exclusively for:

2137 (a) All contributions collected under this chapter;

2138 (b) Interest earned upon any monies in the fund;

2139 (c) Any property or securities acquired through the use
2140 of monies belonging to the fund;

2141 (d) All earnings of such property or securities;

2142 (e) All monies credited to this state's account in the
2143 Unemployment Trust Fund pursuant to the Social Security Act, 42
2144 USCS, Section 1104; and

2145 (f) By way of reimbursement in accordance with Section
2146 204 of the Federal-State Extended Unemployment Compensation Act of
2147 1970 (84 Stat. 711). All monies in the fund shall be mingled and
2148 undivided.

2149 **SECTION 37.** Section 71-5-457, Mississippi Code of 1972, is
2150 reenacted as follows:

2151 71-5-457. (1) Except as otherwise provided in subsection
2152 (5), money credited to the account of this state in the
2153 Unemployment Trust Fund by the Secretary of the Treasury of the
2154 United States of America pursuant to the Social Security Act, 42
2155 USCS Section 1103, may be requisitioned and used for the payment
2156 of expenses incurred for the administration of this law pursuant
2157 to a specific appropriation by the Legislature, provided that the
2158 expenses are incurred and the money is requisitioned after the
2159 enactment of an appropriation law which:

2160 (a) Specifies the purposes for which such money is
2161 appropriated and the amounts appropriated therefor;

2162 (b) Limits the period within which such money may be
2163 obligated to a period ending not more than two (2) years after the
2164 date of the enactment of the appropriation law; and

2165 (c) Limits the amount which may be obligated during a
2166 twelve-month period beginning on July 1 and ending on the next
2167 June 30 to an amount which does not exceed the amount by which:

2168 (i) The aggregate of the amounts credited to the
2169 account of this state pursuant to the Social Security Act, 42 USCS
2170 Section 1103, during the same twelve-month period and the
2171 thirty-four (34) preceding twelve-month periods exceeds.

2172 (ii) The aggregate of the amounts obligated
2173 pursuant to this section and charged against the amounts credited
2174 to the account of this state during such thirty-five (35)
2175 twelve-month periods.

2176 For the purposes of this section, amounts obligated during
2177 any such twelve-month period shall be charged against equivalent
2178 amounts which were first credited and which are not already so
2179 charged; except that no amount obligated for administration during
2180 any such twelve-month period may be charged against any amount
2181 credited during such a twelve-month period earlier than the
2182 thirty-fourth preceding such period.

2183 (2) Money credited to the account of this state pursuant to
2184 the Social Security Act, 42 USCS Section 1103, may not be
2185 withdrawn or used except for the payment of benefits and for the
2186 payment of expenses for the administration of this law and of
2187 public employment offices pursuant to this section.

2188 (3) Money appropriated as provided herein for the payment of
2189 expenses of administration shall be requisitioned as needed for
2190 the payment of obligations incurred under such appropriation and,
2191 upon requisition, shall be deposited in the Employment Security
2192 Administration Fund, from which such payments shall be made.
2193 Money so deposited shall, until expended, remain a part of the
2194 Unemployment Compensation Fund and, if it will not be expended,
2195 shall be returned promptly to the account of this state in the
2196 Unemployment Trust Fund.

2197 (4) The thirty-five-year limitation provided in this section
2198 is no longer in force, effective October 1, 1991.

2199 (5) Notwithstanding subsection (1), monies credited with
2200 respect to federal fiscal years 1999, 2000 and 2001 shall be used
2201 by the department solely for the administration of the
2202 unemployment compensation program.

2203 **SECTION 38.** Section 71-5-511, Mississippi Code of 1972, is
2204 reenacted as follows:

2205 71-5-511. An unemployed individual shall be eligible to
2206 receive benefits with respect to any week only if the department
2207 finds that:

2208 (a) (i) He has registered for work at and thereafter
2209 has continued to report to an employment office in accordance with
2210 such regulations as the department may prescribe; except that the
2211 department may, by regulation, waive or alter either or both of
2212 the requirements of this subparagraph as to such types of cases or
2213 situations with respect to which it finds that compliance with
2214 such requirements would be oppressive or would be inconsistent
2215 with the purposes of this chapter; and

2216 (ii) He participates in reemployment services,
2217 such as job search assistance services, if, in accordance with a
2218 profiling system established by the department, it has been
2219 determined that he is likely to exhaust regular benefits and needs
2220 reemployment services, unless the department determines that:

2221 1. The individual has completed such
2222 services; or

2223 2. There is justifiable cause for the
2224 claimant's failure to participate in such services.

2225 (b) He has made a claim for benefits in accordance with
2226 the provisions of Section 71-5-515 and in accordance with such
2227 regulations as the department may prescribe thereunder.

2228 (c) He is able to work and is available for work.

2229 (d) He has been unemployed for a waiting period of one
2230 (1) week. No week shall be counted as a week of unemployment for
2231 the purposes of this subsection:

2232 (i) Unless it occurs within the benefit year which
2233 includes the week with respect to which he claims payment of
2234 benefits;

2235 (ii) If benefits have been paid with respect
2236 thereto;

2237 (iii) Unless the individual was eligible for
2238 benefits with respect thereto, as provided in Sections 71-5-511
2239 and 71-5-513, except for the requirements of this subsection.

2240 (e) For weeks beginning on or before July 1, 1982, he
2241 has, during his base period, been paid wages for insured work
2242 equal to not less than thirty-six (36) times his weekly benefit
2243 amount; he has been paid wages for insured work during at least
2244 two (2) quarters of his base period; and he has, during that
2245 quarter of his base period in which his total wages were highest,
2246 been paid wages for insured work equal to not less than sixteen
2247 (16) times the minimum weekly benefit amount. For benefit years
2248 beginning after July 1, 1982, he has, during his base period, been
2249 paid wages for insured work equal to not less than forty (40)
2250 times his weekly benefit amount; he has been paid wages for
2251 insured work during at least two (2) quarters of his base period,
2252 and he has, during that quarter of his base period in which his
2253 total wages were highest, been paid wages for insured work equal
2254 to not less than twenty-six (26) times the minimum weekly benefit
2255 amount. For purposes of this subsection, wages shall be counted
2256 as "wages for insured work" for benefit purposes with respect to
2257 any benefit year only if such benefit year begins subsequent to
2258 the date on which the employing unit by which such wages were paid
2259 has satisfied the conditions of Section 71-5-11, subsection I, or
2260 Section 71-5-361, subsection (3), with respect to becoming an
2261 employer.

2262 (f) No individual may receive benefits in a benefit
2263 year unless, subsequent to the beginning of the next preceding
2264 benefit year during which he received benefits, he performed
2265 service in "employment" as defined in Section 71-5-11, subsection
2266 J, and earned remuneration for such service in an amount equal to
2267 not less than eight (8) times his weekly benefit amount applicable
2268 to his next preceding benefit year.

2269 (g) Benefits based on service in employment defined in
2270 Section 71-5-11, subsection J(3) and J(4), and Section 71-5-361,
2271 subsection (4) shall be payable in the same amount, on the same
2272 terms, and subject to the same conditions as compensation payable
2273 on the basis of other service subject to this chapter, except that
2274 benefits based on service in an instructional, research or
2275 principal administrative capacity in an institution of higher
2276 learning (as defined in Section 71-5-11, subsection O) with
2277 respect to service performed prior to January 1, 1978, shall not
2278 be paid to an individual for any week of unemployment which begins
2279 during the period between two (2) successive academic years, or
2280 during a similar period between two (2) regular terms, whether or
2281 not successive, or during a period of paid sabbatical leave
2282 provided for in the individual's contract, if the individual has a
2283 contract or contracts to perform services in any such capacity for
2284 any institution or institutions of higher learning for both such
2285 academic years or both such terms.

2286 (h) Benefits based on service in employment defined in
2287 Section 71-5-11, subsection J(3) and J(4), shall be payable in the
2288 same amount, on the same terms and subject to the same conditions
2289 as compensation payable on the basis of other service subject to
2290 this chapter; except that:

2291 (i) With respect to service performed in an
2292 instructional, research or principal administrative capacity for
2293 an educational institution, benefits shall not be paid based on
2294 such services for any week of unemployment commencing during the

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

2307 (ii) With respect to services performed in any
2308 other capacity for an educational institution, benefits shall not
2309 be paid on the basis of such services to any individual for any
2310 week which commences during a period between two (2) successive
2311 academic years or terms, if such individual performs such services
2312 in the first of such academic years or terms and there is a
2313 reasonable assurance that such individual will perform such
2314 services in the second of such academic years or terms, except
2315 that if compensation is denied to any individual under this
2316 subparagraph and such individual was not offered an opportunity to
2317 perform such services for the educational institution for the
2318 second of such academic years or terms, such individual shall be
2319 entitled to a retroactive payment of compensation for each week
2320 for which the individual filed a timely claim for compensation and
2321 for which compensation was denied solely by reason of this clause.
2322 In no event shall benefits be paid unless the individual employee
2323 was terminated by the employer.

2324 (iii) With respect to services described in
2325 subsection (h)(i) and (ii), benefits shall not be payable on the
2326 basis of services in any such capacities to any individual for any
2327 week which commences during an established and customary vacation

2328 period or holiday recess if such individual performs such services
2329 in the first of such academic years or terms, or in the period
2330 immediately before such vacation period or holiday recess, and
2331 there is a reasonable assurance that such individual will perform
2332 such services in the period immediately following such vacation
2333 period or holiday recess.

2334 (iv) With respect to any services described in
2335 subsection (h)(i) and (ii), benefits shall not be payable on the
2336 basis of services in any such capacities as specified in
2337 subsection (h)(i), (ii) and (iii) to any individual who performed
2338 such services in an educational institution while in the employ of
2339 an educational service agency. For purposes of this subsection,
2340 the term "educational service agency" means a governmental agency
2341 or governmental entity which is established and operated
2342 exclusively for the purpose of providing such services to one or
2343 more educational institutions.

2344 (v) With respect to services to which Sections
2345 71-5-357 and 71-5-359 apply, if such services are provided to or
2346 on behalf of an educational institution, benefits shall not be
2347 payable under the same circumstances and subject to the same terms
2348 and conditions as described in subsection (h)(i), (ii), (iii) and
2349 (iv).

2350 (i) Subsequent to December 31, 1977, benefits shall not
2351 be paid to any individual on the basis of any services
2352 substantially all of which consist of participating in sports or
2353 athletic events or training or preparing to so participate, for
2354 any week which commences during the period between two (2)
2355 successive sports seasons (or similar periods) if such individual
2356 performs such services in the first of such seasons (or similar
2357 periods) and there is a reasonable assurance that such individual
2358 will perform such services in the later of such seasons (or
2359 similar periods).

2360 (j) (i) Subsequent to December 31, 1977, benefits
2361 shall not be payable on the basis of services performed by an
2362 alien, unless such alien is an individual who was lawfully
2363 admitted for permanent residence at the time such services were
2364 performed, was lawfully present for purposes of performing such
2365 services, or was permanently residing in the United States under
2366 color of law at the time such services were performed (including
2367 an alien who was lawfully present in the United States as a result
2368 of the application of the provisions of Section 203(a)(7) or
2369 Section 212(d)(5) of the Immigration and Nationality Act).

2370 (ii) Any data or information required of
2371 individuals applying for benefits to determine whether benefits
2372 are not payable to them because of their alien status shall be
2373 uniformly required from all applicants for benefits.

2374 (iii) In the case of an individual whose
2375 application for benefits would otherwise be approved, no
2376 determination that benefits to such individual are not payable
2377 because of his alien status shall be made, except upon a
2378 preponderance of the evidence.

2379 (k) An individual shall be deemed prima facie
2380 unavailable for work, and therefore ineligible to receive
2381 benefits, during any period which, with respect to his employment
2382 status, is found by the department to be a holiday or vacation
2383 period.

2384 **SECTION 39.** Section 71-5-513, Mississippi Code of 1972, is
2385 reenacted as follows:

2386 71-5-513. A. An individual shall be disqualified for
2387 benefits:

2388 (1) (a) For the week, or fraction thereof, which
2389 immediately follows the day on which he left work voluntarily
2390 without good cause, if so found by the department, and for each
2391 week thereafter until he has earned remuneration for personal
2392 services performed for an employer, as in this chapter defined,

2393 equal to not less than eight (8) times his weekly benefit amount,
2394 as determined in each case; however, marital, filial and domestic
2395 circumstances and obligations shall not be deemed good cause
2396 within the meaning of this subsection. Pregnancy shall not be
2397 deemed to be a marital, filial or domestic circumstance for the
2398 purpose of this subsection.

2399 (b) For the week, or fraction thereof, which
2400 immediately follows the day on which he was discharged for
2401 misconduct connected with his work, if so found by the department,
2402 and for each week thereafter until he has earned remuneration for
2403 personal services performed for an employer, as in this chapter
2404 defined, equal to not less than eight (8) times his weekly benefit
2405 amount, as determined in each case.

2406 (c) The burden of proof of good cause for leaving
2407 work shall be on the claimant, and the burden of proof of
2408 misconduct shall be on the employer.

2409 (2) For the week, or fraction thereof, with respect to
2410 which he willfully makes a false statement, a false representation
2411 of fact, or willfully fails to disclose a material fact for the
2412 purpose of obtaining or increasing benefits under the provisions
2413 of this law, if so found by the department, and such individual's
2414 maximum benefit allowance shall be reduced by the amount of
2415 benefits so paid to him during any such week of disqualification;
2416 and additional disqualification shall be imposed for a period not
2417 exceeding fifty-two (52) weeks, the length of such period of
2418 disqualification and the time when such period begins to be
2419 determined by the department, in its discretion, according to the
2420 circumstances in each case.

2421 (3) If the department finds that he has failed, without
2422 good cause, either to apply for available suitable work when so
2423 directed by the employment office or the department, to accept
2424 suitable work when offered him, or to return to his customary
2425 self-employment (if any) when so directed by the department, such

2426 disqualification shall continue for the week in which such failure
2427 occurred and for not more than the twelve (12) weeks which
2428 immediately follow such week, as determined by the department
2429 according to the circumstances in each case.

2430 (a) In determining whether or not any work is
2431 suitable for an individual, the department shall consider among
2432 other factors the degree of risk involved to his health, safety
2433 and morals, his physical fitness and prior training, his
2434 experience and prior earnings, his length of unemployment and
2435 prospects for securing local work in his customary occupation, and
2436 the distance of the available work from his residence; however,
2437 offered employment paying the minimum wage or higher, if such
2438 minimum or higher wage is that prevailing for his customary
2439 occupation or similar work in the locality, shall be deemed to be
2440 suitable employment after benefits have been paid to the
2441 individual for a period of eight (8) weeks.

2442 (b) Notwithstanding any other provisions of this
2443 chapter, no work shall be deemed suitable and benefits shall not
2444 be denied under this chapter to any otherwise eligible individual
2445 for refusing to accept new work under any of the following
2446 conditions:

2447 (i) If the position offered is vacant due
2448 directly to a strike, lockout or other labor dispute;

2449 (ii) If the wages, hours or other conditions
2450 of the work offered are substantially less favorable to the
2451 individual than those prevailing for similar work in the locality;

2452 (iii) If as a condition of being employed the
2453 individual would be required to join a company union or to resign
2454 from or refrain from joining any bona fide labor organization.

2455 (4) For any week with respect to which the department
2456 finds that his total unemployment is due to a stoppage of work
2457 which exists because of a labor dispute at a factory,
2458 establishment or other premises at which he is or was last

2459 employed; however, this subsection shall not apply if it is shown
2460 to the satisfaction of the department:

2461 (a) He is unemployed due to a stoppage of work
2462 occasioned by an unjustified lockout, if such lockout was not
2463 occasioned or brought about by such individual acting alone or
2464 with other workers in concert; or

2465 (b) He is not participating in or directly
2466 interested in the labor dispute which caused the stoppage of work;
2467 and

2468 (c) He does not belong to a grade or class of
2469 workers of which, immediately before the commencement of stoppage,
2470 there were members employed at the premises at which the stoppage
2471 occurs, any of whom are participating in or directly interested in
2472 the dispute.

2473 If in any case separate branches of work which are commonly
2474 conducted as separate businesses in separate premises are
2475 conducted in separate departments of the same premises, each such
2476 department shall, for the purposes of this subsection, be deemed
2477 to be a separate factory, establishment or other premises.

2478 (5) For any week with respect to which he has received
2479 or is seeking unemployment compensation under an unemployment
2480 compensation law of another state or of the United States.

2481 However, if the appropriate agency of such other state or of the
2482 United States finally determines that he is not entitled to such
2483 unemployment compensation benefits, this disqualification shall
2484 not apply. Nothing in this subsection contained shall be
2485 construed to include within its terms any law of the United States
2486 providing unemployment compensation or allowances for honorably
2487 discharged members of the Armed Forces.

2488 (6) For any week with respect to which he is receiving
2489 or has received remuneration in the form of payments under any
2490 governmental or private retirement or pension plan, system or
2491 policy which a base-period employer is maintaining or contributing

2492 to or has maintained or contributed to on behalf of the
2493 individual; however, if the amount payable with respect to any
2494 week is less than the benefits which would otherwise be due under
2495 Section 71-5-501, he shall be entitled to receive for such week,
2496 if otherwise eligible, benefits reduced by the amount of such
2497 remuneration. However, on or after the first Sunday immediately
2498 following July 1, 2001, no social security payments, to which the
2499 employee has made contributions, shall be deducted from
2500 unemployment benefits paid for any period of unemployment
2501 beginning on or after the first Sunday following July 1, 2001.
2502 This one hundred percent (100%) exclusion shall not apply to any
2503 other governmental or private retirement or pension plan, system
2504 or policy. If benefits payable under this section, after being
2505 reduced by the amount of such remuneration, are not a multiple of
2506 One Dollar (\$1.00), they shall be adjusted to the next lower
2507 multiple of One Dollar (\$1.00).

2508 (7) For any week with respect to which he is receiving
2509 or has received remuneration in the form of a back pay award, or
2510 other compensation allocable to any week, whether by settlement or
2511 otherwise. Any benefits previously paid for weeks of unemployment
2512 with respect to which back pay awards, or other such compensation,
2513 are made shall constitute an overpayment and such amounts shall be
2514 deducted from the award by the employer prior to payment to the
2515 employee, and shall be transmitted promptly to the department by
2516 the employer for application against the overpayment and credit to
2517 the claimant's maximum benefit amount and prompt deposit into the
2518 fund; however, the removal of any charges made against the
2519 employer as a result of such previously paid benefits shall be
2520 applied to the calendar year and the calendar quarter in which the
2521 overpayment is transmitted to the department, and no attempt shall
2522 be made to relate such a credit to the period to which the award
2523 applies. Any amount of overpayment so deducted by the employer
2524 and not transmitted to the department shall be subject to the same

2525 procedures for collection as is provided for contributions by
2526 Sections 71-5-363 through 71-5-381. Any amount of overpayment not
2527 deducted by the employer shall be established as an overpayment
2528 against the claimant and collected as provided above. It is the
2529 purpose of this paragraph to assure equity in the situations to
2530 which it applies, and it shall be construed accordingly.

2531 B. Notwithstanding any other provision in this chapter, no
2532 otherwise eligible individual shall be denied benefits for any
2533 week because he is in training with the approval of the
2534 department; nor shall such individual be denied benefits with
2535 respect to any week in which he is in training with the approval
2536 of the department by reason of the application of provisions in
2537 Section 71-5-511, subsection (c), relating to availability for
2538 work, or the provisions of subsection A(3) of this section,
2539 relating to failure to apply for, or a refusal to accept, suitable
2540 work.

2541 C. Notwithstanding any other provisions of this chapter, no
2542 otherwise eligible individual shall be denied benefits for any
2543 week because he or she is in training approved under Section
2544 236(a)(1) of the Trade Act of 1974, nor shall such individual be
2545 denied benefits by reason of leaving work to enter such training,
2546 provided the work left is not suitable employment, or because of
2547 the application to any such week in training of provisions in this
2548 law (or any applicable federal unemployment compensation law),
2549 relating to availability for work, active search for work or
2550 refusal to accept work.

2551 For purposes of this section, the term "suitable employment"
2552 means with respect to an individual, work of a substantially equal
2553 or higher skill level than the individual's past adversely
2554 affected employment (as defined for purposes of the Trade Act of
2555 1974), and wages for such work at not less than eighty percent
2556 (80%) of the individual's average weekly wage as determined for
2557 the purposes of the Trade Act of 1974.

2558 **SECTION 40.** Section 71-5-517, Mississippi Code of 1972, is
2559 reenacted as follows:

2560 71-5-517. An examiner designated by the department shall
2561 take the claim. An initial determination thereon shall be made
2562 promptly and shall include a determination with respect to whether
2563 or not benefits are payable, the week with respect to which
2564 benefits shall commence, the weekly benefit amount payable and the
2565 maximum duration of benefits. In any case in which the payment or
2566 denial of benefits will be determined by the provisions of
2567 subsection A(4) of Section 71-5-513, the examiner shall promptly
2568 transmit all the evidence with respect to that subsection to the
2569 department, which, on the basis of evidence so submitted and such
2570 additional evidence as it may require, shall make an initial
2571 determination with respect thereto. An initial determination may
2572 for good cause be reconsidered. The claimant, his most recent
2573 employing unit and all employers whose experience-rating record
2574 would be charged with benefits pursuant to such determination
2575 shall be promptly notified of such initial determination or any
2576 amended initial determination and the reason therefor. Benefits
2577 shall be denied or, if the claimant is otherwise eligible,
2578 promptly paid in accordance with the initial determination or
2579 amended initial determination. The jurisdiction of the department
2580 over benefit claims which have not been appealed shall be
2581 continuous. The claimant or any party to the initial
2582 determination or amended initial determination may file an appeal
2583 from such initial determination or amended initial determination
2584 within fourteen (14) days after notification thereof, or after the
2585 date such notification was mailed to his last known address.

2586 Notwithstanding any other provision of this section, benefits
2587 shall be paid promptly in accordance with a determination or
2588 redetermination, or the decision of an appeal tribunal, the Board
2589 of Review or a reviewing court upon the issuance of such
2590 determination, redetermination or decision in favor of the

2591 claimant (regardless of the pendency of the period to apply for
2592 reconsideration, file an appeal, or petition for judicial review,
2593 as the case may be, or the pendency of any such application,
2594 filing or petition), unless and until such determination,
2595 redetermination or decision has been modified or reversed by a
2596 subsequent redetermination or decision, in which event benefits
2597 shall be paid or denied in accordance with such modifying or
2598 reversing redetermination or decision. Any benefits finally
2599 determined to have been erroneously paid shall be set up as an
2600 overpayment to the claimant and must be liquidated before any
2601 future benefits can be paid to the claimant. If, subsequent to
2602 such initial determination or amended initial determination,
2603 benefits with respect to any week for which a claim has been filed
2604 are denied for reasons other than matters included in the initial
2605 determination or amended initial determination, the claimant shall
2606 be promptly notified of the denial and the reason therefor and may
2607 appeal therefrom in accordance with the procedure herein described
2608 for appeals from initial determination or amended initial
2609 determination.

2610 **SECTION 41.** Section 71-5-519, Mississippi Code of 1972, is
2611 reenacted as follows:

2612 71-5-519. Unless such appeal is withdrawn, an appeal
2613 tribunal appointed by the executive director, after affording the
2614 parties reasonable opportunity for fair hearing, shall affirm,
2615 modify or reverse the findings of fact and initial determination
2616 or amended initial determination. The parties shall be duly
2617 notified of such tribunal's decision, together with its reasons
2618 therefor, which shall be deemed to be the final decision of the
2619 executive director unless, within fourteen (14) days after the
2620 date of notification or mailing of such decision, further appeal
2621 is initiated pursuant to Section 71-5-523.

2622 **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is
2623 reenacted as follows:

2624 71-5-523. The Board of Review may on its own motion affirm,
2625 modify, or set aside any decision of an appeal tribunal on the
2626 basis of the evidence previously submitted in such case, or direct
2627 the taking of additional evidence, or may permit any of the
2628 parties to such decision to initiate further appeals before it.
2629 The Board of Review shall permit such further appeal by any of the
2630 parties to a decision of an appeal tribunal which is not
2631 unanimous, and by the examiner whose decision has been overruled
2632 or modified by an appeal tribunal. The Board of Review may remove
2633 to itself or transfer to another appeal tribunal the proceedings
2634 on any claim pending before an appeal tribunal. Any proceedings
2635 so removed to the Board of Review shall be heard by a quorum
2636 thereof in accordance with the requirements of Section 71-5-519
2637 and within fifteen (15) days after notice of appeal has been
2638 received by the executive director. No notice of appeal shall be
2639 deemed to be received by the executive director, within the
2640 meaning of this section, until all prior appeals pending before
2641 the Board of Review have been heard. The Board of Review shall,
2642 within four (4) days after its decision, so notify the parties to
2643 any proceeding of its findings and decision.

2644 **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is
2645 reenacted as follows:

2646 71-5-525. The manner in which appealed claims shall be
2647 presented and the conduct of hearings and appeals shall be in
2648 accordance with regulations prescribed by the Board of Review for
2649 determining the rights of the parties, whether or not such
2650 regulations conform to common law or statutory rules of evidence
2651 and other technical rules of procedure. A full and complete
2652 record shall be kept of all proceedings in connection with an
2653 appealed claim. The department's entire file relative to the
2654 appealed claim shall be a part of such record and shall be
2655 considered as evidence. All testimony at any hearing upon an

2656 appealed claim shall be recorded, but need not be transcribed
2657 unless the claim is further appealed.

2658 **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is
2659 reenacted as follows:

2660 71-5-529. Any decision of the Board of Review, in the
2661 absence of an appeal therefrom as herein provided, shall become
2662 final ten (10) days after the date of notification or mailing
2663 thereof; and judicial review thereof shall be permitted only after
2664 any party claiming to be aggrieved thereby has exhausted his
2665 administrative remedies as provided by this chapter. The
2666 department shall be deemed to be a party to any judicial action
2667 involving any such decision, and may be represented in any such
2668 judicial action by any qualified attorney employed by the
2669 department and designated by it for that purpose or, at the
2670 department's request, by the Attorney General.

2671 **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is
2672 reenacted as follows:

2673 71-5-531. Within ten (10) days after the decision of the
2674 Board of Review has become final, any party aggrieved thereby may
2675 secure judicial review thereof by commencing an action, in the
2676 circuit court of the county in which the plaintiff resides,
2677 against the department for the review of such decision, in which
2678 action any other party to the proceeding before the Board of
2679 Review shall be made a defendant. In cases wherein the plaintiff
2680 is not a resident of the State of Mississippi, such action may be
2681 filed in the circuit court of the county in which the employer
2682 resides, the county in which the cause of action arose, or in the
2683 county of employment. In such action, a petition which need not
2684 be verified, but which shall state the grounds upon which a review
2685 is sought, shall be served upon the department or upon such person
2686 as the department may designate, and such service shall be deemed
2687 completed service on all parties; but there shall be left with the
2688 party so served as many copies of the petition as there are

2689 defendants, and the department shall forthwith mail one (1) such
2690 copy to each such defendant. With its answer, the department
2691 shall certify and file with said court all documents and papers
2692 and a transcript of all testimony taken in the matter, together
2693 with the Board of Review's findings of fact and decision therein.
2694 The department may also, in its discretion, certify to such court
2695 questions of law involved in any decision. In any judicial
2696 proceedings under this section, the findings of the Board of
2697 Review as to the facts, if supported by evidence and in the
2698 absence of fraud, shall be conclusive, and the jurisdiction of the
2699 court shall be confined to questions of law. Such actions, and
2700 the questions so certified, shall be heard in a summary manner and
2701 shall be given precedence over all other civil cases. An appeal
2702 may be taken from the decision of the circuit court of the county
2703 in which the plaintiff resides to the Supreme Court of
2704 Mississippi, in the same manner, but not inconsistent with the
2705 provisions of this chapter, as is provided in civil cases. It
2706 shall not be necessary, in any judicial proceeding under this
2707 section, to enter exceptions to the rulings of the Board of
2708 Review, and no bond shall be required for entering such appeal.
2709 Upon the final determination of such judicial proceeding, the
2710 Board of Review shall enter an order in accordance with such
2711 determination. A petition for judicial review shall not act as a
2712 supersedeas or stay unless the Board of Review shall so order.

2713 **SECTION 46.** Section 71-5-541, Mississippi Code of 1972, is
2714 reenacted as follows:

2715 71-5-541. A. (1) In the administration of this chapter,
2716 the department shall cooperate with the Department of Labor to the
2717 fullest extent consistent with the provisions of this chapter and
2718 shall take such action, through the adoption of appropriate rules,
2719 regulations, administrative methods and standards, as may be
2720 necessary to secure to this state and its citizens all advantages
2721 available under the provisions of the Social Security Act that

2722 relate to unemployment compensation, the Federal Unemployment Tax
2723 Act, the Wagner-Peyser Act and the Federal-State Extended
2724 Unemployment Compensation Act of 1970, all as amended.

2725 (2) In the administration of the provisions of this
2726 section, which are enacted to conform with the requirements of the
2727 Federal-State Extended Unemployment Compensation Act of 1970, as
2728 amended, the department shall take such actions as may be
2729 necessary:

2730 (a) To ensure that the provisions are so
2731 interpreted and applied as to meet the requirements of such
2732 federal act as interpreted by the United States Department of
2733 Labor; and

2734 (b) To secure to this state the full reimbursement
2735 of the federal share of extended benefits paid under this chapter
2736 that are reimbursable under the federal act; and also

2737 (c) To limit the amount of extended benefits paid
2738 as may be necessary so that the reimbursement of the federal share
2739 of extended benefits paid shall remain at one-half (1/2) of the
2740 total extended benefits paid.

2741 B. As used in this section, unless the context clearly
2742 requires otherwise:

2743 (1) "Extended benefit period" means a period which:

2744 (a) Begins with the third week after a week for
2745 which there is a state "on" indicator; and

2746 (b) Ends with either of the following weeks,
2747 whichever occurs later:

2748 (i) The third week after the first week for
2749 which there is a state "off" indicator; or

2750 (ii) The thirteenth consecutive week of such
2751 period.

2752 No extended benefit period may begin by reason of a state
2753 "on" indicator before the fourteenth week following the end of a

2754 prior extended benefit period which was in effect with respect to
2755 this state.

2756 (2) For weeks beginning after September 25, 1982, there
2757 is a "state 'on' indicator" for a week if the rate of insured
2758 unemployment under this chapter for the period consisting of such
2759 week and the immediately preceding twelve (12) weeks:

2760 (a) Equaled or exceeded one hundred twenty percent
2761 (120%) of the average of such rates for the corresponding period
2762 of thirteen (13) weeks ending in each of the preceding two (2)
2763 calendar years; and

2764 (b) Equaled or exceeded five percent (5%).

2765 The determination of whether there has been a state "on" or
2766 "off" indicator beginning or ending any extended benefit period
2767 shall be made under this subsection as if (i) paragraph (2) did
2768 not contain subparagraph (a) thereof, and (ii) the figure "5"
2769 contained in subparagraph (b) thereof were "6"; except that,
2770 notwithstanding any such provision of this subsection, any week
2771 for which there would otherwise be a "state 'on' indicator" shall
2772 continue to be such week and shall not be determined to be a week
2773 for which there is a "state 'off' indicator."

2774 (3) There is a "state 'off' indicator" for a week if,
2775 for the period consisting of such week and the immediately
2776 preceding twelve (12) weeks, either subparagraph (a) or (b) of
2777 paragraph (2) was not satisfied.

2778 (4) "Rate of insured unemployment," for purposes of
2779 paragraphs (2) and (3) of this subsection, means the percentage
2780 derived by dividing:

2781 (a) The average number of continued weeks claimed
2782 for regular state compensation in this state for weeks of
2783 unemployment with respect to the most recent period of thirteen
2784 (13) consecutive weeks, as determined by the department on the
2785 basis of its reports to the United States Secretary of Labor; by

2786 (b) The average monthly employment covered under
2787 this chapter for the first four (4) of the most recent six (6)
2788 completed calendar quarters ending before the end of such period
2789 of thirteen (13) weeks.

2790 (5) "Regular benefits" means benefits payable to an
2791 individual under this chapter or under any other state law
2792 (including benefits payable to federal civilian employees and to
2793 ex-servicemen pursuant to 5 USCS Section 8501-8525) other than
2794 extended benefits.

2795 (6) "Extended benefits" means benefits (including
2796 benefits payable to federal civilian employees and to
2797 ex-servicemen pursuant to 5 USCS Section 8501-8525) payable to an
2798 individual under the provisions of this section for weeks of
2799 unemployment in his eligibility period.

2800 (7) "Eligibility period" of an individual means the
2801 period consisting of the weeks in his benefit year which begin in
2802 an extended benefit period and, if his benefit year ends within
2803 such extended benefit period, any weeks thereafter which begin in
2804 such period.

2805 (8) "Exhaustee" means an individual who, with respect
2806 to any week of unemployment in his eligibility period:

2807 (a) Has received, prior to such week, all of the
2808 regular benefits that were available to him under this chapter or
2809 any other state law (including dependents' allowances and benefits
2810 payable to federal civilian employees and ex-servicemen under 5
2811 USCS Section 8501-8525) in his current benefit year that includes
2812 such week;

2813 For the purposes of this subparagraph, an individual shall be
2814 deemed to have received all of the regular benefits that were
2815 available to him although, as a result of a pending appeal with
2816 respect to wages that were not considered in the original monetary
2817 determination in his benefit year, he may subsequently be
2818 determined to be entitled to added regular benefits; or

2819 (b) Has no, or insufficient, wages on the basis of
2820 which he could establish a new benefit year that would include
2821 such week, his benefit year having expired prior to such week; and

2822 (c) (i) Has no right to unemployment benefits or
2823 allowances, as the case may be, under the Railroad Unemployment
2824 Insurance Act, the Trade Expansion Act of 1962, the Automotive
2825 Products Trade Act of 1965, and such other federal laws as are
2826 specified in regulations issued by the United States Secretary of
2827 Labor; and

2828 (ii) Has not received and is not seeking
2829 unemployment benefits under the Unemployment Compensation Law of
2830 the Virgin Islands or of Canada; but if he is seeking such
2831 benefits and the appropriate agency finally determines that he is
2832 not entitled to benefits under such law, he is considered an
2833 exhaustee; however, the reference in this subsection to the Virgin
2834 Islands shall be inapplicable effective on the day on which the
2835 United States Secretary of Labor approves under Section 3304(a) of
2836 the Internal Revenue Code of 1954, an unemployment compensation
2837 law submitted to the Secretary by the Virgin Islands for approval.

2838 (9) "State law" means the unemployment insurance law of
2839 any state, approved by the United States Secretary of Labor under
2840 Section 3304 of the Internal Revenue Code of 1954 (26 USCS Section
2841 3304).

2842 C. Except when the result would be inconsistent with the
2843 other provisions of this section, as provided in the regulations
2844 of the department, the provisions of this chapter which apply to
2845 claims for, or the payment of, regular benefits shall apply to
2846 claims for, and the payment of, extended benefits.

2847 D. An individual shall be eligible to receive extended
2848 benefits with respect to any week of unemployment in his
2849 eligibility period only if the department finds that with respect
2850 to such week:

2851 (1) He is an "exhaustee" as defined in subsection B(8)
2852 of this section.

2853 (2) He has satisfied the requirements of this chapter
2854 for the receipt of regular benefits that are applicable to
2855 individuals claiming extended benefits, including not being
2856 subject to a disqualification for the receipt of benefits.

2857 (3) For a week beginning after September 25, 1982, he
2858 has, during his base period, been paid wages for insured work
2859 equal to not less than forty (40) times his weekly benefit amount;
2860 he has been paid wages for insured work during at least two (2)
2861 quarters of his base period, and he has, during that quarter of
2862 his base period in which his total wages were highest, been paid
2863 wages for insured work equal to not less than twenty-six (26)
2864 times the minimum weekly benefit amount.

2865 E. The weekly extended benefit amount payable to an
2866 individual for a week of total unemployment in his eligibility
2867 period shall be an amount equal to the weekly benefit amount
2868 payable to him during his applicable benefit year; however,
2869 benefits paid to individuals during eligibility periods beginning
2870 before October 1, 1983, shall be computed to the next higher
2871 multiple of One Dollar (\$1.00), if not a multiple of One Dollar
2872 (\$1.00); and benefits paid to individuals during eligibility
2873 periods beginning on or after October 1, 1983, shall be computed
2874 to the next lower multiple of One Dollar (\$1.00), if not a
2875 multiple of One Dollar (\$1.00). In no event shall the weekly
2876 extended benefit amount payable to an individual be more than two
2877 (2) times the amount of the reimbursement of the federal share of
2878 extended benefits paid.

2879 F. (1) The total extended benefit amount payable to any
2880 eligible individual with respect to his applicable benefit year
2881 shall be the least of the following amounts:

2882 (a) Fifty percent (50%) of the total amount of
2883 regular benefits which were payable to him under this chapter in

2884 his applicable benefit year; however, benefits paid to individuals
2885 during eligibility periods beginning before October 1, 1983, shall
2886 be computed to the next higher multiple of One Dollar (\$1.00), if
2887 not a multiple of One Dollar (\$1.00), and benefits paid to
2888 individuals during eligibility periods beginning on or after
2889 October 1, 1983, shall be computed to the next lower multiple of
2890 One Dollar (\$1.00), if not a multiple of One Dollar (\$1.00); or

2891 (b) Thirteen (13) times his weekly benefit amount
2892 which was payable to him under this chapter for a week of total
2893 unemployment in the applicable benefit year.

2894 (2) The total extended benefits otherwise payable to an
2895 individual who is filing an interstate claim under the interstate
2896 benefit payment plan shall not exceed two (2) weeks whenever an
2897 extended benefit period is not in effect for such week in the
2898 state where the claim is filed.

2899 (3) In no event shall the total extended benefit amount
2900 payable to any eligible individual with respect to his applicable
2901 benefit year be more than two (2) times the amount of the
2902 reimbursement of the federal share of extended benefits paid.

2903 G. (1) Whenever an extended benefit period is to become
2904 effective in this state as a result of a state "on" indicator, or
2905 an extended benefit period is to be terminated in this state as a
2906 result of state "off" indicators, the department shall make an
2907 appropriate public announcement.

2908 (2) Computations required by the provisions of
2909 subsection B(4) shall be made by the department, in accordance
2910 with regulations prescribed by the United States Secretary of
2911 Labor.

2912 H. Extended benefits paid under the provisions of this
2913 section which are not reimbursable from federal funds shall be
2914 charged to the experience-rating record of base period employers.

2915 I. (1) Notwithstanding the provisions of subsections C and
2916 D of this section, an individual shall be disqualified for receipt

2917 of extended benefits if the department finds that during any week
2918 of his eligibility period:

2919 (a) He has failed either to apply for or to accept
2920 an offer of suitable work (as defined under paragraph (3)) to
2921 which he was referred by the department; or

2922 (b) He has failed to furnish tangible evidence
2923 that he has actively engaged in a systematic and sustained effort
2924 to find work, unless such individual is not actively engaged in
2925 seeking work because such individual is:

2926 (i) Before any court of the United States or
2927 any state pursuant to a lawfully issued summons to appear for jury
2928 duty;

2929 (ii) Hospitalized for treatment of an
2930 emergency or a life-threatening condition.

2931 The entitlement to benefits of any individual who is
2932 determined not to be actively engaged in seeking work in any week
2933 for the foregoing reasons shall be decided pursuant to the able
2934 and available requirements in Section 71-5-511 without regard to
2935 the disqualification provisions otherwise applicable under Section
2936 71-5-541. The conditions prescribed in clauses (i) and (ii) of
2937 this subparagraph (b) must be applied in the same manner to
2938 individuals filing claims for regular benefits.

2939 (2) Such disqualification shall begin with the week in
2940 which such failure occurred and shall continue until he has been
2941 employed in each of eight (8) subsequent weeks (whether or not
2942 consecutive) and has earned remuneration for personal services
2943 performed for an employer, as in this chapter defined, equal to
2944 not less than eight (8) times his weekly extended benefit amount.

2945 (3) For the purpose of subparagraph (a) of paragraph
2946 (1) the term "suitable work" means any work which is within the
2947 individual's capabilities to perform, if:

2948 (a) The gross average weekly remuneration payable
2949 for the work exceeds the sum of the individual's weekly extended

2950 benefit amount plus the amount, if any, of supplemental
2951 unemployment benefits (as defined in Section 501(c)(17)(D) of the
2952 Internal Revenue Code of 1954) payable to such individual for such
2953 week;

2954 (b) The wages payable for the work equal the
2955 higher of the minimum wages provided by Section 6(a)(1) of the
2956 Fair Labor Standards Act of 1938 (without regard to any
2957 exemption), or the state or local minimum wage; and

2958 (c) The position was offered to the individual in
2959 writing or was listed with the state employment service; and

2960 (d) Such work otherwise meets the definition of
2961 "suitable work" for regular benefits contained in Section
2962 71-5-513A(4) to the extent that such criteria of suitability are
2963 not inconsistent with the provisions of this paragraph (3); and

2964 (e) The individual cannot furnish satisfactory
2965 evidence to the department that his prospects for obtaining work
2966 in his customary occupation within a reasonably short period are
2967 good. If such evidence is deemed satisfactory for this purpose,
2968 the determination of whether any work is suitable with respect to
2969 such individual shall be made in accordance with the definition of
2970 suitable work contained in Section 71-5-513A(4) without regard to
2971 the definition specified by this paragraph (3).

2972 (4) Notwithstanding any provisions of subsection I to
2973 the contrary, no work shall be deemed to be suitable work for an
2974 individual which does not accord with the labor standard
2975 provisions set forth herein under Section 71-5-513A(4).

2976 (5) The employment service shall refer any claimant
2977 entitled to extended benefits under this section to any suitable
2978 work which meets the criteria prescribed in paragraph (3).

2979 (6) An individual shall be disqualified for extended
2980 benefits for the week, or fraction thereof, which immediately
2981 follows the day on which he left work voluntarily without good
2982 cause (as defined in Section 71-5-513A(1)), was discharged for

2983 misconduct connected with his work, or refused suitable work
2984 (except as provided in subsection I of this section), and for each
2985 week thereafter until he has earned remuneration for personal
2986 services performed for an employer, as in this chapter defined,
2987 equal to not less than eight (8) times his weekly benefit amount,
2988 as determined in each case.

2989 (7) The provisions of paragraphs I(1) through (6) of
2990 this section shall not apply to claims for weeks of unemployment
2991 beginning after March 6, 1993, and before January 1, 1995, and
2992 during that period the provisions of this chapter applicable to
2993 claims for regular compensation shall apply.

2994 J. Notwithstanding any other provisions of this chapter, if
2995 the benefit year of any individual ends within an extended benefit
2996 period, the remaining balance of extended benefits that such
2997 individual would, but for this section, be entitled to receive in
2998 that extended benefit period, with respect to weeks of
2999 unemployment beginning after the end of the benefit year, shall be
3000 reduced (but not below zero) by the product of the number of weeks
3001 for which the individual received any amounts as trade
3002 readjustment allowances within that benefit year, multiplied by
3003 the individual's weekly benefit amount for extended benefits.

3004 **SECTION 47.** Section 73-30-25, Mississippi Code of 1972, is
3005 reenacted as follows:

3006 73-30-25. It is not the intent of this chapter to regulate
3007 against members of other duly regulated professions in this state
3008 who do counseling in the normal course of the practice of their
3009 own profession. This chapter does not apply to:

3010 (a) Any person registered, certified or licensed by the
3011 state to practice any other occupation or profession while
3012 rendering counseling services in the performance of the occupation
3013 or profession for which he is registered, certified or licensed;

3014 (b) Certified school counselors when they are
3015 practicing counseling within the scope of their employment;

- 3016 (c) Certified vocational counselors when they are
3017 practicing vocational counseling within the scope of their
3018 employment;
- 3019 (d) Counselors in post-secondary institutions when they
3020 are practicing within the scope of their employment;
- 3021 (e) Student interns or trainees in counseling pursuing
3022 a course of study in counseling in a regionally or nationally
3023 accredited institution of higher learning or training institution
3024 if activities and services constitute a part of the supervised
3025 course of study, provided that such persons be designated a
3026 counselor intern;
- 3027 (f) Professionals employed by regionally or nationally
3028 accredited post-secondary institutions as counselor educators when
3029 they are practicing counseling within the scope of their
3030 employment;
- 3031 (g) Professionals registered, certified or licensed by
3032 a recognized state or national professional association that has a
3033 published code of ethics and requires adherence to same;
- 3034 (h) Duly ordained ministers or clergy while functioning
3035 in their ministerial capacity and duly accredited Christian
3036 Science practitioners;
- 3037 (i) Professional employees of regional mental health
3038 centers, state mental hospitals, vocational rehabilitation
3039 institutions, youth court counselors and employees of the
3040 Mississippi Department of Employment Security or other
3041 governmental agency so long as they practice within the scope of
3042 their employment;
- 3043 (j) Professional employees of alcohol or drug abuse
3044 centers or treatment facilities, whether privately or publicly
3045 funded, so long as they practice within the scope of their
3046 employment;
- 3047 (k) Private employment counselors;

3048 (1) Any nonresident temporarily employed in this state
3049 to render counseling services for not more than thirty (30) days
3050 in any year, if in the opinion of the board the person would
3051 qualify for a license under this chapter and if the person holds
3052 any license required for counselors in his home state or country;
3053 and

3054 (m) Any social workers holding a master's degree in
3055 social work from a school accredited by the Council on Social Work
3056 Education and who do counseling in the normal course of the
3057 practice of their own profession.

3058 **SECTION 48.** Section 43-1-30, Mississippi Code of 1972, is
3059 reenacted as follows:

3060 43-1-30. (1) There is created the Mississippi TANF
3061 Implementation Council. It shall serve as the independent, single
3062 state advisory and review council for assuring Mississippi's
3063 compliance with the federal Personal Responsibility and Work
3064 Opportunity Reconciliation Act of 1996 (Public Law 104-193), as
3065 amended. The council shall further cooperation between
3066 government, education and the private sector in meeting the needs
3067 of the TANF program. It shall also further cooperation between
3068 the business and labor communities, education and training
3069 delivery systems, and between businesses in developing highly
3070 skilled workers for highskill, high paying jobs in Mississippi.

3071 (2) The council shall be comprised of thirteen (13) public
3072 members and certain ex officio nonvoting members. All public
3073 members of the council shall be appointed as follows by the
3074 Governor:

3075 Ten (10) members shall be representatives from business and
3076 industry, provided that no fewer than five (5) members are from
3077 the manufacturing and industry sector who are also serving as
3078 members of private industry councils established within the state,
3079 and one (1) member may be a representative of a nonprofit
3080 organization. Three (3) members shall be recipients or former

3081 recipients of TANF assistance appointed from the state at large.

3082 The ex officio nonvoting members of the council shall consist
3083 of the following, or their designees:

3084 (a) The Executive Director of the Mississippi
3085 Department of Human Services;

3086 (b) The Executive Director of the Mississippi
3087 Department of Employment Security;

3088 (c) The Executive Director of the Mississippi
3089 Development Authority;

3090 (d) The State Superintendent of Public Education;

3091 (e) The Director of the State Board for Community and
3092 Junior Colleges;

3093 (f) The Executive Director of the Division of Medicaid;

3094 (g) The Commissioner of the Mississippi Department of
3095 Corrections; and

3096 (h) The Director of the Mississippi Cooperative
3097 Extension Service.

3098 (3) The Governor shall designate one (1) public member to
3099 serve as chairman of the council for a term of two (2) years and
3100 until a successor as chairman is appointed and qualified.

3101 (4) The term of office for public members appointed by the
3102 Governor shall be four (4) years and until their successors are
3103 appointed and qualified.

3104 (5) Any vacancy shall be filled for the unexpired term by
3105 the Governor in the manner of the original appointment, unless
3106 otherwise specified in this section.

3107 (6) Public members shall receive a per diem as authorized in
3108 Section 25-3-69, for each day actually engaged in meetings of the
3109 council, and shall be reimbursed for mileage and necessary
3110 expenses incurred in the performance of their duties, as provided
3111 in Section 25-3-41.

3112 (7) The council shall:

3113 (a) Annually review and recommend policies and programs
3114 to the Governor and the Legislature that will implement and meet
3115 federal requirements under the TANF program.

3116 (b) Annually review and recommend policies and programs
3117 to the Governor and to the Legislature that will enable citizens
3118 of Mississippi to acquire the skills necessary to maximize their
3119 economic self-sufficiency.

3120 (c) Review the provision of services and the use of
3121 funds and resources under the TANF program, and under all
3122 state-financed job training and job retraining programs, and
3123 advise the Governor and the Legislature on methods of coordinating
3124 such provision of services and use of funds and resources
3125 consistent with the laws and regulations governing such programs.

3126 (d) Assist in developing outcome and output measures to
3127 measure the success of the Department of Human Services' efforts
3128 in implementing the TANF program. These recommendations shall be
3129 made to the Department of Human Services at such times as required
3130 in the event that the department implements new programs to comply
3131 with the TANF program requirements.

3132 (e) Collaborate with the Mississippi Development
3133 Authority, local planning and development districts and local
3134 industrial development boards, and shall develop an economic
3135 development plan for the creation of manufacturing jobs in each of
3136 the counties in the state that has an unemployment rate of ten
3137 percent (10%) or more, which shall include, but not be limited to,
3138 procedures for business development, entrepreneurship and
3139 financial and technical assistance.

3140 (8) A majority of the members of the council shall
3141 constitute a quorum for the conduct of meetings and all actions of
3142 the council shall be by a majority of the members present at a
3143 meeting.

3144 (9) The council shall adopt rules and regulations as it
3145 deems necessary to carry out its responsibilities under this
3146 section and under applicable federal human resources programs.

3147 (10) The council may make and enter into contracts and
3148 interagency agreements as may be necessary and proper.

3149 (11) The council is authorized to commit and expend monies
3150 appropriated to it by the Legislature for its authorized purposes.
3151 The council is authorized to solicit, accept and expend public and
3152 private gifts, grants, awards and contributions related to
3153 furtherance of its statutory duties.

3154 (12) Funds for the operations of the council shall be
3155 derived from federal funds for the operation of state councils
3156 pursuant to applicable federal human resources programs and from
3157 such other monies appropriated to it by the Legislature.

3158 **SECTION 49.** Section 43-17-5, Mississippi Code of 1972, is
3159 reenacted as follows:

3160 43-17-5. (1) The amount of Temporary Assistance for Needy
3161 Families (TANF) benefits which may be granted for any dependent
3162 child and a needy caretaker relative shall be determined by the
3163 county department with due regard to the resources and necessary
3164 expenditures of the family and the conditions existing in each
3165 case, and in accordance with the rules and regulations made by the
3166 Department of Human Services which shall not be less than the
3167 Standard of Need in effect for 1988, and shall be sufficient when
3168 added to all other income (except that any income specified in the
3169 federal Social Security Act, as amended, may be disregarded) and
3170 support available to the child to provide such child with a
3171 reasonable subsistence compatible with decency and health. The
3172 first family member in the dependent child's budget may receive an
3173 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;
3174 the second family member in the dependent child's budget may
3175 receive an amount not to exceed Thirty-six Dollars (\$36.00) per
3176 month; and each additional family member in the dependent child's

3177 budget an amount not to exceed Twenty-four Dollars (\$24.00) per
3178 month. The maximum for any individual family member in the
3179 dependent child's budget may be exceeded for foster or medical
3180 care or in cases of mentally retarded or physically handicapped
3181 children. TANF benefits granted shall be specifically limited
3182 only (a) to children existing or conceived at the time the
3183 caretaker relative initially applies and qualifies for such
3184 assistance, unless this limitation is specifically waived by the
3185 department, or (b) to a child born following a twelve (12)
3186 consecutive month period of discontinued benefits by the caretaker
3187 relative.

3188 (2) TANF cash benefits in Mississippi shall be provided by
3189 monthly checks mailed to the recipient family until such time as
3190 an on-line electronic benefits transfer system for TANF benefit
3191 payments is implemented pursuant to Section 43-1-28.

3192 (3) The Department of Human Services shall deny TANF
3193 benefits to the following categories of individuals, except for
3194 individuals and families specifically exempt or excluded for good
3195 cause as allowed by federal statute or regulation:

3196 (a) Families without a minor child residing with the
3197 custodial parent or other adult caretaker relative of the child;

3198 (b) Families which include an adult who has received
3199 TANF assistance for sixty (60) months after the commencement of
3200 the Mississippi TANF program, whether or not such period of time
3201 is consecutive;

3202 (c) Families not assigning to the state any rights a
3203 family member may have, on behalf of the family member or of any
3204 other person for whom the family member has applied for or is
3205 receiving such assistance, to support from any other person, as
3206 required by law;

3207 (d) Families who fail to cooperate in establishing
3208 paternity or obtaining child support, as required by law;

3209 (e) Any individual who has not attained eighteen (18)
3210 years of age, is not married to the head of household, has a minor
3211 child at least twelve (12) weeks of age in his or her care, and
3212 has not successfully completed a high school education or its
3213 equivalent, if such individual does not participate in educational
3214 activities directed toward the attainment of a high school diploma
3215 or its equivalent, or an alternative educational or training
3216 program approved by the department;

3217 (f) Any individual who has not attained eighteen (18)
3218 years of age, is not married, has a minor child in his or her
3219 care, and does not reside in a place or residence maintained by a
3220 parent, legal guardian or other adult relative or the individual
3221 as such parent's, guardian's or adult relative's own home;

3222 (g) Any minor child who has been, or is expected by a
3223 parent or other caretaker relative of the child to be, absent from
3224 the home for a period of more than thirty (30) days;

3225 (h) Any individual who is a parent or other caretaker
3226 relative of a minor child who fails to notify the department of
3227 the absence of the minor child from the home for the thirty-day
3228 period specified in paragraph (g), by the end of the five-day
3229 period that begins with the date that it becomes clear to the
3230 individual that the minor child will be absent for the thirty-day
3231 period;

3232 (i) Any individual who fails to comply with the
3233 provisions of the Employability Development Plan signed by the
3234 individual which prescribe those activities designed to help the
3235 individual become and remain employed, or to participate
3236 satisfactorily in the assigned work activity, as authorized under
3237 subsections (6)(c) and (d);

3238 (j) A parent or caretaker relative who has not engaged
3239 in an allowable work activity once the department determines the
3240 parent or caretaker relative is ready to engage in work, or once
3241 the parent or caretaker relative has received TANF assistance

3242 under the program for twenty-four (24) months, whether or not
3243 consecutive, whichever is earlier;

3244 (k) Any individual who is fleeing to avoid prosecution,
3245 or custody or confinement after conviction, under the laws of the
3246 jurisdiction from which the individual flees, for a crime, or an
3247 attempt to commit a crime, which is a felony under the laws of the
3248 place from which the individual flees, or who is violating a
3249 condition of probation or parole imposed under federal or state
3250 law;

3251 (l) Aliens who are not qualified under federal law;

3252 (m) For a period of ten (10) years following
3253 conviction, individuals convicted in federal or state court of
3254 having made a fraudulent statement or representation with respect
3255 to the individual's place of residence in order to receive TANF,
3256 food stamps or Supplemental Security Income (SSI) assistance under
3257 Title XVI or Title XIX simultaneously from two (2) or more states;
3258 and

3259 (n) Individuals who are recipients of federal
3260 Supplemental Security Income (SSI) assistance.

3261 (4) (a) Any person who is otherwise eligible for TANF
3262 benefits, including custodial and noncustodial parents, shall be
3263 required to attend school and meet the monthly attendance
3264 requirement as provided in this subsection if all of the following
3265 apply:

3266 (i) The person is under age twenty (20);

3267 (ii) The person has not graduated from a public or
3268 private high school or obtained a GED equivalent;

3269 (iii) The person is physically able to attend
3270 school and is not excused from attending school; and

3271 (iv) If the person is a parent or caretaker
3272 relative with whom a dependent child is living, child care is
3273 available for the child.

3274 The monthly attendance requirement under this subsection
3275 shall be attendance at the school in which the person is enrolled
3276 for each day during a month that the school conducts classes in
3277 which the person is enrolled, with not more than two (2) absences
3278 during the month for reasons other than the reasons listed in
3279 paragraph (e)(iv) of this subsection. Persons who fail to meet
3280 participation requirements in this subsection shall be subject to
3281 sanctions as provided in paragraph (f) of this subsection.

3282 (b) As used in this subsection, "school" means any one
3283 (1) of the following:

3284 (i) A school as defined in Section 37-13-91(2);

3285 (ii) A vocational, technical and adult education
3286 program; or

3287 (iii) A course of study meeting the standards
3288 established by the State Department of Education for the granting
3289 of a declaration of equivalency of high school graduation.

3290 (c) If any compulsory-school-age child, as defined in
3291 Section 37-13-91(2), to which TANF eligibility requirements apply
3292 is not in compliance with the compulsory school attendance
3293 requirements of Section 37-13-91(6), the superintendent of schools
3294 of the school district in which the child is enrolled or eligible
3295 to attend shall notify the county department of human services of
3296 the child's noncompliance. The Department of Human Services shall
3297 review school attendance information as provided under this
3298 paragraph at all initial eligibility determinations and upon
3299 subsequent report of unsatisfactory attendance.

3300 (d) The signature of a person on an application for
3301 TANF benefits constitutes permission for the release of school
3302 attendance records for that person or for any child residing with
3303 that person. The department shall request information from the
3304 child's school district about the child's attendance in the school
3305 district's most recently completed semester of attendance. If
3306 information about the child's previous school attendance is not

3307 available or cannot be verified, the department shall require the
3308 child to meet the monthly attendance requirement for one (1)
3309 semester or until the information is obtained. The department
3310 shall use the attendance information provided by a school district
3311 to verify attendance for a child. The department shall review
3312 with the parent or caretaker relative a child's claim that he or
3313 she has a good cause for not attending school.

3314 A school district shall provide information to the department
3315 about the attendance of a child who is enrolled in a public school
3316 in the district within five (5) working days of the receipt of a
3317 written request for such information from the department. The
3318 school district shall define how many hours of attendance count as
3319 a full day and shall provide that information, upon request, to
3320 the department. In reporting attendance, the school district may
3321 add partial days' absence together to constitute a full day's
3322 absence.

3323 (e) A child who is required to attend school to meet
3324 the requirements under this subsection shall comply except when
3325 there is good cause, which shall be demonstrated by any of the
3326 following circumstances:

3327 (i) The minor parent is the caretaker of a child
3328 less than twelve (12) weeks old; or

3329 (ii) The department determines that child care
3330 services are necessary for the minor parent to attend school and
3331 there is no child care available; or

3332 (iii) The child is prohibited by the school
3333 district from attending school and an expulsion is pending. This
3334 exemption no longer applies once the teenager has been expelled;
3335 however, a teenager who has been expelled and is making
3336 satisfactory progress towards obtaining a GED equivalent shall be
3337 eligible for TANF benefits; or

3338 (iv) The child failed to attend school for one or
3339 more of the following reasons:

- 3340 1. Illness, injury or incapacity of the child
3341 or the minor parent's child;
3342 2. Court-required appearances or temporary
3343 incarceration;
3344 3. Medical or dental appointments for the
3345 child or minor parent's child;
3346 4. Death of a close relative;
3347 5. Observance of a religious holiday;
3348 6. Family emergency;
3349 7. Breakdown in transportation;
3350 8. Suspension; or
3351 9. Any other circumstance beyond the control
3352 of the child, as defined in regulations of the department.

3353 (f) Upon determination that a child has failed without
3354 good cause to attend school as required, the department shall
3355 provide written notice to the parent or caretaker relative
3356 (whoever is the primary recipient of the TANF benefits) that
3357 specifies:

3358 (i) That the family will be sanctioned in the next
3359 possible payment month because the child who is required to attend
3360 school has failed to meet the attendance requirement of this
3361 subsection;

3362 (ii) The beginning date of the sanction, and the
3363 child to whom the sanction applies;

3364 (iii) The right of the child's parents or
3365 caretaker relative (whoever is the primary recipient of the TANF
3366 benefits) to request a fair hearing under this subsection.

3367 The child's parent or caretaker relative (whoever is the
3368 primary recipient of the TANF benefits) may request a fair hearing
3369 on the department's determination that the child has not been
3370 attending school. If the child's parents or caretaker relative
3371 does not request a fair hearing under this subsection, or if,
3372 after a fair hearing has been held, the hearing officer finds that

3373 the child without good cause has failed to meet the monthly
3374 attendance requirement, the department shall discontinue or deny
3375 TANF benefits to the child thirteen (13) years old, or older, in
3376 the next possible payment month. The department shall discontinue
3377 or deny twenty-five percent (25%) of the family grant when a child
3378 six (6) through twelve (12) years of age without good cause has
3379 failed to meet the monthly attendance requirement. Both the child
3380 and family sanction may apply when children in both age groups
3381 fail to meet the attendance requirement without good cause. A
3382 sanction applied under this subsection shall be effective for one
3383 (1) month for each month that the child failed to meet the monthly
3384 attendance requirement. In the case of a dropout, the sanction
3385 shall remain in force until the parent or caretaker relative
3386 provides written proof from the school district that the child has
3387 reenrolled and met the monthly attendance requirement for one (1)
3388 calendar month. Any month in which school is in session for at
3389 least ten (10) days during the month may be used to meet the
3390 attendance requirement under this subsection. This includes
3391 attendance at summer school. The sanction shall be removed the
3392 next possible payment month.

3393 (5) All parents or caretaker relatives shall have their
3394 dependent children receive vaccinations and booster vaccinations
3395 against those diseases specified by the State Health Officer
3396 pursuant to Section 41-23-37 in accordance with the vaccination
3397 and booster vaccination schedule prescribed by the State Health
3398 Officer for children of that age, in order for the parents or
3399 caretaker relatives to be eligible or remain eligible to receive
3400 TANF benefits. Proof of having received such vaccinations and
3401 booster vaccinations shall be given by presenting the certificates
3402 of vaccination issued by any health care provider licensed to
3403 administer vaccinations, and submitted on forms specified by the
3404 State Board of Health. If the parents without good cause do not
3405 have their dependent children receive the vaccinations and booster

3406 vaccinations as required by this subsection and they fail to
3407 comply after thirty (30) days' notice, the department shall
3408 sanction the family's TANF benefits by twenty-five percent (25%)
3409 for the next payment month and each subsequent payment month until
3410 the requirements of this subsection are met.

3411 (6) (a) If the parent or caretaker relative applying for
3412 TANF assistance is an employable person, as determined by the
3413 Department of Human Services, the person shall be required to
3414 engage in an allowable work activity once the department
3415 determines the parent or caretaker relative is ready to engage in
3416 work, or once the parent or caretaker relative has received TANF
3417 assistance under the program for twenty-four (24) months, whether
3418 or not consecutive, whichever is earlier. No TANF benefits shall
3419 be given to any person to whom this section applies who fails
3420 without good cause to comply with the Employability Development
3421 Plan prepared by the department for the person, or who has refused
3422 to accept a referral or offer of employment, training or education
3423 in which he or she is able to engage, subject to the penalties
3424 prescribed in subsection (6)(e). A person shall be deemed to have
3425 refused to accept a referral or offer of employment, training or
3426 education if he or she:

3427 (i) Willfully fails to report for an interview
3428 with respect to employment when requested to do so by the
3429 department; or

3430 (ii) Willfully fails to report to the department
3431 the result of a referral to employment; or

3432 (iii) Willfully fails to report for allowable work
3433 activities as prescribed in subsections (6)(c) and (d).

3434 (b) The Department of Human Services shall operate a
3435 statewide work program for TANF recipients to provide work
3436 activities and supportive services to enable families to become
3437 self-sufficient and improve their competitive position in the work
3438 force in accordance with the requirements of the federal Personal

3439 Responsibility and Work Opportunity Reconciliation Act of 1996
3440 (Public Law 104-193), as amended, and the regulations promulgated
3441 thereunder. All adults who are not specifically exempt shall be
3442 referred by the department for allowable work activities. An
3443 adult may be exempt from the mandatory work activity requirement
3444 for the following reasons:

3445 (i) Incapacity;

3446 (ii) Temporary illness or injury, verified by
3447 physician's certificate;

3448 (iii) Is in the third trimester of pregnancy,
3449 verified by physician's certificate;

3450 (iv) Caretaker of a child under twelve (12)
3451 months, for not more than twelve (12) months of the sixty-month
3452 maximum benefit period;

3453 (v) Caretaker of an ill or incapacitated person,
3454 as verified by physician's certificate;

3455 (vi) Age, if over sixty (60) or under eighteen
3456 (18) years of age;

3457 (vii) Receiving treatment for substance abuse, if
3458 the person is in compliance with the substance abuse treatment
3459 plan;

3460 (viii) In a two-parent family, the caretaker of a
3461 severely disabled child, as verified by a physician's certificate;

3462 or

3463 (ix) History of having been a victim of domestic
3464 violence, which has been reported as required by state law and is
3465 substantiated by police reports or court records, and being at
3466 risk of further domestic violence, shall be exempt for a period as
3467 deemed necessary by the department but not to exceed a total of
3468 twelve (12) months, which need not be consecutive, in the
3469 sixty-month maximum benefit period. For the purposes of this
3470 subparagraph (ix), "domestic violence" means that an individual
3471 has been subjected to:

- 3472 1. Physical acts that resulted in, or
3473 threatened to result in, physical injury to the individual;
3474 2. Sexual abuse;
3475 3. Sexual activity involving a dependent
3476 child;
3477 4. Being forced as the caretaker relative of
3478 a dependent child to engage in nonconsensual sexual acts or
3479 activities;
3480 5. Threats of, or attempts at, physical or
3481 sexual abuse;
3482 6. Mental abuse; or
3483 7. Neglect or deprivation of medical care.

3484 (c) For all families, all adults who are not
3485 specifically exempt shall be required to participate in work
3486 activities for at least the minimum average number of hours per
3487 week specified by federal law or regulation, not fewer than twenty
3488 (20) hours per week (thirty-five (35) hours per week for
3489 two-parent families) of which are attributable to the following
3490 allowable work activities:

- 3491 (i) Unsubsidized employment;
3492 (ii) Subsidized private employment;
3493 (iii) Subsidized public employment;
3494 (iv) Work experience (including work associated
3495 with the refurbishing of publicly assisted housing), if sufficient
3496 private employment is not available;
3497 (v) On-the-job training;
3498 (vi) Job search and job readiness assistance
3499 consistent with federal TANF regulations;
3500 (vii) Community service programs;
3501 (viii) Vocational educational training (not to
3502 exceed twelve (12) months with respect to any individual);
3503 (ix) The provision of child care services to an
3504 individual who is participating in a community service program;

3505 (x) Satisfactory attendance at high school or in a
3506 course of study leading to a high school equivalency certificate,
3507 for heads of household under age twenty (20) who have not
3508 completed high school or received such certificate;

3509 (xi) Education directly related to employment, for
3510 heads of household under age twenty (20) who have not completed
3511 high school or received such equivalency certificate.

3512 (d) The following are allowable work activities which
3513 may be attributable to hours in excess of the minimum specified in
3514 subsection (6)(c):

3515 (i) Job skills training directly related to
3516 employment;

3517 (ii) Education directly related to employment for
3518 individuals who have not completed high school or received a high
3519 school equivalency certificate;

3520 (iii) Satisfactory attendance at high school or in
3521 a course of study leading to a high school equivalency, for
3522 individuals who have not completed high school or received such
3523 equivalency certificate;

3524 (iv) Job search and job readiness assistance
3525 consistent with federal TANF regulations.

3526 (e) If any adult or caretaker relative refuses to
3527 participate in allowable work activity as required under this
3528 subsection (6), the following full family TANF benefit penalty
3529 will apply, subject to due process to include notification,
3530 conciliation and a hearing if requested by the recipient:

3531 (i) For the first violation, the department shall
3532 terminate the TANF assistance otherwise payable to the family for
3533 a two-month period or until the person has complied with the
3534 required work activity, whichever is longer;

3535 (ii) For the second violation, the department
3536 shall terminate the TANF assistance otherwise payable to the

3537 family for a six-month period or until the person has complied
3538 with the required work activity, whichever is longer;

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

3543 (iv) For the fourth violation, the person shall be
3544 permanently disqualified.

3545 For a two-parent family, unless prohibited by state or
3546 federal law, Medicaid assistance shall be terminated only for the
3547 person whose failure to participate in allowable work activity
3548 caused the family's TANF assistance to be sanctioned under this
3549 subsection (6)(e), unless an individual is pregnant, but shall not
3550 be terminated for any other person in the family who is meeting
3551 that person's applicable work requirement or who is not required
3552 to work. Minor children shall continue to be eligible for
3553 Medicaid benefits regardless of the disqualification of their
3554 parent or caretaker relative for TANF assistance under this
3555 subsection (6), unless prohibited by state or federal law.

3556 (f) Any person enrolled in a two-year or four-year
3557 college program who meets the eligibility requirements to receive
3558 TANF benefits, and who is meeting the applicable work requirements
3559 and all other applicable requirements of the TANF program, shall
3560 continue to be eligible for TANF benefits while enrolled in the
3561 college program for as long as the person meets the requirements
3562 of the TANF program, unless prohibited by federal law.

3563 (g) No adult in a work activity required under this
3564 subsection (6) shall be employed or assigned (i) when any other
3565 individual is on layoff from the same or any substantially
3566 equivalent job within six (6) months before the date of the TANF
3567 recipient's employment or assignment; or (ii) if the employer has
3568 terminated the employment of any regular employee or otherwise
3569 caused an involuntary reduction of its work force in order to fill

3570 the vacancy so created with an adult receiving TANF assistance.
3571 The Mississippi Department of Employment Security, established
3572 under Section 71-5-101, shall appoint one or more impartial
3573 hearing officers to hear and decide claims by employees of
3574 violations of this paragraph (g). The hearing officer shall hear
3575 all the evidence with respect to any claim made hereunder and such
3576 additional evidence as he may require and shall make a
3577 determination and the reason therefor. The claimant shall be
3578 promptly notified of the decision of the hearing officer and the
3579 reason therefor. Within ten (10) days after the decision of the
3580 hearing officer has become final, any party aggrieved thereby may
3581 secure judicial review thereof by commencing an action, in the
3582 circuit court of the county in which the claimant resides, against
3583 the department for the review of such decision, in which action
3584 any other party to the proceeding before the hearing officer shall
3585 be made a defendant. Any such appeal shall be on the record which
3586 shall be certified to the court by the department in the manner
3587 provided in Section 71-5-531, and the jurisdiction of the court
3588 shall be confined to questions of law which shall render its
3589 decision as provided in that section.

3590 (7) The Department of Human Services may provide child care
3591 for eligible participants who require such care so that they may
3592 accept employment or remain employed. The department may also
3593 provide child care for those participating in the TANF program
3594 when it is determined that they are satisfactorily involved in
3595 education, training or other allowable work activities. The
3596 department may contract with Head Start agencies to provide child
3597 care services to TANF recipients. The department may also arrange
3598 for child care by use of contract or vouchers, provide vouchers in
3599 advance to a caretaker relative, reimburse a child care provider,
3600 or use any other arrangement deemed appropriate by the department,
3601 and may establish different reimbursement rates for child care
3602 services depending on the category of the facility or home. Any

3603 center-based or group home child care facility under this
3604 paragraph shall be licensed by the State Department of Health
3605 pursuant to law. When child care is being provided in the child's
3606 own home, in the home of a relative of the child, or in any other
3607 unlicensed setting, the provision of such child care may be
3608 monitored on a random basis by the Department of Human Services or
3609 the State Department of Health. Transitional child care
3610 assistance may be continued if it is necessary for parents to
3611 maintain employment once support has ended, unless prohibited
3612 under state or federal law. Transitional child care assistance
3613 may be provided for up to twenty-four (24) months after the last
3614 month during which the family was eligible for TANF assistance, if
3615 federal funds are available for such child care assistance.

3616 (8) The Department of Human Services may provide
3617 transportation or provide reasonable reimbursement for
3618 transportation expenses that are necessary for individuals to be
3619 able to participate in allowable work activity under the TANF
3620 program.

3621 (9) Medicaid assistance shall be provided to a family of
3622 TANF program participants for up to twenty-four (24) consecutive
3623 calendar months following the month in which the participating
3624 family would be ineligible for TANF benefits because of increased
3625 income, expiration of earned income disregards, or increased hours
3626 of employment of the caretaker relative; however, Medicaid
3627 assistance for more than twelve (12) months may be provided only
3628 if a federal waiver is obtained to provide such assistance for
3629 more than twelve (12) months and federal and state funds are
3630 available to provide such assistance.

3631 (10) The department shall require applicants for and
3632 recipients of public assistance from the department to sign a
3633 personal responsibility contract that will require the applicant
3634 or recipient to acknowledge his or her responsibilities to the
3635 state.

3636 (11) The department shall enter into an agreement with the
3637 State Personnel Board and other state agencies that will allow
3638 those TANF participants who qualify for vacant jobs within state
3639 agencies to be placed in state jobs. State agencies participating
3640 in the TANF work program shall receive any and all benefits
3641 received by employers in the private sector for hiring TANF
3642 recipients. This subsection (11) shall be effective only if the
3643 state obtains any necessary federal waiver or approval and if
3644 federal funds are available therefor.

3645 (12) No new TANF program requirement or restriction
3646 affecting a person's eligibility for TANF assistance, or allowable
3647 work activity, which is not mandated by federal law or regulation
3648 may be implemented by the Department of Human Services after the
3649 effective date of this act, unless such is specifically authorized
3650 by an amendment to this section by the Legislature.

3651 **SECTION 50.** Section 43-19-45, Mississippi Code of 1972, is
3652 reenacted as follows:

3653 43-19-45. (1) The Child Support Unit shall establish a
3654 state parent locator service for the purpose of locating absent
3655 and nonsupporting parents and alleged parents, which will utilize
3656 all appropriate public and private locator sources. In order to
3657 carry out the responsibilities imposed under Sections 43-19-31
3658 through 43-19-53, the Child Support Unit may secure by
3659 administrative subpoena from the customer records of public
3660 utilities and cable television companies the names and addresses
3661 of individuals and the names and addresses of employers of such
3662 individuals that would enable the location of parents or alleged
3663 parents who have a duty to provide support and maintenance for
3664 their children. The Child Support Unit may also administratively
3665 subpoena any and all financial information, including account
3666 numbers, names and social security numbers of record for assets,
3667 accounts, and account balances from any individual, financial
3668 institution, business or other entity, public or private, needed

3669 to establish, modify or enforce a support order. No entity
3670 complying with an administrative subpoena to supply the requested
3671 information of whatever nature shall be liable in any civil action
3672 or proceeding on account of such compliance. Full faith and
3673 credit shall be given to all uniform administrative subpoenas
3674 issued by other state child support units. The recipient of an
3675 administrative subpoena shall supply the Child Support Unit, other
3676 state and federal IV-D agencies, its attorneys, investigators,
3677 probation officers, county or district attorneys in this state,
3678 all information relative to the location, employment, employment
3679 related benefits including, but not limited to, availability of
3680 medical insurance, income and property of such parents and alleged
3681 parents and with all information on hand relative to the location
3682 and prosecution of any person who has, by means of a false
3683 statement or misrepresentation or by impersonation or other
3684 fraudulent device, obtained Temporary Assistance for Needy
3685 Families (TANF) to which he or she was not entitled,
3686 notwithstanding any provision of law making such information
3687 confidential. The Mississippi Department of Information
3688 Technology Services and any other agency in this state using the
3689 facilities of the Mississippi Department of Information Technology
3690 Services are directed to permit the Child Support Unit access to
3691 their files, inclusive of those maintained for other state
3692 agencies, for the purpose of locating absent and nonsupporting
3693 parents and alleged parents, except to the extent that any such
3694 access would violate any valid federal statute or regulation
3695 issued pursuant thereto. The Child Support Unit, other state and
3696 federal IV-D agencies, its attorneys, investigators, probation
3697 officers, or county or district attorneys, shall use such
3698 information only for the purpose of investigating or enforcing the
3699 support liability of such absent parents or alleged parents or for
3700 the prosecution of other persons mentioned herein. Neither the
3701 Child Support Unit nor those authorities shall use the

3702 information, or disclose it, for any other purpose. All records
3703 maintained pursuant to the provisions of Sections 43-19-31 through
3704 43-19-53 shall be confidential and shall be available only to the
3705 Child Support Unit, other state and federal IV-D agencies, the
3706 attorneys, investigators and other staff employed or under
3707 contract under Sections 43-19-31 through 43-19-53, district or
3708 county attorneys, probation departments, child support units in
3709 other states, and courts having jurisdiction in paternity, support
3710 or abandonment proceedings. The Child Support Unit may release to
3711 the public the name, photo, last known address, arrearage amount
3712 and other necessary information of a parent who has a judgment
3713 against him for child support and is currently in arrears in the
3714 payment of this support. Such release may be included in a "Most
3715 Wanted List" or other media in order to solicit assistance.

3716 (2) The Child Support Unit shall have the authority to
3717 secure information from the records of the Mississippi Department
3718 of Employment Security that may be necessary to locate absent and
3719 nonsupporting parents and alleged parents under the provisions of
3720 Sections 43-19-31 through 43-19-53. Upon request of the Child
3721 Support Unit, all departments, boards, bureaus and agencies of the
3722 state shall provide to the Child Support Unit verification of
3723 employment or payment and the address and social security number
3724 of any person designated as an absent or nonsupporting parent or
3725 alleged parent. In addition, upon request of the Child Support
3726 Unit, the Mississippi Department of Employment Security, or any
3727 private employer or payor of any income to a person designated as
3728 an absent or nonsupporting parent or alleged parent, shall provide
3729 to the Child Support Unit verification of employment or payment
3730 and the address and social security number of the person so
3731 designated. Full faith and credit shall be given to such notices
3732 issued by child support units in other states. All such records
3733 and information shall be confidential and shall not be used for
3734 any purposes other than those specified by Sections 43-19-31

3735 through 43-19-53. The violation of the provisions of this
3736 subsection shall be unlawful and any person convicted of violating
3737 the provisions of this subsection shall be guilty of a misdemeanor
3738 and shall pay a fine of not more than Two Hundred Dollars
3739 (\$200.00).

3740 (3) Federal and state IV-D agencies shall have access to the
3741 state parent locator service and any system used by the Child
3742 Support Unit to locate an individual for purposes relating to
3743 motor vehicles or law enforcement. No employer or other source of
3744 income who complies with this section shall be liable in any civil
3745 action or proceeding brought by the obligor or obligee on account
3746 of such compliance.

3747 **SECTION 51.** Section 43-19-46, Mississippi Code of 1972, is
3748 reenacted as follows:

3749 43-19-46. (1) Each employer, as defined in Section
3750 93-11-101, doing business in Mississippi shall report to the
3751 Directory of New Hires within the Mississippi Department of Human
3752 Services:

3753 (a) The hiring of any person who resides or works in
3754 this state to whom the employer anticipates paying wages; and

3755 (b) The hiring or return to work of any employee who
3756 was laid off, furloughed, separated, granted leave without pay or
3757 was terminated from employment.

3758 (2) Employers shall report, by mailing or by other means
3759 authorized by the Department of Human Services, a copy of the
3760 employee's W-4 form or its equivalent which will result in timely
3761 reporting. Each employer shall submit reports within fifteen (15)
3762 days of the hiring, rehiring or return to work of the employee.

3763 The report shall contain:

3764 (a) The employee's name, address, social security
3765 number and the date of birth;

3766 (b) The employer's name, address, and federal and state
3767 withholding tax identification numbers; and

3768 (c) The date upon which the employee began or resumed
3769 employment, or is scheduled to begin or otherwise resume
3770 employment.

3771 (3) The department shall retain the information, which shall
3772 be forwarded to the federal registry of new hires.

3773 (4) The Department of Human Services may operate the
3774 program, may enter into a mutual agreement with the Mississippi
3775 Department of Employment Security or the State Tax Commission, or
3776 both, for the operation of the Directory of New Hires Program, or
3777 the Department of Human Services may contract for such service, in
3778 which case the department shall maintain administrative control of
3779 the program.

3780 (5) In cases in which an employer fails to report
3781 information, as required by this section, an administratively
3782 levied civil penalty in an amount not to exceed Five Hundred
3783 Dollars (\$500.00) shall apply if the failure is the result of a
3784 conspiracy between the employer and employee to not supply the
3785 required report or to supply a false or incomplete report. The
3786 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).
3787 Appeal shall be as provided in Section 43-19-58.

3788 **SECTION 52.** Section 57-62-5, Mississippi Code of 1972, is
3789 reenacted as follows:

3790 **[For businesses or industries that received or applied for**
3791 **incentive payments prior to July 1, 2005, this section shall read**
3792 **as follows:]**

3793 57-62-5. As used in this chapter, the following words and
3794 phrases shall have the meanings ascribed in this section unless
3795 the context clearly indicates otherwise:

3796 (a) "Qualified business or industry" means any
3797 corporation, limited liability company, partnership, sole
3798 proprietorship, business trust or other legal entity and subunits
3799 or affiliates thereof, pursuant to rules and regulations of the
3800 MDA, which provides an average annual salary, excluding benefits

3801 which are not subject to Mississippi income taxes, of at least one
3802 hundred twenty-five percent (125%) of the most recently published
3803 state average annual wage or the most recently published average
3804 annual wage of the county in which the qualified business or
3805 industry is located as determined by the Mississippi Department of
3806 Employment Security, whichever is the lesser. An establishment
3807 shall not be considered to be a qualified business or industry
3808 unless it offers, or will offer within one hundred eighty (180)
3809 days of the date it receives the first incentive payment pursuant
3810 to the provisions of this chapter, a basic health benefits plan to
3811 the individuals it employs in new direct jobs in this state which
3812 is approved by the MDA. Qualified business or industry does not
3813 include retail business or gaming business;

3814 (b) "New direct job" means full-time employment in this
3815 state in a qualified business or industry that has qualified to
3816 receive an incentive payment pursuant to this chapter, which
3817 employment did not exist in this state before the date of approval
3818 by the MDA of the application of the qualified business or
3819 industry pursuant to the provisions of this chapter. "New direct
3820 job" shall include full-time employment in this state of employees
3821 who are employed by an entity other than the establishment that
3822 has qualified to receive an incentive payment and who are leased
3823 to the qualified business or industry, if such employment did not
3824 exist in this state before the date of approval by the MDA of the
3825 application of the establishment;

3826 (c) "Full-time job" means a job of at least thirty-five
3827 (35) hours per week;

3828 (d) "Estimated direct state benefits" means the tax
3829 revenues projected by the MDA to accrue to the state as a result
3830 of the qualified business or industry;

3831 (e) "Estimated direct state costs" means the costs
3832 projected by the MDA to accrue to the state as a result of the
3833 qualified business or industry;

3834 (f) "Estimated net direct state benefits" means the
3835 estimated direct state benefits less the estimated direct state
3836 costs;

3837 (g) "Net benefit rate" means the estimated net direct
3838 state benefits computed as a percentage of gross payroll, provided
3839 that:

3840 (i) Except as otherwise provided in this paragraph
3841 (g), the net benefit rate may be variable and shall not exceed
3842 four percent (4%) of the gross payroll; and shall be set in the
3843 sole discretion of the MDA;

3844 (ii) In no event shall incentive payments,
3845 cumulatively, exceed the estimated net direct state benefits;

3846 (h) "Gross payroll" means wages for new direct jobs of
3847 the qualified business or industry; and

3848 (i) "MDA" means the Mississippi Development Authority.

3849 **[For businesses or industries that apply for incentive**
3850 **payments from and after July 1, 2005, this section shall read as**
3851 **follows:]**

3852 57-62-5. As used in this chapter, the following words and
3853 phrases shall have the meanings ascribed in this section unless
3854 the context clearly indicates otherwise:

3855 (a) "Qualified business or industry" means any
3856 corporation, limited liability company, partnership, sole
3857 proprietorship, business trust or other legal entity and subunits
3858 or affiliates thereof, pursuant to rules and regulations of the
3859 MDA, which:

3860 (i) Is a data/information processing enterprise
3861 meeting minimum criteria established by the MDA that provides an
3862 average annual salary, excluding benefits which are not subject to
3863 Mississippi income taxes, of at least one hundred percent (100%)
3864 of the most recently published state average annual wage or the
3865 most recently published average annual wage of the county in which
3866 the qualified business or industry is located as determined by the

3867 Mississippi Department of Employment Security, whichever is the
3868 lesser, and creates not less than two hundred (200) new direct
3869 jobs if the enterprise is located in a Tier One or Tier Two area
3870 (as such areas are designated in accordance with Section
3871 57-73-21), or which creates not less than one hundred (100) new
3872 jobs if the enterprise is located in a Tier Three area (as such
3873 areas are designated in accordance with Section 57-73-21);

3874 (ii) Is a manufacturing or distribution enterprise
3875 meeting minimum criteria established by the MDA that provides an
3876 average annual salary, excluding benefits which are not subject to
3877 Mississippi income taxes, of at least one hundred ten percent
3878 (110%) of the most recently published state average annual wage or
3879 the most recently published average annual wage of the county in
3880 which the qualified business or industry is located as determined
3881 by the Mississippi Department of Employment Security, whichever is
3882 the lesser, invests not less than Twenty Million Dollars
3883 (\$20,000,000.00) in land, buildings and equipment, and creates not
3884 less than fifty (50) new direct jobs if the enterprise is located
3885 in a Tier One or Tier Two area (as such areas are designated in
3886 accordance with Section 57-73-21), or which creates not less than
3887 twenty (20) new jobs if the enterprise is located in a Tier Three
3888 area (as such areas are designated in accordance with Section
3889 57-73-21);

3890 (iii) Is a corporation, limited liability company,
3891 partnership, sole proprietorship, business trust or other legal
3892 entity and subunits or affiliates thereof, pursuant to rules and
3893 regulations of the MDA, which provides an average annual salary,
3894 excluding benefits which are not subject to Mississippi income
3895 taxes, of at least one hundred twenty-five percent (125%) of the
3896 most recently published state average annual wage or the most
3897 recently published average annual wage of the county in which the
3898 qualified business or industry is located as determined by the
3899 Mississippi Department of Employment Security, whichever is the

3900 lesser, and creates not less than twenty-five (25) new direct jobs
3901 if the enterprise is located in a Tier One or Tier Two area (as
3902 such areas are designated in accordance with Section 57-73-21), or
3903 which creates not less than ten (10) new jobs if the enterprise is
3904 located in a Tier Three area (as such areas are designated in
3905 accordance with Section 57-73-21). An establishment shall not be
3906 considered to be a qualified business or industry unless it
3907 offers, or will offer within one hundred eighty (180) days of the
3908 date it receives the first incentive payment pursuant to the
3909 provisions of this chapter, a basic health benefits plan to the
3910 individuals it employs in new direct jobs in this state which is
3911 approved by the MDA. Qualified business or industry does not
3912 include retail business or gaming business; or

3913 (iv) Is a research and development or a technology
3914 intensive enterprise meeting minimum criteria established by the
3915 MDA that provides an average annual salary, excluding benefits
3916 which are not subject to Mississippi income taxes, of at least one
3917 hundred fifty percent (150%) of the most recently published state
3918 average annual wage or the most recently published average annual
3919 wage of the county in which the qualified business or industry is
3920 located as determined by the Mississippi Department of Employment
3921 Security, whichever is the lesser, and creates not less than ten
3922 (10) new direct jobs.

3923 An establishment shall not be considered to be a qualified
3924 business or industry unless it offers, or will offer within one
3925 hundred eighty (180) days of the date it receives the first
3926 incentive payment pursuant to the provisions of this chapter, a
3927 basic health benefits plan to the individuals it employs in new
3928 direct jobs in this state which is approved by the MDA. Qualified
3929 business or industry does not include retail business or gaming
3930 business.

3931 (b) "New direct job" means full-time employment in this
3932 state in a qualified business or industry that has qualified to

3933 receive an incentive payment pursuant to this chapter, which
3934 employment did not exist in this state before the date of approval
3935 by the MDA of the application of the qualified business or
3936 industry pursuant to the provisions of this chapter. "New direct
3937 job" shall include full-time employment in this state of employees
3938 who are employed by an entity other than the establishment that
3939 has qualified to receive an incentive payment and who are leased
3940 to the qualified business or industry, if such employment did not
3941 exist in this state before the date of approval by the MDA of the
3942 application of the establishment.

3943 (c) "Full-time job" or "full-time employment" means a
3944 job of at least thirty-five (35) hours per week.

3945 (d) "Estimated direct state benefits" means the tax
3946 revenues projected by the MDA to accrue to the state as a result
3947 of the qualified business or industry.

3948 (e) "Estimated direct state costs" means the costs
3949 projected by the MDA to accrue to the state as a result of the
3950 qualified business or industry.

3951 (f) "Estimated net direct state benefits" means the
3952 estimated direct state benefits less the estimated direct state
3953 costs.

3954 (g) "Net benefit rate" means the estimated net direct
3955 state benefits computed as a percentage of gross payroll, provided
3956 that:

3957 (i) Except as otherwise provided in this paragraph
3958 (g), the net benefit rate may be variable and shall not exceed
3959 four percent (4%) of the gross payroll; and shall be set in the
3960 sole discretion of the MDA;

3961 (ii) In no event shall incentive payments,
3962 cumulatively, exceed the estimated net direct state benefits.

3963 (h) "Gross payroll" means wages for new direct jobs of
3964 the qualified business or industry.

3965 (i) "MDA" means the Mississippi Development Authority.

3966 **SECTION 53.** Section 57-62-9, Mississippi Code of 1972, is
3967 reenacted as follows:

3968 **[For businesses or industries that received or applied for**
3969 **incentive payments prior to July 1, 2005, this section shall read**
3970 **as follows:]**

3971 57-62-9. (1) Except as otherwise provided in this section,
3972 a qualified business or industry that meets the qualifications
3973 specified in the Mississippi Advantage Jobs Act may receive
3974 quarterly incentive payments for a period not to exceed ten (10)
3975 years from the State Tax Commission pursuant to the provisions of
3976 the Mississippi Advantage Jobs Act in an amount which shall be
3977 equal to the net benefit rate multiplied by the actual gross
3978 payroll of new direct jobs for a calendar quarter as verified by
3979 the Mississippi Department of Employment Security, but not to
3980 exceed the amount of money previously paid into the fund by the
3981 employer. A qualified business or industry that is a project as
3982 defined in Section 57-75-5(f)(iv)1 may elect the date upon which
3983 the ten-year period will begin. Such date may not be later than
3984 sixty (60) months after the date the business or industry applied
3985 for incentive payments.

3986 (2) (a) A qualified business or industry that is a project
3987 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to
3988 receive incentive payments for an additional period not to exceed
3989 five (5) years beyond the expiration date of the initial ten-year
3990 period if:

3991 (i) The qualified business or industry creates at
3992 least three thousand (3,000) new direct jobs within five (5) years
3993 after the date the business or industry commences commercial
3994 production;

3995 (ii) Within five (5) years after the date the
3996 business or industry commences commercial production, the average
3997 annual wage of the jobs is at least one hundred fifty percent
3998 (150%) of the most recently published state average annual wage or

3999 the most recently published average annual wage of the county in
4000 which the qualified business or industry is located as determined
4001 by the Mississippi Department of Employment Security, whichever is
4002 the lesser. The criteria for the average annual wage requirement
4003 shall be based upon the state average annual wage or the average
4004 annual wage of the county whichever is appropriate, at the time of
4005 creation of the minimum number of jobs, and the threshold
4006 established at that time will remain constant for the duration of
4007 the additional period; and

4008 (iii) The qualified business or industry meets and
4009 maintains the job and wage requirements of subparagraphs (i) and
4010 (ii) of this paragraph (a) for four (4) consecutive calendar
4011 quarters.

4012 (b) A qualified business or industry that is a project
4013 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4014 incentive payments for the additional period provided in paragraph
4015 (a) of this subsection (2) may apply to the MDA to receive
4016 incentive payments for an additional period not to exceed ten (10)
4017 years beyond the expiration date of the additional period provided
4018 in paragraph (a) of this subsection (2) if:

4019 (i) The qualified business or industry creates at
4020 least four thousand (4,000) new direct jobs after qualifying for
4021 the additional incentive period provided in paragraph (a) of this
4022 subsection (2) but before the expiration of the additional period.
4023 For purposes of determining whether the business or industry meets
4024 the minimum jobs requirement of this subparagraph (i), the number
4025 of jobs the business or industry created in order to meet the
4026 minimum jobs requirement of paragraph (a) of this subsection (2)
4027 shall be subtracted from the minimum jobs requirement of this
4028 subparagraph (i);

4029 (ii) The average annual wage of the jobs is at
4030 least one hundred fifty percent (150%) of the most recently
4031 published state average annual wage or the most recently published

4032 average annual wage of the county in which the qualified business
4033 or industry is located as determined by the Mississippi Department
4034 of Employment Security, whichever is the lesser. The criteria for
4035 the average annual wage requirement shall be based upon the state
4036 average annual wage or the average annual wage of the county
4037 whichever is appropriate, at the time of creation of the minimum
4038 number of jobs, and the threshold established at that time will
4039 remain constant for the duration of the additional period; and
4040 (iii) The qualified business or industry meets and
4041 maintains the job and wage requirements of subparagraphs (i) and
4042 (ii) of this paragraph (b) for four (4) consecutive calendar
4043 quarters.

4044 (3) In order to receive incentive payments, an establishment
4045 shall apply to the MDA. The application shall be on a form
4046 prescribed by the MDA and shall contain such information as may be
4047 required by the MDA to determine if the applicant is qualified.

4048 (4) In order to qualify to receive such payments, the
4049 establishment applying shall be required to:

4050 (a) Be engaged in a qualified business or industry;

4051 (b) Provide an average salary, excluding benefits which
4052 are not subject to Mississippi income taxes, of at least one
4053 hundred twenty-five percent (125%) of the most recently published
4054 state average annual wage or the most recently published average
4055 annual wage of the county in which the qualified business or
4056 industry is located as determined by the Mississippi Department of
4057 Employment Security, whichever is the lesser. The criteria for
4058 this requirement shall be based upon the state average annual wage
4059 or the average annual wage of the county whichever is appropriate,
4060 at the time of application, and the threshold established upon
4061 application will remain constant for the duration of the project;

4062 (c) The business or industry must create and maintain a
4063 minimum of ten (10) full-time jobs in counties that have an
4064 average unemployment rate over the previous twelve-month period

4065 which is at least one hundred fifty percent (150%) of the most
4066 recently published state unemployment rate, as determined by the
4067 Mississippi Department of Employment Security or in Tier Three
4068 counties as determined under Section 57-73-21. In all other
4069 counties, the business or industry must create and maintain a
4070 minimum of twenty-five (25) full-time jobs. The criteria for this
4071 requirement shall be based on the designation of the county at the
4072 time of the application. The threshold established upon the
4073 application will remain constant for the duration of the project.
4074 The business or industry must meet its job creation commitment
4075 within twenty-four (24) months of the application approval.
4076 However, if the qualified business or industry is applying for
4077 incentive payments for an additional period under subsection (2)
4078 of this section, the business or industry must comply with the
4079 applicable job and wage requirements of subsection (2) of this
4080 section.

4081 (5) The MDA shall determine if the applicant is qualified to
4082 receive incentive payments. If the applicant is determined to be
4083 qualified by the MDA, the MDA shall conduct a cost/benefit
4084 analysis to determine the estimated net direct state benefits and
4085 the net benefit rate applicable for a period not to exceed ten
4086 (10) years and to estimate the amount of gross payroll for the
4087 period. If the applicant is determined to be qualified to receive
4088 incentive payments for an additional period under subsection (2)
4089 of this section, the MDA shall conduct a cost/benefit analysis to
4090 determine the estimated net direct state benefits and the net
4091 benefit rate applicable for the appropriate additional period and
4092 to estimate the amount of gross payroll for the additional period.
4093 In conducting such cost/benefit analysis, the MDA shall consider
4094 quantitative factors, such as the anticipated level of new tax
4095 revenues to the state along with the cost to the state of the
4096 qualified business or industry, and such other criteria as deemed
4097 appropriate by the MDA, including the adequacy of retirement

4098 benefits that the business or industry provides to individuals it
4099 employs in new direct jobs in this state. In no event shall
4100 incentive payments, cumulatively, exceed the estimated net direct
4101 state benefits. Once the qualified business or industry is
4102 approved by the MDA, an agreement shall be deemed to exist between
4103 the qualified business or industry and the State of Mississippi,
4104 requiring the continued incentive payment to be made as long as
4105 the qualified business or industry retains its eligibility.

4106 (6) Upon approval of such an application, the MDA shall
4107 notify the State Tax Commission and shall provide it with a copy
4108 of the approved application and the estimated net direct state
4109 benefits. The State Tax Commission may require the qualified
4110 business or industry to submit such additional information as may
4111 be necessary to administer the provisions of this chapter. The
4112 qualified business or industry shall report to the State Tax
4113 Commission periodically to show its continued eligibility for
4114 incentive payments. The qualified business or industry may be
4115 audited by the State Tax Commission to verify such eligibility.

4116 **[For businesses or industries that apply for incentive**
4117 **payments from and after July 1, 2005, this section shall read as**
4118 **follows:]**

4119 57-62-9. (1) (a) Except as otherwise provided in this
4120 section, a qualified business or industry that meets the
4121 qualifications specified in the Mississippi Advantage Jobs Act may
4122 receive quarterly incentive payments for a period not to exceed
4123 ten (10) years from the State Tax Commission pursuant to the
4124 provisions of the Mississippi Advantage Jobs Act in an amount
4125 which shall be equal to the net benefit rate multiplied by the
4126 actual gross payroll of new direct jobs for a calendar quarter as
4127 verified by the Mississippi Department of Employment Security, but
4128 not to exceed:

4129 (i) Ninety percent (90%) of the amount of money
4130 previously paid into the fund by the employer if the employer

4131 provides an average annual salary, excluding benefits which are
4132 not subject to Mississippi income taxes, of at least one hundred
4133 seventy-five percent (175%) of the most recently published state
4134 average annual wage or the most recently published average annual
4135 wage of the county in which the qualified business or industry is
4136 located as determined by the Mississippi Department of Employment
4137 Security, whichever is the lesser;

4138 (ii) Eighty percent (80%) of the amount of money
4139 previously paid into the fund by the employer if the employer
4140 provides an average annual salary, excluding benefits which are
4141 not subject to Mississippi income taxes, of at least one hundred
4142 twenty-five percent (125%) but less than one hundred seventy-five
4143 percent (175%) of the most recently published state average annual
4144 wage or the most recently published average annual wage of the
4145 county in which the qualified business or industry is located as
4146 determined by the Mississippi Department of Employment Security,
4147 whichever is the lesser; or

4148 (iii) Seventy percent (70%) of the amount of money
4149 previously paid into the fund by the employer if the employer
4150 provides an average annual salary, excluding benefits which are
4151 not subject to Mississippi income taxes, of less than one hundred
4152 twenty-five percent (125%) of the most recently published state
4153 average annual wage or the most recently published average annual
4154 wage of the county in which the qualified business or industry is
4155 located as determined by the Mississippi Department of Employment
4156 Security, whichever is the lesser.

4157 (b) A qualified business or industry that is a project
4158 as defined in Section 57-75-5(f)(iv)1 may elect the date upon
4159 which the ten-year period will begin. Such date may not be later
4160 than sixty (60) months after the date the business or industry
4161 applied for incentive payments.

4162 (2) (a) A qualified business or industry that is a project
4163 as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to

4164 receive incentive payments for an additional period not to exceed
4165 five (5) years beyond the expiration date of the initial ten-year
4166 period if:

4167 (i) The qualified business or industry creates at
4168 least three thousand (3,000) new direct jobs within five (5) years
4169 after the date the business or industry commences commercial
4170 production;

4171 (ii) Within five (5) years after the date the
4172 business or industry commences commercial production, the average
4173 annual wage of the jobs is at least one hundred fifty percent
4174 (150%) of the most recently published state average annual wage or
4175 the most recently published average annual wage of the county in
4176 which the qualified business or industry is located as determined
4177 by the Mississippi Department of Employment Security, whichever is
4178 the lesser. The criteria for the average annual wage requirement
4179 shall be based upon the state average annual wage or the average
4180 annual wage of the county whichever is appropriate, at the time of
4181 creation of the minimum number of jobs, and the threshold
4182 established at that time will remain constant for the duration of
4183 the additional period; and

4184 (iii) The qualified business or industry meets and
4185 maintains the job and wage requirements of subparagraphs (i) and
4186 (ii) of this paragraph (a) for four (4) consecutive calendar
4187 quarters.

4188 (b) A qualified business or industry that is a project
4189 as defined in Section 57-75-5(f)(iv)1 and qualified to receive
4190 incentive payments for the additional period provided in paragraph
4191 (a) of this subsection (2) may apply to the MDA to receive
4192 incentive payments for an additional period not to exceed ten (10)
4193 years beyond the expiration date of the additional period provided
4194 in paragraph (a) of this subsection (2) if:

4195 (i) The qualified business or industry creates at
4196 least four thousand (4,000) new direct jobs after qualifying for

4197 the additional incentive period provided in paragraph (a) of this
4198 subsection (2) but before the expiration of the additional period.
4199 For purposes of determining whether the business or industry meets
4200 the minimum jobs requirement of this subparagraph (i), the number
4201 of jobs the business or industry created in order to meet the
4202 minimum jobs requirement of paragraph (a) of this subsection (2)
4203 shall be subtracted from the minimum jobs requirement of this
4204 subparagraph (i);

4205 (ii) The average annual wage of the jobs is at
4206 least one hundred fifty percent (150%) of the most recently
4207 published state average annual wage or the most recently published
4208 average annual wage of the county in which the qualified business
4209 or industry is located as determined by the Mississippi Department
4210 of Employment Security, whichever is the lesser. The criteria for
4211 the average annual wage requirement shall be based upon the state
4212 average annual wage or the average annual wage of the county
4213 whichever is appropriate, at the time of creation of the minimum
4214 number of jobs, and the threshold established at that time will
4215 remain constant for the duration of the additional period; and

4216 (iii) The qualified business or industry meets and
4217 maintains the job and wage requirements of subparagraphs (i) and
4218 (ii) of this paragraph (b) for four (4) consecutive calendar
4219 quarters.

4220 (3) In order to receive incentive payments, an establishment
4221 shall apply to the MDA. The application shall be on a form
4222 prescribed by the MDA and shall contain such information as may be
4223 required by the MDA to determine if the applicant is qualified.

4224 (4) (a) In order to qualify to receive such payments, the
4225 establishment applying shall be required to meet the definition of
4226 the term "qualified business or industry";

4227 (b) The criteria for the average annual salary
4228 requirement shall be based upon the state average annual wage or
4229 the average annual wage of the county whichever is appropriate, at

4230 the time of application, and the threshold established upon
4231 application will remain constant for the duration of the project;

4232 (c) The business or industry must meet its job creation
4233 commitment within twenty-four (24) months of the application
4234 approval. However, if the qualified business or industry is
4235 applying for incentive payments for an additional period under
4236 subsection (2) of this section, the business or industry must
4237 comply with the applicable job and wage requirements of subsection
4238 (2) of this section.

4239 (5) (a) The MDA shall determine if the applicant is
4240 qualified to receive incentive payments. If the applicant is
4241 determined to be qualified by the MDA, the MDA shall:

4242 (i) Conduct a cost/benefit analysis to determine
4243 the estimated net direct state benefits and the net benefit rate
4244 applicable for a period not to exceed ten (10) years and to
4245 estimate the amount of gross payroll for the period; and

4246 (ii) Require the applicant to execute a
4247 performance agreement with the MDA that specifies the manner in
4248 which the applicant will utilize the incentive payments made to it
4249 under this chapter.

4250 (b) If the applicant is determined to be qualified to
4251 receive incentive payments for an additional period under
4252 subsection (2) of this section, the MDA shall conduct a
4253 cost/benefit analysis to determine the estimated net direct state
4254 benefits and the net benefit rate applicable for the appropriate
4255 additional period and to estimate the amount of gross payroll for
4256 the additional period. In conducting such cost/benefit analysis,
4257 the MDA shall consider quantitative factors, such as the
4258 anticipated level of new tax revenues to the state along with the
4259 cost to the state of the qualified business or industry, and such
4260 other criteria as deemed appropriate by the MDA, including the
4261 adequacy of retirement benefits that the business or industry
4262 provides to individuals it employs in new direct jobs in this

4263 state. In no event shall incentive payments, cumulatively, exceed
4264 the estimated net direct state benefits. Once the qualified
4265 business or industry is approved by the MDA, an agreement shall be
4266 deemed to exist between the qualified business or industry and the
4267 State of Mississippi, requiring the continued incentive payment to
4268 be made as long as the qualified business or industry retains its
4269 eligibility.

4270 (6) Upon approval of such an application, the MDA shall
4271 notify the State Tax Commission and shall provide it with a copy
4272 of the approved application and the estimated net direct state
4273 benefits. The State Tax Commission may require the qualified
4274 business or industry to submit such additional information as may
4275 be necessary to administer the provisions of this chapter. The
4276 qualified business or industry shall report to the State Tax
4277 Commission periodically to show its continued eligibility for
4278 incentive payments. The qualified business or industry may be
4279 audited by the State Tax Commission to verify such eligibility.

4280 **SECTION 54.** Section 57-75-5, Mississippi Code of 1972, is
4281 reenacted as follows:

4282 57-75-5. Words and phrases used in this chapter shall have
4283 meanings as follows, unless the context clearly indicates a
4284 different meaning:

4285 (a) "Act" means the Mississippi Major Economic Impact
4286 Act as originally enacted or as hereafter amended.

4287 (b) "Authority" means the Mississippi Major Economic
4288 Impact Authority created pursuant to the act.

4289 (c) "Bonds" means general obligation bonds, interim
4290 notes and other evidences of debt of the State of Mississippi
4291 issued pursuant to this chapter.

4292 (d) "Facility related to the project" means and
4293 includes any of the following, as the same may pertain to the
4294 project within the project area: (i) facilities to provide
4295 potable and industrial water supply systems, sewage and waste

4296 disposal systems and water, natural gas and electric transmission
4297 systems to the site of the project; (ii) airports, airfields and
4298 air terminals; (iii) rail lines; (iv) port facilities; (v)
4299 highways, streets and other roadways; (vi) public school
4300 buildings, classrooms and instructional facilities, training
4301 facilities and equipment, including any functionally related
4302 facilities; (vii) parks, outdoor recreation facilities and
4303 athletic facilities; (viii) auditoriums, pavilions, campgrounds,
4304 art centers, cultural centers, folklore centers and other public
4305 facilities; (ix) health care facilities, public or private; and
4306 (x) fire protection facilities, equipment and elevated water
4307 tanks.

4308 (e) "Person" means any natural person, corporation,
4309 association, partnership, receiver, trustee, guardian, executor,
4310 administrator, fiduciary, governmental unit, public agency,
4311 political subdivision, or any other group acting as a unit, and
4312 the plural as well as the singular.

4313 (f) "Project" means:

4314 (i) Any industrial, commercial, research and
4315 development, warehousing, distribution, transportation,
4316 processing, mining, United States government or tourism enterprise
4317 together with all real property required for construction,
4318 maintenance and operation of the enterprise with an initial
4319 capital investment of not less than Three Hundred Million Dollars
4320 (\$300,000,000.00) from private or United States government sources
4321 together with all buildings, and other supporting land and
4322 facilities, structures or improvements of whatever kind required
4323 or useful for construction, maintenance and operation of the
4324 enterprise; or with an initial capital investment of not less than
4325 One Hundred Fifty Million Dollars (\$150,000,000.00) from private
4326 or United States government sources together with all buildings
4327 and other supporting land and facilities, structures or
4328 improvements of whatever kind required or useful for construction,

4329 maintenance and operation of the enterprise and which creates at
4330 least one thousand (1,000) net new full-time jobs; or which
4331 creates at least one thousand (1,000) net new full-time jobs which
4332 provides an average salary, excluding benefits which are not
4333 subject to Mississippi income taxation, of at least one hundred
4334 twenty-five percent (125%) of the most recently published average
4335 annual wage of the state as determined by the Mississippi
4336 Department of Employment Security. "Project" shall include any
4337 addition to or expansion of an existing enterprise if such
4338 addition or expansion has an initial capital investment of not
4339 less than Three Hundred Million Dollars (\$300,000,000.00) from
4340 private or United States government sources, or has an initial
4341 capital investment of not less than One Hundred Fifty Million
4342 Dollars (\$150,000,000.00) from private or United States government
4343 sources together with all buildings and other supporting land and
4344 facilities, structures or improvements of whatever kind required
4345 or useful for construction, maintenance and operation of the
4346 enterprise and which creates at least one thousand (1,000) net new
4347 full-time jobs; or which creates at least one thousand (1,000) net
4348 new full-time jobs which provides an average salary, excluding
4349 benefits which are not subject to Mississippi income taxation, of
4350 at least one hundred twenty-five percent (125%) of the most
4351 recently published average annual wage of the state as determined
4352 by the Mississippi Department of Employment Security. "Project"
4353 shall also include any ancillary development or business resulting
4354 from the enterprise, of which the authority is notified, within
4355 three (3) years from the date that the enterprise entered into
4356 commercial production, that the project area has been selected as
4357 the site for the ancillary development or business.

4358 (ii) 1. Any major capital project designed to
4359 improve, expand or otherwise enhance any active duty or reserve
4360 United States armed services bases and facilities or any major
4361 Mississippi National Guard training installations, their support

4362 areas or their military operations, upon designation by the
4363 authority that any such base was or is at risk to be recommended
4364 for closure or realignment pursuant to the Defense Base Closure
4365 and Realignment Act of 1990, as amended, or other applicable
4366 federal law; or any major development project determined by the
4367 authority to be necessary to acquire or improve base properties
4368 and to provide employment opportunities through construction of
4369 projects as defined in Section 57-3-5, which shall be located on
4370 or provide direct support service or access to such military
4371 installation property in the event of closure or reduction of
4372 military operations at the installation.

4373 2. Any major study or investigation related
4374 to such a facility, installation or base, upon a determination by
4375 the authority that the study or investigation is critical to the
4376 expansion, retention or reuse of the facility, installation or
4377 base.

4378 3. Any project as defined in Section 57-3-5,
4379 any business or enterprise determined to be in the furtherance of
4380 the public purposes of this act as determined by the authority or
4381 any facility related to such project each of which shall be,
4382 directly or indirectly, related to any military base or other
4383 military-related facility no longer operated by the United States
4384 armed services or the Mississippi National Guard.

4385 (iii) Any enterprise to be maintained, improved or
4386 constructed in Tishomingo County by or for a National Aeronautics
4387 and Space Administration facility in such county.

4388 (iv) 1. Any major capital project with an initial
4389 capital investment from private sources of not less than Seven
4390 Hundred Fifty Million Dollars (\$750,000,000.00) which will create
4391 at least three thousand (3,000) jobs meeting criteria established
4392 by the Mississippi Development Authority.

4393 2. "Project" shall also include any ancillary
4394 development or business resulting from an enterprise operating a

4395 project as defined in item 1 of this paragraph (f)(iv), of which
4396 the authority is notified, within three (3) years from the date
4397 that the enterprise entered into commercial production, that the
4398 state has been selected as the site for the ancillary development
4399 or business.

4400 (v) Any manufacturing, processing or industrial
4401 project determined by the authority, in its sole discretion, to
4402 contribute uniquely and significantly to the economic growth and
4403 development of the state, and which meets the following criteria:

4404 1. The project shall create at least two
4405 thousand (2,000) net new full-time jobs meeting criteria
4406 established by the authority, which criteria shall include, but
4407 not be limited to, the requirement that such jobs must be held by
4408 persons eligible for employment in the United States under
4409 applicable state and federal law.

4410 2. The project and any facility related to
4411 the project shall include a total investment from private sources
4412 of not less than Sixty Million Dollars (\$60,000,000.00), or from
4413 any combination of sources of not less than Eighty Million Dollars
4414 (\$80,000,000.00).

4415 (vi) Any real property owned or controlled by the
4416 National Aeronautics and Space Administration, the United States
4417 government, or any agency thereof, which is legally conveyed to
4418 the State of Mississippi or to the State of Mississippi for the
4419 benefit of the Mississippi Major Economic Impact Authority, its
4420 successors and assigns pursuant to Section 212 of Public Law
4421 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

4422 (vii) Any major capital project related to the
4423 establishment, improvement, expansion and/or other enhancement of
4424 any active duty military installation and having a minimum capital
4425 investment from any source or combination of sources other than
4426 the State of Mississippi of at least Forty Million Dollars
4427 (\$40,000,000.00), and which will create at least four hundred

4428 (400) military installation related full-time jobs, which jobs may
4429 be military jobs, civilian jobs or a combination of military and
4430 civilian jobs. The authority shall require that binding
4431 commitments be entered into requiring that the minimum
4432 requirements for the project provided for in this subparagraph
4433 shall be met not later than July 1, 2008.

4434 (viii) Any major capital project with an initial
4435 capital investment from any source or combination of sources of
4436 not less than Ten Million Dollars (\$10,000,000.00) which will
4437 create at least eighty (80) full-time jobs which provide an
4438 average annual salary, excluding benefits which are not subject to
4439 Mississippi income taxes, of at least one hundred thirty-five
4440 percent (135%) of the most recently published average annual wage
4441 of the state or the most recently published average annual wage of
4442 the county in which the project is located as determined by the
4443 Mississippi Department of Employment Security, whichever is the
4444 lesser. The authority shall require that binding commitments be
4445 entered into requiring that:

4446 1. The minimum requirements for the project
4447 provided for in this subparagraph shall be met, and

4448 2. That if such commitments are not met, all
4449 or a portion of the funds provided by the state for the project as
4450 determined by the authority shall be repaid.

4451 (ix) Any regional retail shopping mall with an
4452 initial capital investment from private sources in excess of One
4453 Hundred Fifty Million Dollars (\$150,000,000.00), with a square
4454 footage in excess of eight hundred thousand (800,000) square feet,
4455 which will create at least seven hundred (700) full-time jobs with
4456 an average hourly wage of Eleven Dollars (\$11.00) per hour. The
4457 authority shall require that binding commitments be entered into
4458 requiring that:

4459 1. The minimum requirements for the project
4460 provided for in this subparagraph shall be met, and

4461 2. That if such commitments are not met, all
4462 or a portion of the funds provided by the state for the project as
4463 determined by the authority shall be repaid.

4464 (x) Any major capital project with an initial
4465 capital investment from any source or combination of sources of
4466 not less than Seventy-five Million Dollars (\$75,000,000.00) which
4467 will create at least one hundred twenty-five (125) full-time jobs
4468 which provide an average annual salary, excluding benefits which
4469 are not subject to Mississippi income taxes, of at least one
4470 hundred thirty-five percent (135%) of the most recently published
4471 average annual wage of the state or the most recently published
4472 average annual wage of the county in which the project is located
4473 as determined by the Mississippi Department of Employment
4474 Security, whichever is the greater. The authority shall require
4475 that binding commitments be entered into requiring that:

4476 1. The minimum requirements for the project
4477 provided for in this subparagraph shall be met; and

4478 2. That if such commitments are not met, all
4479 or a portion of the funds provided by the state for the project as
4480 determined by the authority shall be repaid.

4481 (xi) Any potential major capital project that the
4482 authority has determined is feasible to recruit.

4483 (xii) Any project built according to the
4484 specifications and federal provisions set forth by the National
4485 Aeronautics and Space Administration Center Operations Directorate
4486 at Stennis Space Center for the purpose of consolidating common
4487 services from National Aeronautics and Space Administration
4488 centers in human resources, procurement, financial management and
4489 information technology located on land owned or controlled by the
4490 National Aeronautics and Space Administration, which will create
4491 at least four hundred seventy (470) full-time jobs.

4492 (xiii) Any major capital project with an initial
4493 capital investment from any source or combination of sources of

4494 not less than Ten Million Dollars (\$10,000,000.00) which will
4495 create at least two hundred fifty (250) full-time jobs. The
4496 authority shall require that binding commitments be entered into
4497 requiring that:

4498 1. The minimum requirements for the project
4499 provided for in this subparagraph shall be met; and

4500 2. That if such commitments are not met, all
4501 or a portion of the funds provided by the state for the project as
4502 determined by the authority shall be repaid.

4503 (xiv) Any major pharmaceutical facility with a
4504 capital investment of not less than Fifty Million Dollars
4505 (\$50,000,000.00) made after July 1, 2002, through four (4) years
4506 after the initial date of any loan or grant made by the authority
4507 for such project, which will maintain at least seven hundred fifty
4508 (750) full-time employees. The authority shall require that
4509 binding commitments be entered into requiring that:

4510 1. The minimum requirements for the project
4511 provided for in this subparagraph shall be met; and

4512 2. That if such commitments are not met, all
4513 or a portion of the funds provided by the state for the project as
4514 determined by the authority shall be repaid.

4515 (xv) Any pharmaceutical manufacturing, packaging
4516 and distribution facility with an initial capital investment from
4517 any local or federal sources of not less than Five Hundred
4518 Thousand Dollars (\$500,000.00) which will create at least ninety
4519 (90) full-time jobs. The authority shall require that binding
4520 commitments be entered into requiring that:

4521 1. The minimum requirements for the project
4522 provided for in this subparagraph shall be met; and

4523 2. That if such commitments are not met, all
4524 or a portion of the funds provided by the state for the project as
4525 determined by the authority shall be repaid.

4526 (xvi) Any major industrial wood processing
4527 facility with an initial capital investment of not less than One
4528 Hundred Million Dollars (\$100,000,000.00) which will create at
4529 least one hundred twenty-five (125) full-time jobs which provide
4530 an average annual salary, excluding benefits which are not subject
4531 to Mississippi income taxes, of at least Thirty Thousand Dollars
4532 (\$30,000.00). The authority shall require that binding
4533 commitments be entered into requiring that:

4534 1. The minimum requirements for the project
4535 provided for in this subparagraph shall be met; and

4536 2. That if such commitments are not met, all
4537 or a portion of the funds provided by the state for the project as
4538 determined by the authority shall be repaid.

4539 (xvii) Any technical, engineering,
4540 manufacturing-logistic service provider with an initial capital
4541 investment of not less than One Million Dollars (\$1,000,000.00)
4542 which will create at least ninety (90) full-time jobs. The
4543 authority shall require that binding commitments be entered into
4544 requiring that:

4545 1. The minimum requirements for the project
4546 provided for in this subparagraph shall be met; and

4547 2. That if such commitments are not met, all
4548 or a portion of the funds provided by the state for the project as
4549 determined by the authority shall be repaid.

4550 (xviii) Any major capital project with an initial
4551 capital investment from any source or combination of sources other
4552 than the State of Mississippi of not less than Six Hundred Million
4553 Dollars (\$600,000,000.00) which will create at least four hundred
4554 fifty (450) full-time jobs with an average annual salary,
4555 excluding benefits which are not subject to Mississippi income
4556 taxes, of at least Seventy Thousand Dollars (\$70,000.00). The
4557 authority shall require that binding commitments be entered into
4558 requiring that:

4559 1. The minimum requirements for the project
4560 provided for in this subparagraph shall be met, and

4561 2. That if such commitments are not met, all
4562 or a portion of the funds provided by the state for the project as
4563 determined by the authority shall be repaid.

4564 (g) "Project area" means the project site, together
4565 with any area or territory within the state lying within
4566 sixty-five (65) miles of any portion of the project site whether
4567 or not such area or territory be contiguous; however, for the
4568 project defined in paragraph (f)(iv) of this section the term
4569 "project area" means any area or territory within the state. The
4570 project area shall also include all territory within a county if
4571 any portion of such county lies within sixty-five (65) miles of
4572 any portion of the project site. "Project site" means the real
4573 property on which the principal facilities of the enterprise will
4574 operate.

4575 (h) "Public agency" means:

4576 (i) Any department, board, commission, institution
4577 or other agency or instrumentality of the state;

4578 (ii) Any city, town, county, political
4579 subdivision, school district or other district created or existing
4580 under the laws of the state or any public agency of any such city,
4581 town, county, political subdivision or district or any other
4582 public entity created or existing under local and private
4583 legislation;

4584 (iii) Any department, commission, agency or
4585 instrumentality of the United States of America; and

4586 (iv) Any other state of the United States of
4587 America which may be cooperating with respect to location of the
4588 project within the state, or any agency thereof.

4589 (i) "State" means State of Mississippi.

4590 (j) "Fee-in-lieu" means a negotiated fee to be paid by
4591 the project in lieu of any franchise taxes imposed on the project

4592 by Chapter 13, Title 27, Mississippi Code of 1972. The
4593 fee-in-lieu shall not be less than Twenty-five Thousand Dollars
4594 (\$25,000.00) annually. A fee-in-lieu may be negotiated with an
4595 enterprise operating an existing project defined in Section
4596 57-75-5(f)(iv)1; however, a fee-in-lieu shall not be negotiated
4597 for other existing enterprises that fall within the definition of
4598 the term "project."

4599 **SECTION 55.** Section 57-80-7, Mississippi Code of 1972, is
4600 reenacted as follows:

4601 57-80-7. (1) From and after December 31, 2000, and until
4602 December 31, 2005, the following counties may apply to the MDA for
4603 the issuance of a certificate of public convenience and necessity:

4604 (a) Any county of this state which has an annualized
4605 unemployment rate that is at least two hundred percent (200%) of
4606 the state's unemployment rate as of December 31 of any year from
4607 2000 through 2005, as determined by the Mississippi Department of
4608 Employment Security's most recently published data;

4609 (b) Any county of this state in which thirty percent
4610 (30%) or more of the population of the county is at or below the
4611 federal poverty level according to the official data compiled by
4612 the United States Census Bureau as of August 30, 2000, for
4613 counties that apply before December 31, 2002, or the most recent
4614 official data compiled by the United States Census Bureau for
4615 counties that apply from and after December 31, 2002; or

4616 (c) Any county of this state having an eligible
4617 supervisors district.

4618 (2) The application, at a minimum, must contain (a) the
4619 Mississippi Department of Employment Security's most recently
4620 published figures that reflect the annualized unemployment rate of
4621 the applying county as of December 31 or the most recent official
4622 data by the United States Census Bureau required by subsection (1)
4623 of this section, as the case may be, and (b) an order or

4624 resolution of the county consenting to the designation of the
4625 county as a growth and prosperity county.

4626 (3) Any municipality of a designated growth and prosperity
4627 county or within an eligible supervisors district and not more
4628 than eight (8) miles from the boundary of the county that meets
4629 the criteria of subsection (1)(b) of this section may by order or
4630 resolution of the municipality consent to participation in the
4631 Growth and Prosperity Program.

4632 (4) No incentive or tax exemption shall be given under this
4633 chapter without the consent of the affected county or
4634 municipality.

4635 **SECTION 56.** Section 69-2-5, Mississippi Code of 1972, is
4636 reenacted as follows:

4637 69-2-5. (1) The Mississippi Cooperative Extension Service
4638 shall act as a clearinghouse for the dissemination of information
4639 regarding programs and services which may be available to help
4640 those persons and businesses which have been adversely affected by
4641 the present emergency in the agricultural community. The
4642 Cooperative Extension Service shall develop a plan of assistance
4643 which shall identify all programs and services available within
4644 the state which can be of assistance to those affected by the
4645 present emergency. The Department of Agriculture and Commerce,
4646 the Department of Finance and Administration, Department of Human
4647 Services, Department of Mental Health, State Department of Health,
4648 Board of Trustees of State Institutions of Higher Learning, State
4649 Board for Community and Junior Colleges, Research and Development
4650 Center, Mississippi Development Authority, Department of
4651 Employment Security, Office of the Governor, Board of Vocational
4652 and Technical Education, Mississippi Authority for Educational
4653 Television, and other agencies of the state which have programs
4654 and services that can be of assistance to those affected by the
4655 present emergency, shall provide information regarding their
4656 programs and services to the Cooperative Extension Service for use

4657 in the clearinghouse. The types of programs and services shall
4658 include, but not be limited to, financial counseling, farm and
4659 small business management, employment services, labor market
4660 information, job re-training, vocational and technical training,
4661 food stamp programs, personal counseling, health services, and
4662 free or low cost legal services. The clearinghouse shall provide
4663 a single contact point to provide program information and referral
4664 services to individuals interested or needing services from state
4665 funded assistance programs affecting agriculture, horticulture,
4666 aquaculture and other agribusinesses or related industries. Such
4667 assistance information shall identify all monies available under
4668 the Small Business Financing Act, the Business Investment Act, the
4669 Emerging Crop Fund legislation and any other sources which may be
4670 used singularly or combined, to provide a comprehensive financing
4671 package. The provisions of this section in establishing a single
4672 contact point for information and referral services shall not be
4673 construed to authorize the hiring of additional personnel.

4674 (2) The Cooperative Extension Service may accept monetary or
4675 in-kind contributions, gifts and grants for the establishment or
4676 operation of the clearinghouse.

4677 (3) The Cooperative Extension Service shall establish a
4678 method for the dissemination of information to those who can be
4679 benefited by the existing programs and services of the state.

4680 (4) The Cooperative Extension Service shall file an annual
4681 report with the Governor, Lieutenant Governor and Speaker of the
4682 House of Representatives regarding the efforts which have been
4683 made in the clearinghouse operation. The report shall also
4684 recommend any additional measures, including legislation, which
4685 may be needed or desired in providing programs and benefits to
4686 those affected by the agricultural emergency.

4687 **SECTION 57.** Section 7-1-355, Mississippi Code of 1972, is
4688 reenacted as follows:

4689 7-1-355. (1) The Mississippi Department of Employment
4690 Security, Office of the Governor, is designated as the sole
4691 administrator of all programs for which the state is the prime
4692 sponsor under Title 1(B) of Public Law 105-220, Workforce
4693 Investment Act of 1998, and the regulations promulgated
4694 thereunder, and may take all necessary action to secure to this
4695 state the benefits of that legislation. The Mississippi
4696 Department of Employment Security, Office of the Governor, may
4697 receive and disburse funds for those programs that become
4698 available to it from any source.

4699 (2) The Mississippi Department of Employment Security,
4700 Office of the Governor, shall establish guidelines on the amount
4701 and/or percentage of indirect and/or administrative expenses by
4702 the local fiscal agent or the Workforce Development Center
4703 operator. The Mississippi Department of Employment Security,
4704 Office of the Governor, shall develop an accountability system and
4705 make an annual report to the Legislature before December 31 of
4706 each year on Workforce Investment Act activities. The report
4707 shall include, but is not limited to, the following:

4708 (a) The total number of individuals served through the
4709 Workforce Development Centers and the percentage and number of
4710 individuals for which a quarterly follow up is provided;

4711 (b) The number of individuals who receive core services
4712 by each center;

4713 (c) The number of individuals who receive intensive
4714 services by each center;

4715 (d) The number of Workforce Investment Act vouchers
4716 issued by the Workforce Development Centers including:

4717 (i) A list of schools and colleges to which these
4718 vouchers were issued and the average cost per school of the
4719 vouchers; and

4720 (ii) A list of the types of programs for which
4721 these vouchers were issued;

4722 (e) The number of individuals placed in a job through
4723 Workforce Development Centers;

4724 (f) The monies and the amount retained for
4725 administrative and other costs received from Workforce Investment
4726 Act funds for each agency or organization that Workforce
4727 Investment Act funds flow through as a percentage and actual
4728 dollar amount of all Workforce Investment Act funds received.

4729 **SECTION 58.** Section 60 of Chapter 572, Laws of 2004, which
4730 is the automatic repealer on the statutes transferring the
4731 Mississippi Employment Security Commission to the Mississippi
4732 Department of Employment Security, Office of the Governor, is
4733 hereby repealed.

4734 **SECTION 59.** This act shall take effect and be in force from
4735 and after July 1, 2006.