

By: Representative Smith (35th)

To: Labor; Ways and Means

HOUSE BILL NO. 1337

1 AN ACT TO AMEND SECTION 71-5-355, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE INCREASE IN AN EMPLOYER'S EXPERIENCE RATIO DUE TO
3 THE EMPLOYER'S FAILURE TO FILE TIMELY HIS QUARTERLY REPORTS WITH
4 THE EMPLOYMENT SECURITY COMMISSION; TO AMEND SECTION 71-5-365,
5 MISSISSIPPI CODE OF 1972, TO REVISE THE PENALTIES FOR LATE
6 REPORTING; TO AMEND SECTION 71-5-367, MISSISSIPPI CODE OF 1972, IN
7 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 71-5-355, Mississippi Code of 1972, is
10 amended as follows:

11 71-5-355. (1) As used in this section, the following words
12 and phrases shall have the following meanings, unless the context
13 clearly requires otherwise:

14 (a) "Tax year" means any period beginning on January 1
15 and ending on December 31 of a year.

16 (b) "Computation date" means June 30 of any calendar
17 year immediately preceding the tax year during which the
18 particular contribution rates are effective.

19 (c) "Effective date" means January 1 of the tax year.

20 (d) Except as hereinafter provided, "payroll" means the
21 total of all wages paid for employment by an employer as defined
22 in Section 71-5-11, subsection H, plus the total of all
23 remuneration paid by such employer excluded from the definition of
24 wages by Section 71-5-351. For the computation of modified rates,
25 "payroll" means the total of all wages paid for employment by an
26 employer as defined in Section 71-5-11, subsection H.

27 (e) For the computation of modified rates, "eligible
28 employer" means an employer whose experience-rating record has

29 been chargeable with benefits throughout the thirty-six (36)
30 consecutive calendar-month period ending on the computation date,
31 except that any employer who has not been subject to the
32 Mississippi Employment Security Law for a period of time
33 sufficient to meet the thirty-six (36) consecutive calendar-month
34 requirement shall be an eligible employer if his experience-rating
35 record has been chargeable throughout not less than the twelve
36 (12) consecutive calendar-month period ending on the computation
37 date. * * * No employer or employing unit shall be eligible for a
38 contribution rate of less than five and four-tenths percent (5.4%)
39 for the tax year in which the employing unit is found by the
40 commission to be in violation of Section 71-5-19(2) or (3) and for
41 the next two (2) succeeding tax years. No representative of such
42 employing unit who was a party to a violation as described in
43 Section 71-5-19(2) or (3), if such representative was or is an
44 employing unit in this state, shall be eligible for a
45 contributions rate of less than five and four-tenths percent
46 (5.4%) for the tax year in which such violation was detected by
47 the commission and for the next two (2) succeeding tax years.

48 (f) With respect to any tax year, "reserve ratio" means
49 the ratio which the total amount available for the payment of
50 benefits in the Unemployment Compensation Fund, excluding any
51 amount which has been credited to the account of this state under
52 Section 903 of the Social Security Act, as amended, and which has
53 been appropriated for the expenses of administration pursuant to
54 Section 71-5-457 whether or not withdrawn from such account, on
55 November 1 of each calendar year bears to the aggregate of the
56 taxable payrolls of all employers for the twelve (12) calendar
57 months ending on June 30 next preceding.

58 (g) "Modified rates" means the rates of employer
59 contributions determined under the provisions of this chapter and
60 the rates of newly subject employers, as provided in Section
61 71-5-353.

62 (h) For the computation of modified rates, "qualifying
63 period" means a period of not less than the thirty-six (36)
64 consecutive calendar months ending on the computation date
65 throughout which an employer's experience-rating record has been
66 chargeable with benefits; except that with respect to any eligible
67 employer who has not been subject to this article for a period of
68 time sufficient to meet the thirty-six (36) consecutive
69 calendar-month requirement, "qualifying period" means the period
70 ending on the computation date throughout which his
71 experience-rating record has been chargeable with benefits, but in
72 no event less than the twelve (12) consecutive calendar-month
73 period ending on the computation date throughout which his
74 experience-rating record has been so chargeable.

75 (i) The "exposure criterion" (EC) is defined as the
76 cash balance of the Unemployment Compensation Fund which is
77 available for the payment of benefits as of November 1 of each
78 calendar year, divided by the total wages, exclusive of wages paid
79 by all state agencies, all political subdivisions, reimbursable
80 nonprofit corporations, and tax exempt public service employment,
81 for the twelve-month period ending June 30 immediately preceding
82 such date. The EC shall be computed to four (4) decimal places.

83 (j) The "cost rate criterion" (CRC) is defined as
84 follows: Beginning with January 1974, the benefits paid for the
85 twelve-month period ending December 1974 are summed and divided by
86 the total wages for the twelve-month period ending on June 30,
87 1975. Similar ratios are computed by subtracting the earliest
88 month's benefit payments and adding the benefits of the next month
89 in the sequence and dividing each sum of twelve (12) months'
90 benefits by the total wages for the twelve-month period ending on
91 the June 30 which is nearest to the final month of the period used
92 to compute the numerator. If December is the final month of the
93 period used to compute the numerator, then the twelve-month period
94 ending the following June 30 will be used for the denominator.

95 The highest value of these ratios beginning with the ratio for
96 benefits paid in calendar year 1974 is the cost rate criterion.
97 The cost rate criterion shall be computed to four (4) decimal
98 places. Benefits and total wages used in the computation of the
99 cost rate criterion shall exclude all benefits and total wages
100 applicable to state agencies, political subdivisions, reimbursable
101 nonprofit corporations, and tax exempt PSE employment.

102 (k) "Size of fund index" (SOFI) is defined as the ratio
103 of the EC to the CRC.

104 (l) No employer's contribution rate shall exceed five
105 and four-tenths percent (5.4%), nor be less than four-tenths of
106 one percent (.4%).

107 (2) Modified rates:

108 (a) For any tax year, when the reserve ratio on the
109 preceding November 1, in the case of any tax year, equals or
110 exceeds four percent (4%), the modified rates, as hereinafter
111 prescribed, shall be in effect.

112 (b) Modified rates shall be determined for the tax year
113 for each eligible employer on the basis of his experience-rating
114 record in the following manner:

115 (i) The commission shall maintain an
116 experience-rating record for each employer. Nothing in this
117 chapter shall be construed to grant any employer or individuals
118 performing services for him any prior claim or rights to the
119 amounts paid by the employer into the fund.

120 (ii) Benefits paid to an eligible individual shall
121 be charged against the experience-rating record of his base period
122 employers in the proportion to which the wages paid by each base
123 period employer bears to the total wages paid to the individual by
124 all the base period employers, provided that benefits shall not be
125 charged to an employer's experience-rating record if the
126 commission finds that the individual:

- 127 1. Voluntarily left the employ of such
128 employer without good cause attributable to the employer,
129 2. Was discharged by such employer for
130 misconduct connected with his work,
131 3. Refused an offer of suitable work by such
132 employer without good cause, and the commission further finds that
133 such benefits are based on wages for employment for such employer
134 prior to such voluntary leaving, discharge or refusal of suitable
135 work, as the case may be, or
136 4. Had base period wages which included wages
137 for previously uncovered services as defined in Section
138 71-5-511(e) to the extent that the Unemployment Compensation Fund
139 is reimbursed for such benefits pursuant to Section 121 of Public
140 Law 94-566,
141 5. Extended benefits paid under the
142 provisions of Section 71-5-541 which are not reimbursable from
143 federal funds shall be charged to the experience-rating record of
144 base period employers,
145 6. Is still working for such employer on a
146 regular part-time basis under the same employment conditions as
147 hired. Provided, however, that benefits shall be charged against
148 an employer if an eligible individual is paid benefits who is
149 still working for such employer on a part-time "as-needed" basis,
150 7. Was hired to replace a United States
151 serviceman or servicewoman called into active duty and was laid
152 off upon the return to work by that serviceman or servicewoman,
153 unless such employer is a state agency or other political
154 subdivision or instrumentality of the state,
155 8. Was paid benefits during any week while in
156 training with the approval of the commission, under the provisions
157 of Section 71-5-B, or for any week while in training approved
158 under Section 236(a)(1) of the Trade Act of 1974, under the
159 provisions of Section 71-5-C.

160 9. Is not required to serve the one-week
161 waiting period as described in Section 71-5-505(2). In that
162 event, only the benefits paid in lieu of the waiting period week
163 may be noncharged.

164 (iii) The commission shall compute a benefit ratio
165 for each eligible employer, which shall be the quotient obtained
166 by dividing the total benefits charged to his experience-rating
167 record during the period his experience-rating record has been
168 chargeable, but not less than the twelve (12) consecutive
169 calendar-month period nor more than the thirty-six (36)
170 consecutive calendar-month period ending on the computation date,
171 by his total taxable payroll for the same period on which all
172 contributions due have been paid on or before the September 30
173 immediately following the computation date. Such benefit ratio
174 shall be computed to the tenth of a percent (.1%), rounding any
175 remainder to the next higher tenth.

176 If for the calendar year 1995, or any calendar year
177 thereafter, the size of fund index (SOFI), as defined in this
178 section, shall have computed for such calendar year at 1.75 or
179 above, for purposes of adjustment of the general experience rate
180 for such calendar year, then Table 6 or one of the tables
181 subsequent to Table 6 shall be applied, according to their
182 provisions:

183 TABLE 1

184 ILLUSTRATES A .10% REDUCTION OF THE INDIVIDUAL EXPERIENCE RATE
185 BASED ON A SOFI FACTOR OF 1.51 OR ABOVE BUT LESS THAN 1.55

A	B
If Benefit Ratio is	The Individual Experience Rate is
0.0%	0.10%
0.1	0.10
0.2	0.10
0.3	0.20
0.4	0.30

193	0.5	0.40
194	0.6	0.50
195	0.7	0.60
196	0.8	0.70
197	0.9	0.80
198	1.0	0.90
199	1.1	1.00
200	1.2	1.10
201	1.3	1.20
202	1.4	1.30
203	1.5	1.40
204	1.6	1.50
205	1.7	1.60
206	1.8	1.70
207	1.9	1.80
208	2.0	1.90
209	2.1	2.00
210	2.2	2.10
211	2.3	2.20
212	2.4	2.30
213	2.5	2.40
214	2.6	2.50
215	2.7	2.60
216	2.8	2.70
217	2.9	2.80
218	3.0	2.90
219	3.1	3.00
220	3.2	3.10
221	3.3	3.20
222	3.4	3.30
223	3.5	3.40
224	3.6	3.50
225	3.7	3.60

226	3.8	3.70
227	3.9	3.80
228	4.0	3.90
229	4.1	4.00
230	4.2	4.10
231	4.3	4.20
232	4.4	4.30
233	4.5	4.40
234	4.6	4.50
235	4.7	4.60
236	4.8	4.70
237	4.9	4.80
238	5.0	4.90
239	5.1	5.00
240	5.2	5.10
241	5.3	5.20
242	5.4	5.30
243	5.5 and above	5.40

TABLE 2

ILLUSTRATES A .20% REDUCTION OF THE INDIVIDUAL EXPERIENCE RATE
BASED ON A SOFI FACTOR OF 1.55 OR ABOVE BUT LESS THAN 1.60

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
249	0.0%	0.10%
250	0.1	0.10
251	0.2	0.10
252	0.3	0.10
253	0.4	0.20
254	0.5	0.30
255	0.6	0.40
256	0.7	0.50
257	0.8	0.60
258	0.9	0.70

259	1.0	0.80
260	1.1	0.90
261	1.2	1.00
262	1.3	1.10
263	1.4	1.20
264	1.5	1.30
265	1.6	1.40
266	1.7	1.50
267	1.8	1.60
268	1.9	1.70
269	2.0	1.80
270	2.1	1.90
271	2.2	2.00
272	2.3	2.10
273	2.4	2.20
274	2.5	2.30
275	2.6	2.40
276	2.7	2.50
277	2.8	2.60
278	2.9	2.70
279	3.0	2.80
280	3.1	2.90
281	3.2	3.00
282	3.3	3.10
283	3.4	3.20
284	3.5	3.30
285	3.6	3.40
286	3.7	3.50
287	3.8	3.60
288	3.9	3.70
289	4.0	3.80
290	4.1	3.90
291	4.2	4.00

292	4.3	4.10
293	4.4	4.20
294	4.5	4.30
295	4.6	4.40
296	4.7	4.50
297	4.8	4.60
298	4.9	4.70
299	5.0	4.80
300	5.1	4.90
301	5.2	5.00
302	5.3	5.10
303	5.4	5.20
304	5.5	5.30
305	5.6 and above	5.40

TABLE 3

ILLUSTRATES A .30% REDUCTION OF THE INDIVIDUAL EXPERIENCE RATE
BASED ON A SOFI FACTOR OF 1.60 OR ABOVE BUT LESS THAN 1.65

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
311	0.0%	0.10%
312	0.1	0.10
313	0.2	0.10
314	0.3	0.10
315	0.4	0.10
316	0.5	0.20
317	0.6	0.30
318	0.7	0.40
319	0.8	0.50
320	0.9	0.60
321	1.0	0.70
322	1.1	0.80
323	1.2	0.90
324	1.3	1.00

325	1.4	1.10
326	1.5	1.20
327	1.6	1.30
328	1.7	1.40
329	1.8	1.50
330	1.9	1.60
331	2.0	1.70
332	2.1	1.80
333	2.2	1.90
334	2.3	2.00
335	2.4	2.10
336	2.5	2.20
337	2.6	2.30
338	2.7	2.40
339	2.8	2.50
340	2.9	2.60
341	3.0	2.70
342	3.1	2.80
343	3.2	2.90
344	3.3	3.00
345	3.4	3.10
346	3.5	3.20
347	3.6	3.30
348	3.7	3.40
349	3.8	3.50
350	3.9	3.60
351	4.0	3.70
352	4.1	3.80
353	4.2	3.90
354	4.3	4.00
355	4.4	4.10
356	4.5	4.20
357	4.6	4.30

358	4.7	4.40
359	4.8	4.50
360	4.9	4.60
361	5.0	4.70
362	5.1	4.80
363	5.2	4.90
364	5.3	5.00
365	5.4	5.10
366	5.5	5.20
367	5.6	5.30
368	5.7 and above	5.40

TABLE 4

ILLUSTRATES A .40% REDUCTION OF THE INDIVIDUAL EXPERIENCE RATE
BASED ON A SOFI FACTOR OF 1.65 OR ABOVE BUT LESS THAN 1.70

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
374	0.0%	0.10%
375	0.1	0.10
376	0.2	0.10
377	0.3	0.10
378	0.4	0.10
379	0.5	0.10
380	0.6	0.20
381	0.7	0.30
382	0.8	0.40
383	0.9	0.50
384	1.0	0.60
385	1.1	0.70
386	1.2	0.80
387	1.3	0.90
388	1.4	1.00
389	1.5	1.10
390	1.6	1.20

391	1.7	1.30
392	1.8	1.40
393	1.9	1.50
394	2.0	1.60
395	2.1	1.70
396	2.2	1.80
397	2.3	1.90
398	2.4	2.00
399	2.5	2.10
400	2.6	2.20
401	2.7	2.30
402	2.8	2.40
403	2.9	2.50
404	3.0	2.60
405	3.1	2.70
406	3.2	2.80
407	3.3	2.90
408	3.4	3.00
409	3.5	3.10
410	3.6	3.20
411	3.7	3.30
412	3.8	3.40
413	3.9	3.50
414	4.0	3.60
415	4.1	3.70
416	4.2	3.80
417	4.3	3.90
418	4.4	4.00
419	4.5	4.10
420	4.6	4.20
421	4.7	4.30
422	4.8	4.40
423	4.9	4.50

424	5.0	4.60
425	5.1	4.70
426	5.2	4.80
427	5.3	4.90
428	5.4	5.00
429	5.5	5.10
430	5.6	5.20
431	5.7	5.30
432	5.8 and above	5.40

TABLE 5

ILLUSTRATES A .50% REDUCTION OF THE INDIVIDUAL EXPERIENCE RATE
BASED ON A SOFI FACTOR OF 1.70 OR ABOVE BUT LESS THAN 1.75

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
438	0.0%	0.10%
439	0.1	0.10
440	0.2	0.10
441	0.3	0.10
442	0.4	0.10
443	0.5	0.10
444	0.6	0.10
445	0.7	0.20
446	0.8	0.30
447	0.9	0.40
448	1.0	0.50
449	1.1	0.60
450	1.2	0.70
451	1.3	0.80
452	1.4	0.90
453	1.5	1.00
454	1.6	1.10
455	1.7	1.20
456	1.8	1.30

457	1.9	1.40
458	2.0	1.50
459	2.1	1.60
460	2.2	1.70
461	2.3	1.80
462	2.4	1.90
463	2.5	2.00
464	2.6	2.10
465	2.7	2.20
466	2.8	2.30
467	2.9	2.40
468	3.0	2.50
469	3.1	2.60
470	3.2	2.70
471	3.3	2.80
472	3.4	2.90
473	3.5	3.00
474	3.6	3.10
475	3.7	3.20
476	3.8	3.30
477	3.9	3.40
478	4.0	3.50
479	4.1	3.60
480	4.2	3.70
481	4.3	3.80
482	4.4	3.90
483	4.5	4.00
484	4.6	4.10
485	4.7	4.20
486	4.8	4.30
487	4.9	4.40
488	5.0	4.50
489	5.1	4.60

490	5.2	4.70
491	5.3	4.80
492	5.4	4.90
493	5.5	5.00
494	5.6	5.10
495	5.7	5.20
496	5.8	5.30
497	5.9 and above	5.40

TABLE 6

ILLUSTRATES A .60% REDUCTION OF THE INDIVIDUAL EXPERIENCE RATE
BASED ON A SOFI FACTOR OF 1.75 OR ABOVE BUT LESS THAN 1.80

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
503	0.0%	0.10%
504	0.1	0.10
505	0.2	0.10
506	0.3	0.10
507	0.4	0.10
508	0.5	0.10
509	0.6	0.10
510	0.7	0.10
511	0.8	0.20
512	0.9	0.30
513	1.0	0.40
514	1.1	0.50
515	1.2	0.60
516	1.3	0.70
517	1.4	0.80
518	1.5	0.90
519	1.6	1.00
520	1.7	1.10
521	1.8	1.20
522	1.9	1.30

523	2.0	1.40
524	2.1	1.50
525	2.2	1.60
526	2.3	1.70
527	2.4	1.80
528	2.5	1.90
529	2.6	2.00
530	2.7	2.10
531	2.8	2.20
532	2.9	2.30
533	3.0	2.40
534	3.1	2.50
535	3.2	2.60
536	3.3	2.70
537	3.4	2.80
538	3.5	2.90
539	3.6	3.00
540	3.7	3.10
541	3.8	3.20
542	3.9	3.30
543	4.0	3.40
544	4.1	3.50
545	4.2	3.60
546	4.3	3.70
547	4.4	3.80
548	4.5	3.90
549	4.6	4.00
550	4.7	4.10
551	4.8	4.20
552	4.9	4.30
553	5.0	4.40
554	5.1	4.50
555	5.2	4.60

556	5.3	4.70
557	5.4	4.80
558	5.5	4.90
559	5.6	5.00
560	5.7	5.10
561	5.8	5.20
562	5.9	5.30
563	6.0 and above	5.40

TABLE 7

ILLUSTRATES A .70% REDUCTION OF THE INDIVIDUAL EXPERIENCE RATE
BASED ON A SOFI FACTOR OF 1.80 OR ABOVE BUT LESS THAN 1.85

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
567		
568		
569	0.0%	0.10%
570	0.1	0.10
571	0.2	0.10
572	0.3	0.10
573	0.4	0.10
574	0.5	0.10
575	0.6	0.10
576	0.7	0.10
577	0.8	0.10
578	0.9	0.20
579	1.0	0.30
580	1.1	0.40
581	1.2	0.50
582	1.3	0.60
583	1.4	0.70
584	1.5	0.80
585	1.6	0.90
586	1.7	1.00
587	1.8	1.10
588	1.9	1.20

589	2.0	1.30
590	2.1	1.40
591	2.2	1.50
592	2.3	1.60
593	2.4	1.70
594	2.5	1.80
595	2.6	1.90
596	2.7	2.00
597	2.8	2.10
598	2.9	2.20
599	3.0	2.30
600	3.1	2.40
601	3.2	2.50
602	3.3	2.60
603	3.4	2.70
604	3.5	2.80
605	3.6	2.90
606	3.7	3.00
607	3.8	3.10
608	3.9	3.20
609	4.0	3.30
610	4.1	3.40
611	4.2	3.50
612	4.3	3.60
613	4.4	3.70
614	4.5	3.80
615	4.6	3.90
616	4.7	4.00
617	4.8	4.10
618	4.9	4.20
619	5.0	4.30
620	5.1	4.40
621	5.2	4.50

622	5.3	4.60
623	5.4	4.70
624	5.5	4.80
625	5.6	4.90
626	5.7	5.00
627	5.8	5.10
628	5.9	5.20
629	6.0	5.30
630	6.1 and above	5.40

TABLE 8

ILLUSTRATES A .80% REDUCTION OF THE INDIVIDUAL EXPERIENCE RATE
BASED ON A SOFI FACTOR OF 1.85 OR ABOVE BUT LESS THAN 1.90

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
636	0.0%	0.10%
637	0.1	0.10
638	0.2	0.10
639	0.3	0.10
640	0.4	0.10
641	0.5	0.10
642	0.6	0.10
643	0.7	0.10
644	0.8	0.10
645	0.9	0.10
646	1.0	0.20
647	1.1	0.30
648	1.2	0.40
649	1.3	0.50
650	1.4	0.60
651	1.5	0.70
652	1.6	0.80
653	1.7	0.90
654	1.8	1.00

655	1.9	1.10
656	2.0	1.20
657	2.1	1.30
658	2.2	1.40
659	2.3	1.50
660	2.4	1.60
661	2.5	1.70
662	2.6	1.80
663	2.7	1.90
664	2.8	2.00
665	2.9	2.10
666	3.0	2.20
667	3.1	2.30
668	3.2	2.40
669	3.3	2.50
670	3.4	2.60
671	3.5	2.70
672	3.6	2.80
673	3.7	2.90
674	3.8	3.00
675	3.9	3.10
676	4.0	3.20
677	4.1	3.30
678	4.2	3.40
679	4.3	3.50
680	4.4	3.60
681	4.5	3.70
682	4.6	3.80
683	4.7	3.90
684	4.8	4.00
685	4.9	4.10
686	5.0	4.20
687	5.1	4.30

688	5.2	4.40
689	5.3	4.50
690	5.4	4.60
691	5.5	4.70
692	5.6	4.80
693	5.7	4.90
694	5.8	5.00
695	5.9	5.10
696	6.0	5.20
697	6.1	5.30
698	6.2 and above	5.40

TABLE 9

ILLUSTRATES A .90% REDUCTION OF THE INDIVIDUAL EXPERIENCE RATE
BASED ON A SOFI FACTOR OF 1.90 OR ABOVE BUT LESS THAN 1.95

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
704	0.0%	0.10%
705	0.1	0.10
706	0.2	0.10
707	0.3	0.10
708	0.4	0.10
709	0.5	0.10
710	0.6	0.10
711	0.7	0.10
712	0.8	0.10
713	0.9	0.10
714	1.0	0.10
715	1.1	0.20
716	1.2	0.30
717	1.3	0.40
718	1.4	0.50
719	1.5	0.60
720	1.6	0.70

721	1.7	0.80
722	1.8	0.90
723	1.9	1.00
724	2.0	1.10
725	2.1	1.20
726	2.2	1.30
727	2.3	1.40
728	2.4	1.50
729	2.5	1.60
730	2.6	1.70
731	2.7	1.80
732	2.8	1.90
733	2.9	2.00
734	3.0	2.10
735	3.1	2.20
736	3.2	2.30
737	3.3	2.40
738	3.4	2.50
739	3.5	2.60
740	3.6	2.70
741	3.7	2.80
742	3.8	2.90
743	3.9	3.00
744	4.0	3.10
745	4.1	3.20
746	4.2	3.30
747	4.3	3.40
748	4.4	3.50
749	4.5	3.60
750	4.6	3.70
751	4.7	3.80
752	4.8	3.90
753	4.9	4.00

754	5.0	4.10
755	5.1	4.20
756	5.2	4.30
757	5.3	4.40
758	5.4	4.50
759	5.5	4.60
760	5.6	4.70
761	5.7	4.80
762	5.8	4.90
763	5.9	5.00
764	6.0	5.10
765	6.1	5.20
766	6.2	5.30
767	6.3 and above	5.40

TABLE 10

ILLUSTRATES A 1.00% REDUCTION OF THE INDIVIDUAL EXPERIENCE RATE
BASED ON A SOFI FACTOR OF 1.95 OR ABOVE

771	A	B
772	If Benefit Ratio is	The Individual Experience Rate is
773	0.0%	0.10%
774	0.1	0.10
775	0.2	0.10
776	0.3	0.10
777	0.4	0.10
778	0.5	0.10
779	0.6	0.10
780	0.7	0.10
781	0.8	0.10
782	0.9	0.10
783	1.0	0.10
784	1.1	0.10
785	1.2	0.20
786	1.3	0.30

787	1.4	0.40
788	1.5	0.50
789	1.6	0.60
790	1.7	0.70
791	1.8	0.80
792	1.9	0.90
793	2.0	1.00
794	2.1	1.10
795	2.2	1.20
796	2.3	1.30
797	2.4	1.40
798	2.5	1.50
799	2.6	1.60
800	2.7	1.70
801	2.8	1.80
802	2.9	1.90
803	3.0	2.00
804	3.1	2.10
805	3.2	2.20
806	3.3	2.30
807	3.4	2.40
808	3.5	2.50
809	3.6	2.60
810	3.7	2.70
811	3.8	2.80
812	3.9	2.90
813	4.0	3.00
814	4.1	3.10
815	4.2	3.20
816	4.3	3.30
817	4.4	3.40
818	4.5	3.50
819	4.6	3.60

820	4.7	3.70
821	4.8	3.80
822	4.9	3.90
823	5.0	4.00
824	5.1	4.10
825	5.2	4.20
826	5.3	4.30
827	5.4	4.40
828	5.5	4.50
829	5.6	4.60
830	5.7	4.70
831	5.8	4.80
832	5.9	4.90
833	6.0	5.00
834	6.1	5.10
835	6.2	5.20
836	6.3	5.30
837	6.4 and above	5.40

838 (iv) 1. The contribution rate for each eligible
839 employer shall be the sum of two (2) rates: His individual
840 experience rate in the range from zero percent (0%) to five and
841 four-tenths percent (5.4%), plus a general experience rate. In no
842 event shall the resulting rate be in excess of five and
843 four-tenths percent (5.4%).

844 2. The employer's individual experience rate
845 shall be equal to his benefit ratio as computed under subsection
846 (2)(b)(iii) above.

847 3. The general experience rate shall be
848 determined in the following manner: The commission shall
849 determine annually, for the thirty-six (36) consecutive
850 calendar-month period ending on the computation date, the amount
851 of benefits which were not charged to the record of any employer
852 and of benefits which were ineffectively charged to the employer's

853 experience-rating record. For the purposes of subsection
854 (2)(b)(iv)3, the term "ineffectively charged benefits" shall
855 include:

856 The total of the amounts of benefits charged to the
857 experience-rating records of all eligible employers which caused
858 their benefit ratios to exceed five and four-tenths percent
859 (5.4%), the total of the amounts of benefits charged to the
860 experience-rating records of all ineligible employers which would
861 cause their benefit ratios to exceed five and four-tenths percent
862 (5.4%) if they were eligible employers, and the total of the
863 amounts of benefits charged or chargeable to the experience-rating
864 record of any employer who has discontinued his business or whose
865 coverage has been terminated within such period; provided, that
866 solely for the purposes of determining the amounts of
867 ineffectively charged benefits as herein defined, a "benefit
868 ratio" shall be computed for each ineligible employer, which shall
869 be the quotient obtained by dividing the total benefits charged to
870 his experience-rating record throughout the period ending on the
871 computation date, during which his experience-rating record has
872 been chargeable with benefits, by his total taxable payroll for
873 the same period on which all contributions due have been paid on
874 or before the September 30 immediately following the computation
875 date; and provided further, that such benefit ratio shall be
876 computed to the tenth of one percent (.1%) and any remainder shall
877 be rounded to the next higher tenth. The ratio of the sum of
878 these amounts to the taxable wages paid during the same period by
879 all eligible employers whose benefit ratio did not exceed five and
880 four-tenths percent (5.4%), computed to the next higher tenth of
881 one percent (.1%), shall be the general experience rate.

882 4. The general experience rate shall be
883 adjusted by use of the size of fund index factor. This factor may
884 be positive or negative, and shall be determined as follows: From
885 the target SOFI of 1.50, subtract the simple average of the

886 current and preceding years' exposure criterions divided by the
887 cost rate criterion. The result is then multiplied by the product
888 of the CRC and total wages for the twelve-month period ending June
889 30 divided by the taxable wages for the twelve-month period ending
890 June 30. This is the percentage positive or negative added to the
891 general experience rate. This percentage is computed to one (1)
892 decimal place, and rounded to the next higher tenth.

893 5. Notwithstanding any other provisions of
894 subsection (2)(b)(iv), if the general experience rate for any tax
895 year as computed and adjusted on the basis of the size of fund
896 index is a negative percentage, it shall be disregarded.

897 6. The commission shall include in its annual
898 rate notice to employers a brief explanation of the elements of
899 the general experience rate, and shall include in its regular
900 publications an annual analysis of benefits not charged to the
901 record of any employer, and of the benefit experience of employers
902 by industry group whose benefit ratio exceeds four percent (4%),
903 and of any other factors which may affect the size of the general
904 experience rate.

905 (v) When any employing unit in any manner succeeds
906 to or acquires the organization, trade, business or substantially
907 all the assets thereof of an employer, excepting any assets
908 retained by such employer incident to the liquidation of his
909 obligations, whether or not such acquiring employing unit was an
910 employer within the meaning of Section 71-5-11, subsection H,
911 prior to such acquisition, and continues such organization, trade
912 or business, the experience-rating and payroll records of the
913 predecessor employer shall be transferred as of the date of
914 acquisition to the successor employer for the purpose of rate
915 determination.

916 (vi) When any employing unit succeeds to or
917 acquires a distinct and severable portion of an organization,
918 trade or business, the experience-rating and payroll records of

919 such portion, if separately identifiable, shall be transferred to
920 the successor upon:

921 1. The mutual consent of the predecessor and
922 the successor,

923 2. Approval of the commission,

924 3. Continued operation of the transferred
925 portion by the successor after transfer, and

926 4. The execution and the filing with the
927 commission by the predecessor employer of a waiver relinquishing
928 all rights to have the experience-rating and payroll records of
929 the transferred portion used for the purpose of determining
930 modified rates of contribution for such predecessor.

931 (vii) If the successor was an employer subject to
932 this chapter prior to the date of acquisition, it shall continue
933 to pay contributions at the rate applicable to it from the date
934 the acquisition occurred until the end of the then current tax
935 year. If the successor was not an employer prior to the date of
936 acquisition, it shall pay contributions at the rate applicable to
937 the predecessor or, if more than one (1) predecessor and the same
938 rate is applicable to both, the rate applicable to the predecessor
939 or predecessors, from the date the acquisition occurred until the
940 end of the then current tax year. If the successor was not an
941 employer prior to the date the acquisition occurred and
942 simultaneously acquires the businesses of two (2) or more
943 employers to whom different rates of contributions are applicable,
944 it shall pay contributions from the date of the acquisition until
945 the end of the current tax year at a rate computed on the basis of
946 the combined experience-rating and payroll records of the
947 predecessors as of the computation date for such tax year. In all
948 cases the rate of contributions applicable to such successor for
949 each succeeding tax year shall be computed on the basis of the
950 combined experience-rating and payroll records of the successor
951 and the predecessor or predecessors.

952 (viii) The commission shall notify each employer
953 quarterly of the benefits paid and charged to his
954 experience-rating record; and such notification, in the absence of
955 an application for redetermination filed within thirty (30) days
956 after the date of the mailing of such notice, shall be final,
957 conclusive and binding upon the employer for all purposes. A
958 redetermination, made after notice and opportunity for a fair
959 hearing, by a hearing officer designated by the commission who
960 shall consider and decide these and related applications and
961 protests; and the finding of fact in connection therewith may be
962 introduced into any subsequent administrative or judicial
963 proceedings involving the determination of the rate of
964 contributions of any employer for any tax year, and shall be
965 entitled to the same finality as is provided in this subsection
966 with respect to the findings of fact in proceedings to redetermine
967 the contribution rate of an employer.

968 (ix) The commission shall notify each employer of
969 his rate of contribution as determined for any tax year as soon as
970 reasonably possible after November 1 of the preceding year. Such
971 determination shall be final, conclusive and binding upon such
972 employer unless, within thirty (30) days after the date of the
973 mailing of such notice to his last known address, the employer
974 files with the commission an application for review and
975 redetermination of his contribution rate, setting forth his
976 reasons therefor. If the commission grants such review, the
977 employer shall be promptly notified thereof and shall be afforded
978 an opportunity for a fair hearing by a hearing officer designated
979 by the commission who shall consider and decide these and related
980 applications and protests; but no employer shall be allowed, in
981 any proceeding involving his rate of contributions or contribution
982 liability, to contest the chargeability to his account of any
983 benefits paid in accordance with a determination, redetermination
984 or decision pursuant to Sections 71-5-515 through 71-5-533 except

985 upon the ground that the services on the basis of which such
986 benefits were found to be chargeable did not constitute services
987 performed in employment for him, and then only in the event that
988 he was not a party to such determination, redetermination,
989 decision or to any other proceedings provided in this chapter in
990 which the character of such services was determined. The employer
991 shall be promptly notified of the denial of this application or of
992 the redetermination, both of which shall become final unless,
993 within ten (10) days after the date of mailing of notice thereof,
994 there shall be an appeal to the commission itself. Any such
995 appeal shall be on the record before said designated hearing
996 officer, and the decision of said commission shall become final
997 unless, within thirty (30) days after the date of mailing of
998 notice thereof to the employer's last known address, there shall
999 be an appeal to the Circuit Court of the First Judicial District
1000 of Hinds County, Mississippi, in accordance with the provisions of
1001 law with respect to review of civil causes by certiorari.

1002 SECTION 2. Section 71-5-365, Mississippi Code of 1972, is
1003 amended as follows:

1004 71-5-365. If any employer fails to make and file any report
1005 as and when required by the terms and provisions of this chapter
1006 or by any rule or regulation of the commission for the purpose of
1007 determining the amount of contributions due by him under this
1008 chapter, or if any report which has been filed is deemed by the
1009 executive director to be incorrect or insufficient, and such
1010 employer, after having been given written notice by mail by the
1011 executive director to file such report, or a corrected or
1012 sufficient report, as the case may be, shall fail to file such
1013 report within fifteen (15) days after the date of the mailing of
1014 such notice, the executive director may (a) determine the amount
1015 of contributions due from such employer on the basis of such
1016 information as may be readily available to him, which said
1017 determination shall be prima facie correct; (b) assess such

1018 employer with the amount of contribution so determined, to which
1019 amount may be added and assessed by the executive director a
1020 penalty for the first late report equal to ten percent (10%) of
1021 the amount of contribution plus one percent (1%) interest per
1022 month until the report is filed, a penalty for the second late
1023 report equal to ten percent (10%) of the amount of contribution
1024 plus one percent (1%) interest per month until the report is filed
1025 and a penalty for the third late report of twenty-five percent
1026 (25%) of the amount of contribution plus one percent (1%) interest
1027 per month until the report is filed; and (c) immediately give
1028 written notice by mail to such employer of such determination and
1029 penalty assessment, * * * if any, added and assessed, demanding
1030 payment of same together with interest, as herein provided, on the
1031 amount of contributions from the date when same were due and
1032 payable. Such determination and assessment by the executive
1033 director shall be final at the expiration of fifteen (15) days
1034 from the date of the mailing of such written notice thereof
1035 demanding payment, unless such employer shall have filed with the
1036 commission a written protest and petition for a hearing,
1037 specifying his objections thereto. Upon receipt of such petition
1038 within the fifteen (15) days allowed, the commission shall fix the
1039 time and place for a hearing and shall notify the petitioner
1040 thereof. At any hearing held before the commission as herein
1041 provided, evidence may be offered to support such determination
1042 and assessment or to prove that it is incorrect, and the
1043 commission shall have all the power provided in Sections 71-5-137
1044 and 71-5-139. Immediately after such hearing a final decision in
1045 the matter shall be made by the commission, and any contributions
1046 or deficiencies in contributions found and determined by the
1047 commission to be due shall be assessed and paid, together with
1048 interest, within fifteen (15) days after notice of such final
1049 decision and assessment, and demand for payment thereof by the
1050 commission shall have been mailed to such employer.

1051 * * *

1052 SECTION 3. Section 71-5-367, Mississippi Code of 1972, is
1053 amended as follows:

1054 71-5-367. If an employer shall file a report in proper form
1055 and in proper amount, but shall fail to pay the amount of
1056 contributions shown to be due thereby at the time of such filing,
1057 or if an employer shall fail to pay any penalty assessment as
1058 provided and made under Section 71-5-365 within fifteen (15) days
1059 after such assessment has become final as herein provided, the
1060 commission may issue a warrant under its official seal, directed
1061 to the sheriff of any county of the state, commanding him to levy
1062 upon and sell the real and personal property of such employer as
1063 has defaulted in the payment of such contributions or penalty
1064 assessments, which may be found within his county, for the payment
1065 of the amount thereof, together with interest, * * * if any,
1066 assessed for failure to make and file a report or a corrected or
1067 sufficient report, * * * and the costs of executing the warrant
1068 and to return such warrant to the commission, and to pay to it the
1069 money collected by virtue thereof on the date specified therein.
1070 The commission shall cause to be delivered to the clerk of the
1071 circuit court a copy of such warrant issued to the sheriff. Such
1072 clerk shall enter in the judgment roll, in the column for judgment
1073 debtors, the name of the employer mentioned in the warrant and, in
1074 appropriate columns, the amount of contributions, interest and
1075 damages for which the warrant is issued, a notation that the lien
1076 covers all previous, current and future periods for the life of
1077 the lien, and the date when such copy is filed. Thereupon the
1078 amount of such warrant so filed and entered shall become a lien
1079 upon the title to and interest in all real and personal property,
1080 including choses in action against negotiable instruments not past
1081 due, of the employer against whom the warrant is issued in the
1082 same manner as a judgment duly enrolled in the office of such
1083 clerk. Any such liens shall cover all contributions, interest and

1084 damages owed to the commission from previous, current and future
1085 periods until the expiration of such lien or until the amount of
1086 the lien is fully satisfied. Such judgment shall not be a lien
1087 upon the property of the employer for a period of more than seven
1088 (7) years from the date of filing of the notice of the tax lien
1089 for failure to pay contributions, damages and interest unless
1090 action be brought thereon before the expiration of such time or
1091 unless the commission refiles such notice of tax lien before the
1092 expiration of such time. The judgment shall be a lien upon the
1093 property of the employer for a period of seven (7) years from the
1094 date of refiling such notice of tax lien unless action be brought
1095 thereon before the expiration of such time or unless the
1096 commission refiles such notice of tax lien before the expiration
1097 of such time. There shall be no limit upon the number of times
1098 the commission may refile notices of tax liens. The sheriff shall
1099 proceed upon the warrant in the same manner and with like effect
1100 as that provided by law in respect to executions issued against
1101 property upon judgments or in attachment proceedings of a court of
1102 record, and the remedies by garnishment shall apply; and for his
1103 services in executing the warrant the sheriff shall be entitled to
1104 the same fees, which he may collect in the same manner.

1105 The commission may elect to issue the warrant directly to the
1106 circuit clerk of any county of this state for enrollment upon the
1107 judgment rolls of the county. In such case, the clerk shall enter
1108 in the judgment roll, in the column for judgment debtors, the name
1109 of the employer mentioned in the warrant and, in appropriate
1110 columns, the amount of contributions, interest and damages for
1111 which the warrant is issued, a notation that the lien covers all
1112 previous, current and future periods for the life of the lien, and
1113 the date when such warrant is filed. The lien shall have the same
1114 effect and remedies as that provided by law in respect to
1115 executions issued against property upon judgments or in attachment

1116 proceedings of a court of record, and the remedies by garnishment
1117 shall apply.

1118 On the suggestion of the commission, in writing, that any
1119 person is indebted to an employer named in any warrant which has
1120 been entered on the judgment roll in the office of the circuit
1121 clerk of any county, or has property of such employer in his
1122 hands, or knows of some other person who is so indebted, or who
1123 has effects or property of such employer in his hands, it shall be
1124 the duty of the clerk of the circuit court of such county to issue
1125 a writ of garnishment directed to the sheriff or proper officer,
1126 commanding him to summon such person as garnishee to appear at a
1127 term of the circuit court of the county, or a term of the county
1128 court, as in cases provided by law for garnishment upon the
1129 judgments of such court, to answer accordingly. The circuit court
1130 or county court, as the case may be, shall assume full
1131 jurisdiction over the subject matter and the parties, and all the
1132 provisions of law with respect to garnishment proceedings
1133 instituted in the circuit court under Sections 11-35-1 through
1134 11-35-61 of the Mississippi Code of 1972, shall be applicable as
1135 far as possible thereto.

1136 SECTION 4. This act shall take effect and be in force from
1137 and after July 1, 2001.