To: Appropriations

MISSISSIPPI LEGISLATURE REGULAR SESSION 2001
By: Senator(s) Furniss
To: Appropriations

SENATE BILL NO. 2253

AN ACT TO AMEND SECTION 71-5-513, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SOCIAL SECURITY PAYMENTS, TO WHICH AN EMPLOYEE HAS MADE CONTRIBUTIONS, MAY NOT BE DEDUCTED FROM UNEMPLOYMENT BENEFITS PAID FOR ANY PERIOD OF UNEMPLOYMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 71-5-513, Mississippi Code of 1972, is amended as follows:

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

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

(b) For the week, or fraction thereof, which immediately follows the day on which he was discharged for misconduct connected with his work, if so found by the commission, and for each week thereafter until he has earned remuneration for personal services performed for an employer, as in this chapter defined, equal to not less than eight (8) times his weekly benefit amount, as determined in each case.
(c) The burden of proof of good cause for leaving work shall be on the claimant, and the burden of proof of misconduct shall be on the employer.

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

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

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

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

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

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

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

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

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

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

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

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

(5) For any week with respect to which he has received
or is seeking unemployment compensation under an unemployment
compensation law of another state or of the United States.
Provided, that if the appropriate agency of such other state or of
the United States finally determines that he is not entitled to
such unemployment compensation benefits, this disqualification
shall not apply. Nothing in this subsection contained shall be
construed to include within its terms any law of the United States
providing unemployment compensation or allowances for honorably
discharged members of the armed forces.

(6) For any week with respect to which he is receiving
or has received remuneration in the form of payments under any
governmental or private retirement or pension plan, system or
policy which a base-period employer is maintaining or contributing
to or has maintained or contributed to on behalf of the
individual; provided, that if the amount payable with respect to
any week is less than the benefits which would otherwise be due
under Section 71-5-501, he shall be entitled to receive for such
week, if otherwise eligible, benefits reduced by the amount of
such remuneration. Provided, however, on or after the first
Sunday immediately following passage of this Senate Bill No. 2253,
2001 Regular Session, no social security payments, to which the
employee has made contributions, may be deducted from unemployment
benefits paid for any period of unemployment commencing on or
after the first Sunday following passage of this Senate Bill No.
exclusion does not apply to any other governmental or private retirement or pension plan, system or policy. If benefits payable under this subsection, after being reduced by the amount of such remuneration, are not a multiple of One Dollar ($1.00), they shall be adjusted to the next higher multiple of One Dollar ($1.00); and for a benefit year effective on or after October 1, 1983, if benefits payable under this section, after being reduced by the amount of such remuneration, are not a multiple of One Dollar ($1.00), they shall be adjusted to the next lower multiple of One Dollar ($1.00).

(7) For any week with respect to which he is receiving or has received remuneration in the form of a back-pay award, or other compensation allocable to any week, whether by settlement or otherwise. Any benefits previously paid for weeks of unemployment with respect to which back-pay awards, or other such compensation, are made shall constitute an overpayment and such amounts shall be deducted from the award by the employer prior to payment to the employee, and shall be transmitted promptly to the commission by the employer for application against the overpayment and credit to the claimant's maximum benefit amount and prompt deposit into the fund; provided, however, the removal of any charges made against the employer as a result of such previously paid benefits shall be applied to the calendar year and the calendar quarter in which the overpayment is transmitted to the commission, and no attempt shall be made to relate such a credit to the period to which the award applies. Any amount of overpayment so deducted by the employer and not transmitted to the commission shall be subject to the same procedures for collection as is provided for contributions by Sections 71-5-363 through 71-5-381. Any amount of overpayment not deducted by the employer shall be established as an overpayment against the claimant and collected as provided above. It is the
ST: Social security benefits; exempt from disqualification for unemployment compensation.