HOUSE BILL NO. 1035

AN ACT TO AMEND SECTION 71-5-511, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT UNTIL JULY 1, 2005, THE ONE-WEEK WAITING PERIOD REQUIRED FOR ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION BENEFITS SHALL BE ELIMINATED; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 71-5-511, Mississippi Code of 1972, is amended as follows:

[Until July 1, 2005, this section shall read as follows:]

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

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

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

1. The individual has completed such services; or

2. There is justifiable cause for the claimant's failure to participate in such services.
(b) He has made a claim for benefits in accordance with
the provisions of Section 71-5-515 and in accordance with such
regulations as the commission may prescribe thereunder.

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

* * *

(d) For weeks beginning on or before July 1, 1982, he
has, during his base period, been paid wages for insured work
equal to not less than thirty-six (36) times his weekly benefit
amount; he has been paid wages for insured work during at least
two (2) quarters of his base period; and he has, during that
quarter of his base period in which his total wages were highest,
been paid wages for insured work equal to not less than sixteen
(16) times the minimum weekly benefit amount. For benefit years
beginning after July 1, 1982, he has, during his base period, been
paid wages for insured work equal to not less than forty (40)
times his weekly benefit amount; he has been paid wages for
insured work during at least two (2) quarters of his base period,
and he has, during that quarter of his base period in which his
total wages were highest, been paid wages for insured work equal
to not less than twenty-six (26) times the minimum weekly benefit
amount. For purposes of this subsection, wages shall be counted
as "wages for insured work" for benefit purposes with respect to
any benefit year only if such benefit year begins subsequent to
the date on which the employing unit by which such wages were paid
has satisfied the conditions of Section 71-5-11, subsection H, or
Section 71-5-361, subsection (3), with respect to becoming an
employer.

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

(f) Benefits based on service in employment defined in
Section 71-5-11, subsections I(3) and I(4), and Section 71-5-361,
subsection (4) shall be payable in the same amount, on the same
terms, and subject to the same conditions as compensation payable
on the basis of other service subject to this chapter, except that
benefits based on service in an instructional, research or
principal administrative capacity in an institution of higher
learning (as defined in Section 71-5-11, subsection M) with
respect to service performed prior to January 1, 1978, shall not
be paid to an individual for any week of unemployment which begins
during the period between two (2) successive academic years, or
during a similar period between two (2) regular terms, whether or
not successive, or during a period of paid sabbatical leave
provided for in the individual's contract, if the individual has a
contract or contracts to perform services in any such capacity for
any institution or institutions of higher learning for both such
academic years or both such terms.

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

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

(ii) With respect to services performed in any
other capacity for an educational institution, benefits shall not
be paid on the basis of such services to any individual for any
week which commences during a period between two (2) successive
academic years or terms, if such individual performs such services
in the first of such academic years or terms and there is a
reasonable assurance that such individual will perform such
services in the second of such academic years or terms, except
that if compensation is denied to any individual under this
subparagraph and such individual was not offered an opportunity to
perform such services for the educational institution for the
second of such academic years or terms, such individual shall be
entitled to a retroactive payment of compensation for each week
for which the individual filed a timely claim for compensation and
for which compensation was denied solely by reason of this clause.

In no event shall benefits be paid unless the individual employee
was terminated by the employer.

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

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

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

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

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

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

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

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

[From and after July 1, 2005, this section shall read as follows:]

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

(a) (i) He has registered for work at and thereafter has continued to report to an employment office in accordance with such regulations as the commission may prescribe; except that the commission may, by regulation, waive or alter either or both of the requirements of this subparagraph as to such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this chapter; and
(ii) He participates in reemployment services, such as job search assistance services, if, in accordance with a profiling system established by the commission, it has been determined that he is likely to exhaust regular benefits and needs reemployment services, unless the commission determines that:

1. The individual has completed such services; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2002.