

By: Representative Moss

To: Labor

HOUSE BILL NO. 1579

1 AN ACT TO AMEND SECTION 71-5-11, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE DEFINITION OF "EMPLOYING UNIT" UNDER THE MISSISSIPPI
 3 EMPLOYMENT SECURITY LAW TO INCLUDE CERTAIN INDIAN TRIBES; TO AMEND
 4 SECTION 71-5-357, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE BY
 5 WHICH PAYMENTS REQUIRED OF CERTAIN NONPROFIT ORGANIZATIONS SHALL
 6 BE PAID TO THE UNEMPLOYMENT COMPENSATION FUND; TO CREATE NEW CODE
 7 SECTION 71-5-387, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
 8 CERTAIN INDIAN TRIBES SHALL BE CONSIDERED EMPLOYERS AND SHALL PAY
 9 CONTRIBUTIONS TO THE UNEMPLOYMENT COMPENSATION FUND IN THE SAME
 10 MANNER AS ALL OTHER EMPLOYERS UNLESS THE TRIBES ELECT TO MAKE
 11 PAYMENTS IN LIEU OF CONTRIBUTIONS; TO PROVIDE PENALTIES FOR
 12 FAILURE OF THE TRIBE TO MAKE THE REQUIRED PAYMENTS OR
 13 CONTRIBUTIONS WITHIN THE PRESCRIBED TIME FRAME; TO AMEND SECTION
 14 71-5-501, MISSISSIPPI CODE OF 1972, TO REMOVE THE TWENTY-FOUR
 15 MONTH WAITING PERIOD BEFORE UNEMPLOYMENT BENEFITS SHALL BECOME
 16 PAYABLE FROM THE FUND; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 71-5-11, Mississippi Code of 1972, is
 19 amended as follows:

20 71-5-11. As used in this chapter, unless the context clearly
 21 requires otherwise:

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

25 B. "Benefits" means the money payments payable to an
 26 individual, as provided in this chapter, with respect to his
 27 unemployment.

28 C. "Benefit year" with respect to any individual means the
 29 period beginning with the first day of the first week with respect
 30 to which he first files a valid claim for benefits, and ending
 31 with the day preceding the same day of the same month in the next
 32 calendar year; and, thereafter, the period beginning with the
 33 first day of the first week with respect to which he next files
 34 his valid claim for benefits, and ending with the day preceding



35 the same day of the same month in the next calendar year. Any
36 claim for benefits made in accordance with Section 71-5-515 shall
37 be deemed to be a "valid claim" for purposes of this subsection if
38 the individual has been paid the wages for insured work required
39 under Section 71-5-511(e).

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

42 E. "Calendar quarter" means the period of three (3)
43 consecutive calendar months ending on March 31, June 30, September
44 30, or December 31.

45 F. "Commission" means the Mississippi Employment Security
46 Commission.

47 G. "Employing unit" means this state or another state or any
48 instrumentalities or any political subdivisions thereof or any of
49 their instrumentalities or any instrumentality of more than one
50 (1) of the foregoing or any instrumentality of any of the
51 foregoing and one or more other states or political subdivisions,
52 any Indian tribe as defined in Section 3306(u) of the Federal
53 Unemployment Tax Act (FUTA), which includes any subdivision,
54 subsidiary or business enterprise wholly owned by such Indian
55 tribe, any individual or type of organization, including any
56 partnership, association, trust, estate, joint-stock company,
57 insurance company, or corporation, whether domestic or foreign, or
58 the receiver, trustee in bankruptcy, trustee or successor thereof,
59 or the legal representative of a deceased person, which has or had
60 in its employ one or more individuals performing services for it
61 within this state. All individuals performing services within
62 this state for any employing unit which maintains two (2) or more
63 separate establishments within this state shall be deemed to be
64 employed by a single employing unit for all the purposes of this
65 chapter. Each individual employed to perform or to assist in
66 performing the work of any agent or employee of an employing unit
67 shall be deemed to be employed by such employing unit for all



68 purposes of this chapter, whether such individual was hired or
69 paid directly by such employing unit or by such agent or employee,
70 provided the employing unit had actual or constructive knowledge
71 of the work. All individuals performing services in the employ of
72 an elected fee-paid county official, other than those related by
73 blood or marriage within the third degree computed by the rule of
74 the civil law to such fee-paid county official, shall be deemed to
75 be employed by such county as the employing unit for all the
76 purposes of this chapter. For purposes of defining an "employing
77 unit" which shall pay contributions on remuneration paid to
78 individuals, if two (2) or more related corporations concurrently
79 employ the same individual and compensate such individual through
80 a common paymaster which is one (1) of such corporations, then
81 each such corporation shall be considered to have paid as
82 remuneration to such individual only the amounts actually
83 disbursed by it to such individual and shall not be considered to
84 have paid as remuneration to such individual such amounts actually
85 disbursed to such individual by another of such corporations.

86 H. "Employer" means:

87 (1) Any employing unit which,

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

92 (b) For some portion of a day in each of twenty
93 (20) different calendar weeks, whether or not such weeks were
94 consecutive, in either the current or the preceding calendar year
95 had in employment at least one (1) individual (irrespective of
96 whether the same individual was in employment in each such day),
97 except as provided in paragraph (9) of this subsection;

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



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

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

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

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

112 (6) Any individual or employing unit which acquired its
113 organization, trade, business, or substantially all the assets
114 thereof, from another employing unit, if the employment record of
115 the acquiring individual or employing unit subsequent to such
116 acquisition, together with the employment record of the acquired
117 organization, trade, or business prior to such acquisition, both
118 within the same calendar year, would be sufficient to constitute
119 an employing unit an employer subject to this chapter under
120 paragraph (1) or (3) of this subsection;

121 (7) Any employing unit which, having become an employer
122 under paragraph (1), (3), (5) or (6) of this subsection or under
123 any other provisions of this chapter, has not, under Section
124 71-5-361, ceased to be an employer subject to this chapter; * * *

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

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



133 (b) In determining whether or not an employing
134 unit for which service other than agricultural labor is also
135 performed is an employer under paragraph (1) or (4)(b) of this
136 subsection, the wages earned or the employment of an employee
137 performing services in agricultural labor, shall not be taken into
138 account. If an employing unit is determined an employer of
139 agricultural labor, such employing unit shall be determined an
140 employer for purposes of paragraph (1) of this subsection;

141 (10) All entities utilizing the services of any
142 employee leasing firm shall be considered the employer of the
143 individuals leased from the employee leasing firm. Temporary help
144 firms shall be considered the employer of the individuals they
145 provide to perform services for other individuals or
146 organizations.

147 I. "Employment" means and includes:

148 (1) Any service performed, which was employment as
149 defined in this section and, subject to the other provisions of
150 this subsection, including service in interstate commerce,
151 performed for wages or under any contract of hire, written or
152 oral, express or implied.

153 (2) Services performed for remuneration for a
154 principal:

155 (a) As an agent-driver or commission-driver
156 engaged in distributing meat products, vegetable products, fruit
157 products, bakery products, beverages (other than milk), or laundry
158 or dry cleaning services;

159 (b) As a traveling or city salesman, other than as
160 an agent-driver or commission-driver, engaged upon a full-time
161 basis in the solicitation on behalf of, and the transmission to, a
162 principal (except for sideline sales activities on behalf of some
163 other person) of orders from wholesalers, retailers, contractors,
164 or operator of hotels, restaurants, or other similar



165 establishments for merchandise for resale or supplies for use in
166 their business operations.

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

170 (i) The contract of service contemplates that
171 substantially all of the services are to be performed personally
172 by such individual;

173 (ii) The individual does not have a
174 substantial investment in facilities used in connection with the
175 performance of the services (other than in facilities for
176 transportation); and

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

180 (3) Service performed in the employ of this state or
181 any of its instrumentalities or any political subdivision thereof
182 or any of its instrumentalities or any instrumentality of more
183 than one (1) of the foregoing or any instrumentality of any of the
184 foregoing and one or more other states or political subdivisions
185 or any Indian tribe as defined in Section 3306(u) of the Federal
186 Unemployment Tax Act (FUTA), which includes any subdivision,
187 subsidiary or business enterprise wholly owned by such Indian
188 tribe; provided that such service is excluded from "employment" as
189 defined in the Federal Unemployment Tax Act by Section 3306(c) (7)
190 of that act and is not excluded from "employment" under subsection
191 I(5) of this section.

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

196 (b) The organization had four (4) or more
197 individuals in employment for some portion of a day in each of



198 twenty (20) different weeks, whether or not such weeks were
199 consecutive, within the current or preceding calendar year,
200 regardless of whether they were employed at the same moment of
201 time.

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

205 (a) In the employ of:

206 (i) A church or convention or association of
207 churches; or

208 (ii) An organization which is operated
209 primarily for religious purposes and which is operated,
210 supervised, controlled, or principally supported by a church or
211 convention or association of churches; or

212 (b) By a duly ordained, commissioned, or licensed
213 minister of a church in the exercise of his ministry, or by a
214 member of a religious order in the exercise of duties required by
215 such order; or

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

219 (i) As an elected official;

220 (ii) As a member of a legislative body, or a
221 member of the judiciary, of a state or political subdivision or a
222 member of an Indian tribal council;

223 (iii) As a member of the State National Guard
224 or Air National Guard;

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

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



231 1. A major nontenured policy-making or
232 advisory position, or

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

236 (d) In a facility conducted for the purpose of
237 carrying out a program of rehabilitation for individuals whose
238 earning capacity is impaired by age or physical or mental
239 deficiency or injury, or providing remunerative work for
240 individuals who because of their impaired physical or mental
241 capacity cannot be readily absorbed in the competitive labor
242 market, by an individual receiving such rehabilitation or
243 remunerative work; or

244 (e) By an inmate of a custodial or penal
245 institution; or

246 (f) As part of an unemployment work-relief or
247 work-training program assisted or financed in whole or in part by
248 any federal agency or agency of a state or political subdivision
249 thereof or of an Indian tribe, by an individual receiving such
250 work relief or work training, unless coverage of such service is
251 required by federal law or regulation.

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

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

255 (i) During any calendar quarter in either the
256 current or the preceding calendar year paid remuneration in cash
257 of Twenty Thousand Dollars (\$20,000.00) or more to individuals
258 employed in agricultural labor, or

259 (ii) For some portion of a day in each of
260 twenty (20) different calendar weeks, whether or not such weeks
261 were consecutive, in either the current or the preceding calendar
262 year, employed in agricultural labor ten (10) or more individuals,



263 regardless of whether they were employed at the same moment of
264 time.

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

269 (i) If such crew leader holds a valid
270 certificate of registration under the Farm Labor Contractor
271 Registration Act of 1963; or substantially all the members of such
272 crew operate or maintain tractors, mechanized harvesting or crop
273 dusting equipment, or any other mechanized equipment, which is
274 provided by such crew leader; and

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

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

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

284 (ii) Such other person shall be treated as
285 having paid cash remuneration to such individual in an amount
286 equal to the amount of cash remuneration paid to such individual
287 by the crew leader (either on his own behalf or on behalf of such
288 other person) for the service in agricultural labor performed for
289 such other person.

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

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



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

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

300 (7) The term "employment" shall include domestic
301 service in a private home, local college club or local chapter of
302 a college fraternity or sorority performed for an employing unit
303 which paid cash remuneration of One Thousand Dollars (\$1,000.00)
304 or more in any calendar quarter in the current or the preceding
305 calendar year to individuals employed in such domestic service.
306 For the purpose of this subsection, the term "employment" does not
307 apply to service performed as a "sitter" at a hospital in the
308 employ of an individual.

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

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

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

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

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

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



327 of this state and the commission approves the election of the
328 employing unit for whom such services are performed that the
329 entire service of such individual shall be deemed to be employment
330 subject to this chapter.

331 (10) Service shall be deemed to be localized within a
332 state if:

333 (a) The service is performed entirely within such
334 state; or

335 (b) The service is performed both within and
336 without such state, but the service performed without such state
337 is incidental to the individual's service within the state; for
338 example, is temporary or transitory in nature or consists of
339 isolated transactions.

340 (11) The services of an individual who is a citizen of
341 the United States, performed outside the United States (except in
342 Canada), in the employ of an American employer (other than service
343 which is deemed "employment" under the provisions of paragraph
344 (8), (9) or (10) of this subsection or the parallel provisions of
345 another state's law), if:

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

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

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

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

354 (iii) The employer is a partnership or a
355 trust and the number of the partners or trustees who are residents
356 of this state is greater than the number who are residents of any
357 one (1) other state; or

358 (c) None of the criteria of subparagraphs (a) and
359 (b) of this paragraph are met but the employer has elected



360 coverage in this state or, the employer having failed to elect
361 coverage in any state, the individual has filed a claim for
362 benefits, based on such service, under the law of this state; or

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

365 (i) An individual who is a resident of the
366 United States; or

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

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

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

373 (12) All services performed by an officer or member of
374 the crew of an American vessel on or in connection with such
375 vessel, if the operating office from which the operations of such
376 vessel operating on navigable waters within, or within and
377 without, the United States are ordinarily and regularly
378 supervised, managed, directed, and controlled is within this
379 state; notwithstanding the provisions of subsection I(8).

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

387 (14) Services performed by an individual for wages
388 shall be deemed to be employment subject to this chapter unless
389 and until it is shown to the satisfaction of the commission that
390 such individual has been and will continue to be free from control
391 and direction over the performance of such services both under his
392 contract of service and in fact; and the relationship of employer



393 and employee shall be determined in accordance with the principles
394 of the common law governing the relation of master and servant.

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

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

399 (i) On a farm or in a forest in the employ of
400 any employing unit in connection with cultivating the soil, in
401 connection with cutting, planting, deadening, marking or otherwise
402 improving timber, or in connection with raising or harvesting any
403 agricultural or horticultural commodity, including the raising,
404 shearing, feeding, caring for, training, and management of
405 livestock, bees, poultry, fur-bearing animals, and wildlife;

406 (ii) In the employ of the owner or tenant or
407 other operator of a farm, in connection with the operation,
408 management, conservation, improvement, or maintenance of such farm
409 and its tools and equipment, or in salvaging timber or clearing
410 land of brush and other debris left by a hurricane, if the major
411 part of such service is performed on a farm;

412 (iii) In connection with the production or
413 harvesting of naval stores products or any commodity defined in
414 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),
415 or in connection with the raising or harvesting of mushrooms, or
416 in connection with the ginning of cotton, or in connection with
417 the operation or maintenance of ditches, canals, reservoirs, or
418 waterways not owned or operated for profit, used exclusively for
419 supplying and storing water for farming purposes;

420 (iv) (A) In the employ of the operator of a
421 farm in handling, planting, drying, packing, packaging,
422 processing, freezing, grading, storing, or delivering to storage
423 or to market or to a carrier for transportation to market, in its
424 unmanufactured state, any agricultural or horticultural commodity;



425 but only if such operator produced more than one-half (1/2) of the
426 commodity with respect to which such service is performed;

427 (B) In the employ of a group of
428 operators of farms (or a cooperative organization of which such
429 operators are members) in the performance of service described in
430 subparagraph (A), but only if such operators produced more than
431 one-half (1/2) of the commodity with respect to which such service
432 is performed;

433 (C) The provisions of subparagraphs (A)
434 and (B) shall not be deemed to be applicable with respect to
435 service performed in connection with commercial canning or
436 commercial freezing or in connection with any agricultural or
437 horticultural commodity after its delivery to a terminal market
438 for distribution for consumption;

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

441 (vi) As used in paragraph (15)(a) of this
442 subsection, the term "farm" includes stock, dairy, poultry, fruit,
443 fur-bearing animals, and truck farms, plantations, ranches,
444 nurseries, ranges, greenhouses, or other similar structures used
445 primarily for the raising of agricultural or horticultural
446 commodities, and orchards.

447 (b) Domestic service in a private home, local
448 college club, or local chapter of a college fraternity or
449 sorority, except as provided in subsection I(7) of this section,
450 or service performed as a "sitter" at a hospital in the employ of
451 an individual.

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

454 (d) Service performed by an individual in the
455 employ of his son, daughter, or spouse, and service performed by a
456 child under the age of twenty-one (21) in the employ of his father
457 or mother.



458 (e) Service performed in the employ of the United
459 States government or of an instrumentality wholly owned by the
460 United States; except that if the Congress of the United States
461 shall permit states to require any instrumentalities of the United
462 States to make payments into an unemployment fund under a state
463 unemployment compensation act, then to the extent permitted by
464 Congress and from and after the date as of which such permission
465 becomes effective, all of the provisions of this chapter shall be
466 applicable to such instrumentalities and to services performed by
467 employees for such instrumentalities in the same manner, to the
468 same extent, and on the same terms as to all other employers and
469 employing units. If this state should not be certified under the
470 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any
471 year, then the payment required by such instrumentality with
472 respect to such year shall be deemed to have been erroneously
473 collected and shall be refunded by the commission from the fund in
474 accordance with the provisions of Section 71-5-383.

475 (f) Service performed in the employ of an
476 "employer" as defined by the Railroad Unemployment Insurance Act,
477 45 USCS Section 351(a), or as an "employee representative" as
478 defined by the Railroad Unemployment Insurance Act, 45 USCS
479 Section 351(f), and service with respect to which unemployment
480 compensation is payable under an unemployment compensation system
481 for maritime employees, or under any other unemployment
482 compensation system established by an act of Congress; provided
483 that the commission is hereby authorized and directed to enter
484 into agreements with the proper agencies under such act or acts of
485 Congress, which agreements shall become effective ten (10) days
486 after publication thereof in the manner provided in Section
487 71-5-117 for general rules, to provide reciprocal treatment to
488 individuals who have, after acquiring potential rights to benefits
489 under this chapter, acquired rights to unemployment compensation
490 under such act or acts of Congress or who have, after acquiring



491 potential rights to unemployment compensation under such act or
492 acts of Congress, acquired rights to benefits under this chapter.

493 (g) Service performed in any calendar quarter in
494 the employ of any organization exempt from income tax under the
495 Internal Revenue Code, 26 USCS Section 501(a) (other than an
496 organization described in 26 USCS Section 401(a)), or exempt from
497 income tax under 26 USCS Section 521 if the remuneration for such
498 service is less than Fifty Dollars (\$50.00).

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

501 (i) By a student who is enrolled and is
502 regularly attending classes at such school, college or university,
503 or

504 (ii) By the spouse of such a student if such
505 spouse is advised, at the time such spouse commences to perform
506 such service, that

507 (A) The employment of such spouse to
508 perform such service is provided under a program to provide
509 financial assistance to such student by such school, college, or
510 university, and

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

513 (i) Service performed by an individual under the
514 age of twenty-two (22) who is enrolled at a nonprofit or public
515 educational institution which normally maintains a regular faculty
516 and curriculum and normally has a regularly organized body of
517 students in attendance at the place where its educational
518 activities are carried on, as a student in a full-time program
519 taken for credit at such institution, which combines academic
520 instruction with work experience, if such service is an integral
521 part of such program and such institution has so certified to the
522 employer, except that this subparagraph shall not apply to service



523 performed in a program established for or on behalf of an employer
524 or group of employers.

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

528 (k) Service performed as a student nurse in the
529 employ of a hospital or a nurses' training school by an individual
530 who is enrolled and is regularly attending classes in a nurses'
531 training school chartered or approved pursuant to state law; and
532 services performed as an intern in the employ of a hospital by an
533 individual who has completed a four-year course in a medical
534 school chartered or approved pursuant to state law.

535 (l) Service performed by an individual as an
536 insurance agent or as an insurance solicitor, if all such service
537 performed by such individual is performed for remuneration solely
538 by way of commission.

539 (m) Service performed by an individual under the
540 age of eighteen (18) in the delivery or distribution of newspapers
541 or shopping news, not including delivery or distribution to any
542 point for subsequent delivery or distribution.

543 (n) If the services performed during one-half
544 (1/2) or more of any pay period by an employee for the employing
545 unit employing him constitute employment, all the services of such
546 employee for such period shall be deemed to be employment; but if
547 the services performed during more than one-half (1/2) of any such
548 pay period by an employee for the employing unit employing him do
549 not constitute employment, then none of the services of such
550 employee for such period shall be deemed to be employment. As
551 used in this subsection the term "pay period" means a period (of
552 not more than thirty-one (31) consecutive days) for which a
553 payment of remuneration is ordinarily made to the employee by the
554 employing unit employing him.



555 (o) Service performed by an individual who is a
556 CETA/PSE (Comprehensive Employment Training Act/Public Service
557 Employment) participant unless coverage of such service is
558 required by federal law or regulation.

559 (p) Service performed by a barber or beautician
560 whose work station is leased to him or her by the owner of the
561 shop in which he or she works and who is compensated directly by
562 the patrons he or she serves and who is free from direction and
563 control by the lessor.

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

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

570 K. "Fund" means the Unemployment Compensation Fund
571 established by this chapter, to which all contributions required
572 and from which all benefits provided under this chapter shall be
573 paid.

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

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

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

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

584 (3) Provides an educational program for which it awards
585 a bachelor's or higher degree, or provides a program which is
586 acceptable for full credit toward such a degree, a program of
587 postgraduate or postdoctoral studies, or a program of training to



588 prepare students for gainful employment in a recognized
589 occupation;

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

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

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

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

600 (3) The provisions of subsections (1) and (2) of
601 paragraph N, as including the Virgin Islands, shall become
602 effective on the day after the day on which the United States
603 Secretary of Labor approves for the first time under Section
604 3304(a) of the Internal Revenue Code of 1954 an unemployment
605 compensation law submitted to the secretary by the Virgin Islands
606 for such approval.

607 O. "Unemployment."

608 (1) An individual shall be deemed "unemployed" in any
609 week during which he performs no services and with respect to
610 which no wages are payable to him, or in any week of less than
611 full-time work if the wages payable to him with respect to such
612 week are less than his weekly benefit amount as computed and
613 adjusted in Section 71-5-505. The commission shall prescribe
614 regulations applicable to unemployed individuals, making such
615 distinctions in the procedure as to total unemployment, part-total
616 unemployment, partial unemployment of individuals attached to
617 their regular jobs, and other forms of short-time work, as the
618 commission deems necessary.

619 (2) An individual's week of total unemployment shall be
620 deemed to commence only after his registration at an employment



621 office, except as the commission may by regulation otherwise
622 prescribe.

623 P. (1) "Wages" means all remuneration for personal
624 services, including commissions and bonuses and the cash value of
625 all remuneration in any medium other than cash, except that
626 "wages," for purposes of determining employer's coverage and
627 payment of contributions for agricultural and domestic service
628 means cash remuneration only. The reasonable cash value of
629 remuneration in any medium other than cash shall be estimated and
630 determined in accordance with rules prescribed by the commission;
631 provided, that the term "wages" shall not include:

632 (a) The amount of any payment made to, or on
633 behalf of, an employee under a plan or system established by an
634 employer which makes provision for his employees generally or for
635 a class or classes of his employees (including any amount paid by
636 an employer for insurance or annuities, or into a fund, to provide
637 for any such payment), on account of:

638 (i) Retirement, or

639 (ii) Sickness or accident disability, or

640 (iii) Medical or hospitalization expenses in
641 connection with sickness or actual disability, or

642 (iv) Death, provided the employee:

643 (A) Has not the option to receive,
644 instead of provision for such death benefit, any part of such
645 payment or, if such death benefit is insured, any part of the
646 premiums (or contributions to premiums) paid by his employer, and

647 (B) Has not the right, under the
648 provisions of the plan or system or policy of insurance providing
649 for such death benefit, to assign such benefit or to receive a
650 cash consideration in lieu of such benefit, either upon his
651 withdrawal from the plan or system providing for such benefit or
652 upon termination of such plan or system or policy of insurance or
653 of his employment with such employer;



654 (b) Dismissal payments which the employer is not
655 legally required to make;

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

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

662 (i) Qualifies under Section 125 of the
663 Internal Revenue Code;

664 (ii) Covers only employees;

665 (iii) Covers only noncash benefits;

666 (iv) Does not include deferred compensation
667 plans.

668 (2) [Not enacted].

669 Q. "Week" means calendar week or such period of seven (7)
670 consecutive days as the commission may by regulation prescribe.
671 The commission may by regulation prescribe that a week shall be
672 deemed to be in, within, or during any benefit year which includes
673 any part of such week.

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

675 S. The term "includes" and "including," when used in a
676 definition contained in this chapter, shall not be deemed to
677 exclude other things otherwise within the meaning of the term
678 defined.

679 T. "Employee leasing arrangement" means any agreement
680 between an employee leasing firm and a client, whereby specified
681 client responsibilities such as payment of wages, reporting of
682 wages for unemployment insurance purposes, payment of unemployment
683 insurance contributions and other such administrative duties are
684 to be performed by an employee leasing firm, on an ongoing basis.

685 U. "Employee leasing firm" means any entity which provides
686 specified duties for a client company such as payment of wages,



687 reporting of wages for unemployment insurance purposes, payment of
688 unemployment insurance contributions and other administrative
689 duties, in connection with the client's employees, that are
690 directed and controlled by the client and that are providing
691 ongoing services for the client.

692 V. "Temporary help firm" means an entity which hires its own
693 employees and provides those employees to other individuals or
694 organizations to perform some service, to support or supplement
695 the existing work force in special situations such as employee
696 absences, temporary skill shortages, seasonal workloads and
697 special assignments and projects, with the expectation that the
698 worker's position will be terminated upon the completion of the
699 specified task or function.

700 **SECTION 2.** Section 71-5-357, Mississippi Code of 1972, is
701 amended as follows:

702 71-5-357. Benefits paid to employees of nonprofit
703 organizations shall be financed in accordance with the provisions
704 of this section. For the purpose of this section, a nonprofit
705 organization is an organization (or group of organizations)
706 described in Section 501(c)(3) of the Internal Revenue Code of
707 1954 which is exempt from income tax under Section 501(a) of such
708 code (26 USCS Section 501).

709 (a) Any nonprofit organization which, pursuant to
710 Section 71-5-11, subsection H(3), is or becomes subject to this
711 chapter shall pay contributions under the provisions of Sections
712 71-5-351 through 71-5-355 unless it elects, in accordance with
713 this paragraph, to pay to the commission for the unemployment fund
714 an amount equal to the amount of regular benefits and one-half
715 (1/2) of the extended benefits paid, that is attributable to
716 service in the employ of such nonprofit organization, to
717 individuals for weeks of unemployment which begin during the
718 effective period of such election.



719 (i) Any nonprofit organization which becomes
720 subject to this chapter may elect to become liable for payments in
721 lieu of contributions for a period of not less than twelve (12)
722 months, beginning with the date on which such subjectivity begins,
723 by filing a written notice of its election with the commission not
724 later than thirty (30) days immediately following the date of the
725 determination of such subjectivity.

726 (ii) Any nonprofit organization which makes an
727 election in accordance with subparagraph (i) of this paragraph
728 will continue to be liable for payments in lieu of contributions
729 unless it files with the commission a written termination notice
730 not later than forty-five (45) days prior to the beginning of the
731 tax year for which such termination shall first be effective.

732 (iii) Any nonprofit organization which has been
733 paying contributions under this chapter may change to a
734 reimbursable basis by filing with the commission, not later than
735 thirty (30) days prior to the beginning of any tax year, a written
736 notice of election to become liable for payments in lieu of
737 contributions. Such election shall not be terminable by the
738 organization for that and the next tax year.

739 (iv) The commission may for good cause extend the
740 period within which a notice of election or a notice of
741 termination must be filed, and may permit an election to be
742 retroactive.

743 (v) The commission, in accordance with such
744 regulations as it may prescribe, shall notify each nonprofit
745 organization of any determination which it may make of its status
746 as an employer, of the effective date of any election which it
747 makes and of any termination of such election. Such
748 determinations shall be subject to reconsideration, appeal and
749 review in accordance with the provisions of Sections 71-5-351
750 through 71-5-355.



751 (b) Payments in lieu of contributions shall be made in
752 accordance with the provisions of subparagraph (i) of this
753 paragraph.

754 (i) At the end of each calendar quarter, or at the
755 end of any other period as determined by the commission, the
756 commission shall bill each nonprofit organization (or group of
757 such organizations) which has elected to make payments in lieu of
758 contributions, for an amount equal to the full amount of regular
759 benefits plus one-half (1/2) of the amount of extended benefits
760 paid during such quarter or other prescribed period that is
761 attributable to service in the employ of such organization.

762 (ii) Payment of any bill rendered under
763 subparagraph (i) of this paragraph shall be made not later than
764 thirty (30) days after such bill was mailed to the last known
765 address of the nonprofit organization or was otherwise delivered
766 to it, unless there has been an application for review and
767 redetermination in accordance with subparagraph (v) of this
768 paragraph.

769 1. All of the enforcement procedures for the
770 collection of delinquent contributions contained in Sections
771 71-5-363 through 71-5-383 shall be applicable in all respects for
772 the collection of delinquent payments due by nonprofit
773 organizations who have elected to become liable for payments in
774 lieu of contributions.

775 2. If any nonprofit organization is
776 delinquent in making payments in lieu of contributions, the
777 commission may terminate such organization's election to make
778 payments in lieu of contributions as of the beginning of the next
779 tax year, and such termination shall be effective for the balance
780 of such tax year.

781 (iii) Payments made by any nonprofit organization
782 under the provisions of this paragraph shall not be deducted or



783 deductible, in whole or in part, from the remuneration of
784 individuals in the employ of the organization.

785 (iv) Payments due by employers who elect to
786 reimburse the fund in lieu of contributions as provided in this
787 paragraph may not be noncharged under any condition. The
788 reimbursement must be on a dollar-for-dollar basis (One Dollar
789 (\$1.00) reimbursement for each dollar paid in benefits) in every
790 case, so that the trust fund shall be reimbursed in full, such
791 reimbursement to include, but not be limited to, benefits or
792 payments erroneously or incorrectly paid, or paid as a result of a
793 determination of eligibility which is subsequently reversed, or
794 paid as a result of claimant fraud. Provided that political
795 subdivisions who are reimbursing employers may elect to pay to the
796 fund an amount equal to five-tenths percent (.5%) of the taxable
797 wages paid during the calendar year with respect to employment,
798 and those employers who so elect shall be relieved of liability
799 for reimbursement of benefits paid under the same conditions that
800 benefits are not charged to the experience rating record of a
801 contributing employer as provided in Section 71-5-355(2)(b)(ii)
802 other than Clause 5 thereof. Benefits paid in such circumstances
803 for which reimbursing employers are relieved of liability for
804 reimbursement shall not be considered attributable to service in
805 the employment of such reimbursing employer.

806 (v) The amount due specified in any bill from the
807 commission shall be conclusive on the organization unless, not
808 later than fifteen (15) days after the bill was mailed to its last
809 known address or otherwise delivered to it, the organization files
810 an application for redetermination by the commission, setting
811 forth the grounds for such application or appeal. The commission
812 shall promptly review and reconsider the amount due specified in
813 the bill and shall thereafter issue a redetermination in any case
814 in which such application for redetermination has been filed. Any
815 such redetermination shall be conclusive on the organization



816 unless, not later than fifteen (15) days after the redetermination
817 was mailed to its last known address or otherwise delivered to it,
818 the organization files an appeal to the Circuit Court of the First
819 Judicial District of Hinds County, Mississippi, in accordance with
820 the provisions of law with respect to review of civil causes by
821 certiorari.

822 (vi) Past due payments of amounts in lieu of
823 contributions shall be subject to the same interest and penalties
824 that, pursuant to Section 71-5-363, apply to past due
825 contributions.

826 (c) Each employer that is liable for payments in lieu
827 of contributions shall pay to the commission for the fund the
828 amount of regular benefits plus the amount of one-half (1/2) of
829 extended benefits paid are attributable to service in the employ
830 of such employer. If benefits paid to an individual are based on
831 wages paid by more than one (1) employer and one or more of such
832 employers are liable for payments in lieu of contributions, the
833 amount payable to the fund by each employer that is liable for
834 such payments shall be determined in accordance with the
835 provisions of subparagraph (i) or subparagraph (ii) of this
836 paragraph.

837 (i) If benefits paid to an individual are based on
838 wages paid by one or more employers that are liable for payment in
839 lieu of contributions and on wages paid by one or more employers
840 who are liable for contributions, the amount of benefits payable
841 by each employer that is liable for payments in lieu of
842 contributions shall be an amount which bears the same ratio to the
843 total benefits paid to the individual as the total base-period
844 wages paid to the individual by such employer bear to the total
845 base-period wages paid to the individual by all of his base-period
846 employers.

847 (ii) If benefits paid to an individual are based
848 on wages paid by two (2) or more employers that are liable for



849 payments in lieu of contributions, the amount of benefits payable
850 by each such employer shall be an amount which bears the same
851 ratio to the total benefits paid to the individual as the total
852 base-period wages paid to the individual by such employer bear to
853 the total base-period wages paid to the individual by all of his
854 base-period employers.

855 (d) In the discretion of the commission, any nonprofit
856 organization that elects to become liable for payments in lieu of
857 contributions shall be required, within thirty (30) days after the
858 effective date of its election, to execute and file with the
859 commission a surety bond approved by the commission, or it may
860 elect instead to deposit with the commission money or securities.
861 The amount of such bond or deposit shall be determined in
862 accordance with the provisions of this paragraph.

863 (i) The amount of the bond or deposit required by
864 paragraph (d) shall be equal to two and seven-tenths percent
865 (2.7%) of the organization's taxable wages paid for employment as
866 defined in Section 71-5-11, subsection I(4), for the four (4)
867 calendar quarters immediately preceding the effective date of the
868 election, the renewal date in the case of a bond, or the biennial
869 anniversary of the effective date of election in the case of a
870 deposit of money or securities, whichever date shall be most
871 recent and applicable. If the nonprofit organization did not pay
872 wages in each of such four (4) calendar quarters, the amount of
873 the bond or deposit shall be as determined by the commission.

874 (ii) Any bond deposited under paragraph (d) shall
875 be in force for a period of not less than two (2) tax years and
876 shall be renewed with the approval of the commission at such times
877 as the commission may prescribe, but not less frequently than at
878 intervals of two (2) years as long as the organization continues
879 to be liable for payments in lieu of contributions. The
880 commission shall require adjustments to be made in a previously
881 filed bond as it deems appropriate. If the bond is to be



882 increased, the adjusted bond shall be filed by the organization
883 within thirty (30) days of the date notice of the required
884 adjustment was mailed or otherwise delivered to it. Failure by
885 any organization covered by such bond to pay the full amount of
886 payments in lieu of contributions when due, together with any
887 applicable interest and penalties provided in paragraph (b) (v) of
888 this section, shall render the surety liable on said bond to the
889 extent of the bond, as though the surety was such organization.

890 (iii) Any deposit of money or securities in
891 accordance with paragraph (d) shall be retained by the commission
892 in an escrow account until liability under the election is
893 terminated, at which time it shall be returned to the
894 organization, less any deductions as hereinafter provided. The
895 commission may deduct from the money deposited under paragraph (d)
896 by a nonprofit organization, or sell the securities it has so
897 deposited, to the extent necessary to satisfy any due and unpaid
898 payments in lieu of contributions and any applicable interest and
899 penalties provided for in paragraph (b) (v) of this section. The
900 commission shall require the organization, within thirty (30) days
901 following any deduction from a money deposit or sale of deposited
902 securities under the provisions hereof, to deposit sufficient
903 additional money or securities to make whole the organization's
904 deposit at the prior level. Any cash remaining from the sale of
905 such securities shall be a part of the organization's escrow
906 account. The commission may, at any time, review the adequacy of
907 the deposit made by any organization. If, as a result of such
908 review, it determines that an adjustment is necessary, it shall
909 require the organization to make additional deposit within thirty
910 (30) days of written notice of its determination or shall return
911 to it such portion of the deposit as it no longer considers
912 necessary, whichever action is appropriate. Disposition of income
913 from securities held in escrow shall be governed by the applicable
914 provisions of the state law.



915 (iv) If any nonprofit organization fails to file a
916 bond or make a deposit, or to file a bond in an increased amount,
917 or to increase or make whole the amount of a previously made
918 deposit as provided under this subparagraph, the commission may
919 terminate such organization's election to make payments in lieu of
920 contributions, and such termination shall continue for not less
921 than the four (4) consecutive calendar-quarter periods beginning
922 with the quarter in which such termination becomes effective;
923 provided, that the commission may extend for good cause the
924 applicable filing, deposit or adjustment period by not more than
925 thirty (30) days.

926 (v) Group account shall be established according
927 to regulations prescribed by the commission.

928 (e) Any employer which elects to make payments in lieu
929 of contributions into the Unemployment Compensation Fund as
930 provided in this paragraph shall not be liable to make such
931 payments with respect to the benefits paid to any individual whose
932 base-period wages include wages for previously uncovered services
933 as defined in Section 71-5-511(e) to the extent that the
934 Unemployment Compensation Fund is reimbursed for such benefits
935 pursuant to Section 121 of Public Law 94-566.

936 **SECTION 3.** The following section shall be codified as
937 Section 71-5-387, Mississippi Code of 1972:

938 71-5-387. (1) Indian tribe(s) as defined in Section
939 3306(u) of the Federal Unemployment Tax Act (FUTA), which includes
940 any subdivision, subsidiary or business enterprise wholly owned by
941 such Indian tribe(s), subject to this chapter shall pay
942 contributions under the same terms and conditions as all other
943 subject employers, unless such Indian tribe elects to pay into the
944 State Unemployment Fund amounts equal to the amount of benefits
945 attributable to service in the employ of the Indian tribe.

946 (2) Tribal unit(s) means any subdivision, subsidiary or
947 business enterprise wholly owned by any Indian tribe as defined in



948 Section 3306(u) of the Federal Unemployment Tax Act (FUTA) or any
949 combination of any such subdivisions, subsidiaries or business
950 enterprises wholly owned by such Indian tribe as defined in
951 Section 3306(u) of the Federal Unemployment Tax Act (FUTA).

952 (3) Indian tribes electing to make payments in lieu of
953 contributions must make such election in the same manner and under
954 the same conditions as provided in Section 71-5-357 pertaining to
955 nonprofit organizations subject to this chapter, except the tribe
956 may determine if reimbursement for benefits paid will be elected
957 by the tribe as a whole, by individual tribal units or by
958 combinations of individual tribal units. Any tribal unit not
959 making such election, shall pay contributions as described in
960 Sections 71-5-351 through 71-5-355.

961 (4) Payments in lieu of contributions shall be made in
962 accordance with the provisions of Section 71-5-357.

963 (5) Failure of the Indian tribe or tribal unit to post any
964 bond as required by this chapter or to make payments in lieu of
965 contributions if so elected by the tribe or tribal unit, as
966 provided in subsection (3) of this section, including assessments
967 of interest and penalty, within ninety (90) days of mailing or
968 transmittal of the first delinquency notice to the last known
969 address, shall cause the Indian tribe to lose the option to make
970 payments in lieu of contributions, as described in Section
971 71-5-357, for the following tax year, unless payment in full is
972 received before January 1 of the next tax year.

973 (6) Any Indian tribe that loses the option to make payments
974 in lieu of contributions, as provided in subsection (5) of this
975 section, may have such options reinstated if, after a period of
976 one (1) year, all contributions have been made timely and no
977 contributions, payments in lieu of contributions for benefits
978 paid, penalties or interest remain unpaid.

979 (7) Failure of the Indian tribe or any tribal unit thereof
980 to make required payments, reimbursements or contributions



981 whichever may apply, including assessments of interest and
982 penalty, after all collection activities deemed necessary by the
983 commission have been exhausted, may cause services performed for
984 such tribe to not be treated as "employment" for purposes of
985 Section 71-5-11.

986 (8) If any Indian tribe fails to post any bond as required
987 by this chapter or make payments required under this chapter,
988 including contributions, reimbursements or assessments of interest
989 and penalty, within ninety (90) days of the mailing or transmittal
990 of a final notice, the commission shall immediately notify the
991 United States Internal Revenue Service and the United States
992 Department of Labor.

993 (9) The commission may determine that any Indian tribe that
994 loses coverage under subsection (7) of this section, may again
995 have services performed for such tribe included as "employment"
996 for purposes of Section 71-5-11 if all contributions, payments in
997 lieu of contributions, penalties and interest have been paid.

998 (10) Notices of payment and reporting delinquency to any
999 Indian tribe or tribal unit shall include information that failure
1000 to make full payment within the prescribed time frame:

1001 (a) Shall cause the Indian tribe to be liable for taxes
1002 under the Federal Unemployment Tax Act (FUTA);

1003 (b) Shall cause the Indian tribe to lose the option to
1004 make payments in lieu of contributions;

1005 (c) May cause the Indian tribe to be excepted from the
1006 definition of "employer," as provided in Section 71-5-11, and
1007 services in the employ of the Indian tribe, as provided in Section
1008 71-5-11, to be excepted from "employment."

1009 (11) Benefits based on service performed in employment with
1010 an Indian tribe as defined in Section 3306(u) of the Federal
1011 Unemployment Tax Act (FUTA), which includes any subdivision,
1012 subsidiary or business enterprise wholly owned by such Indian
1013 tribe, shall be payable in the same amount, on the same terms and



1014 subject to the same conditions, as benefits payable on the basis
1015 of other service subject to this chapter.

1016 (12) Extended benefits paid that are attributable to service
1017 in the employ of an Indian tribe, and not reimbursed by the
1018 federal government, shall be financed in their entirety by such
1019 Indian tribe.

1020 (13) Any non-FUTA exclusions, that are by reference included
1021 in this section, shall not apply to Indian tribes if federal law
1022 requires coverage of such services.

1023 **SECTION 4.** Section 71-5-501, Mississippi Code of 1972, is
1024 amended as follows:

1025 71-5-501. * * * Wages earned for services defined in Section
1026 71-5-11(I)(15)(g), irrespective of when performed, shall not be
1027 included for purposes of determining eligibility under Section
1028 71-5-511(e) or weekly benefit amount under Section 71-5-503 * * *
1029 nor shall any benefits with respect to unemployment * * * be
1030 payable under Section 71-5-505 on the basis of such wages. All
1031 benefits shall be paid through employment offices or such other
1032 agency or agencies as the commission may, by regulation,
1033 designate, in accordance with such regulations as the commission
1034 may prescribe. The commission may, by regulation, prescribe that
1035 benefits due and payable to claimants who die prior to the receipt
1036 or cashing of benefits checks may be paid to the legal
1037 representative, dependents, or next of kin, of the deceased as may
1038 be found by it to be equitably entitled thereto, and every such
1039 payment shall be deemed a valid payment to the same extent as if
1040 made to the legal representative of the decedent.

1041 **SECTION 5.** This act shall take effect and be in force from
1042 and after July 1, 2002.

