

By: Senator(s) Robertson

To: Finance

SENATE BILL NO. 2472
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 71-5-355, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR THE UNEMPLOYMENT EXPERIENCE AND RATES ATTRIBUTABLE
3 TO THE TRANSFER OF A TRADE OR BUSINESS WHERE COMMON OWNERSHIP OR
4 MANAGEMENT IS RETAINED, PURSUANT TO FEDERAL LAW; TO PROVIDE CIVIL
5 PENALTIES FOR CERTAIN VIOLATIONS RELATING TO THE ASSIGNMENT OF AN
6 UNEMPLOYMENT CONTRIBUTION RATE; TO CODIFY SECTION 71-5-389,
7 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A SETOFF AGAINST TAX
8 REFUNDS FOR DEBTS OWED TO THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT
9 SECURITY, TO PROVIDE FOR THE SUBMISSION OF SUCH DEBTS TO THE STATE
10 TAX COMMISSION, TO PROVIDE FOR NOTICE TO THE DEBTOR, TO PROVIDE
11 FOR THE TRANSFER OF SUCH FUNDS TO THE DEPARTMENT, TO AUTHORIZE
12 HEARINGS AND PROVIDE FOR APPEALS, TO PROVIDE FOR CONFIDENTIALITY;
13 AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 71-5-355, Mississippi Code of 1972, is
16 amended as follows:

17 71-5-355. (1) As used in this section, the following words
18 and phrases shall have the following meanings, unless the context
19 clearly requires otherwise:

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

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

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

26 (d) Except as hereinafter provided, "payroll" means the
27 total of all wages paid for employment by an employer as defined
28 in Section 71-5-11, subsection H, plus the total of all
29 remuneration paid by such employer excluded from the definition of
30 wages by Section 71-5-351. For the computation of modified rates,
31 "payroll" means the total of all wages paid for employment by an
32 employer as defined in Section 71-5-11, subsection H.

33 (e) For the computation of modified rates, "eligible
34 employer" means an employer whose experience-rating record has
35 been chargeable with benefits throughout the thirty-six (36)
36 consecutive calendar-month period ending on the computation date,
37 except that any employer who has not been subject to the
38 Mississippi Employment Security Law for a period of time
39 sufficient to meet the thirty-six (36) consecutive calendar-month
40 requirement shall be an eligible employer if his experience-rating
41 record has been chargeable throughout not less than the twelve
42 (12) consecutive calendar-month period ending on the computation
43 date. No employer shall be considered eligible for a contribution
44 rate less than five and four-tenths percent (5.4%) with respect to
45 any tax year, who has failed to file any two (2) quarterly reports
46 within the qualifying period by September 30 following the
47 computation date. No employer or employing unit shall be eligible
48 for a contribution rate of less than five and four-tenths percent
49 (5.4%) for the tax year in which the employing unit is found by
50 the commission to be in violation of Section 71-5-19(2) or (3) and
51 for the next two (2) succeeding tax years. No representative of
52 such employing unit who was a party to a violation as described in
53 Section 71-5-19(2) or (3), if such representative was or is an
54 employing unit in this state, shall be eligible for a
55 contributions rate of less than five and four-tenths percent
56 (5.4%) for the tax year in which such violation was detected by
57 the commission and for the next two (2) succeeding tax years.

58 (f) With respect to any tax year, "reserve ratio" means
59 the ratio which the total amount available for the payment of
60 benefits in the Unemployment Compensation Fund, excluding any
61 amount which has been credited to the account of this state under
62 Section 903 of the Social Security Act, as amended, and which has
63 been appropriated for the expenses of administration pursuant to
64 Section 71-5-457 whether or not withdrawn from such account, on
65 November 1 of each calendar year bears to the aggregate of the

66 taxable payrolls of all employers for the twelve (12) calendar
67 months ending on June 30 next preceding.

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

72 (h) For the computation of modified rates, "qualifying
73 period" means a period of not less than the thirty-six (36)
74 consecutive calendar months ending on the computation date
75 throughout which an employer's experience-rating record has been
76 chargeable with benefits; except that with respect to any eligible
77 employer who has not been subject to this article for a period of
78 time sufficient to meet the thirty-six (36) consecutive
79 calendar-month requirement, "qualifying period" means the period
80 ending on the computation date throughout which his
81 experience-rating record has been chargeable with benefits, but in
82 no event less than the twelve (12) consecutive calendar-month
83 period ending on the computation date throughout which his
84 experience-rating record has been so chargeable.

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

93 (j) The "cost rate criterion" (CRC) is defined as
94 follows: Beginning with January 1974, the benefits paid for the
95 twelve-month period ending December 1974 are summed and divided by
96 the total wages for the twelve-month period ending on June 30,
97 1975. Similar ratios are computed by subtracting the earliest
98 month's benefit payments and adding the benefits of the next month

99 in the sequence and dividing each sum of twelve (12) months'
100 benefits by the total wages for the twelve-month period ending on
101 the June 30 which is nearest to the final month of the period used
102 to compute the numerator. If December is the final month of the
103 period used to compute the numerator, then the twelve-month period
104 ending the following June 30 will be used for the denominator.
105 The highest value of these ratios beginning with the ratio for
106 benefits paid in calendar year 1974 is the cost rate criterion.
107 The cost rate criterion shall be computed to four (4) decimal
108 places. Benefits and total wages used in the computation of the
109 cost rate criterion shall exclude all benefits and total wages
110 applicable to state agencies, political subdivisions, reimbursable
111 nonprofit corporations, and tax exempt PSE employment.

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

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

117 (2) Modified rates:

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

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

125 (i) The commission shall maintain an
126 experience-rating record for each employer. Nothing in this
127 chapter shall be construed to grant any employer or individuals
128 performing services for him any prior claim or rights to the
129 amounts paid by the employer into the fund.

130 (ii) Benefits paid to an eligible individual shall
131 be charged against the experience-rating record of his base period

132 employers in the proportion to which the wages paid by each base
133 period employer bears to the total wages paid to the individual by
134 all the base period employers, provided that benefits shall not be
135 charged to an employer's experience-rating record if the
136 commission finds that the individual:

137 1. Voluntarily left the employ of such
138 employer without good cause attributable to the employer;

139 2. Was discharged by such employer for
140 misconduct connected with his work;

141 3. Refused an offer of suitable work by such
142 employer without good cause, and the commission further finds that
143 such benefits are based on wages for employment for such employer
144 prior to such voluntary leaving, discharge or refusal of suitable
145 work, as the case may be; * * *

146 4. Had base period wages which included wages
147 for previously uncovered services as defined in Section
148 71-5-511(e) to the extent that the Unemployment Compensation Fund
149 is reimbursed for such benefits pursuant to Section 121 of Public
150 Law 94-566;

151 5. Extended benefits paid under the
152 provisions of Section 71-5-541 which are not reimbursable from
153 federal funds shall be charged to the experience-rating record of
154 base period employers;

155 6. Is still working for such employer on a
156 regular part-time basis under the same employment conditions as
157 hired. Provided, however, that benefits shall be charged against
158 an employer if an eligible individual is paid benefits who is
159 still working for such employer on a part-time "as-needed" basis;

160 7. Was hired to replace a United States
161 serviceman or servicewoman called into active duty and was laid
162 off upon the return to work by that serviceman or servicewoman,
163 unless such employer is a state agency or other political
164 subdivision or instrumentality of the state;

165 8. Was paid benefits during any week while in
166 training with the approval of the commission, under the provisions
167 of Section 71-5-513B, or for any week while in training approved
168 under Section 236(a)(1) of the Trade Act of 1974, under the
169 provisions of Section 71-5-513C; or

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

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

186 If for the calendar year 1995, or any calendar year
187 thereafter, the size of fund index (SOFI), as defined in this
188 section, shall have computed for such calendar year at 1.75 or
189 above, for purposes of adjustment of the general experience rate
190 for such calendar year, then Table 6 or one of the tables
191 subsequent to Table 6 shall be applied, according to their
192 provisions:

193 TABLE 1

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

196	A	B
197	If Benefit Ratio is	The Individual Experience Rate is

198	0.0%	0.10%
199	0.1	0.10
200	0.2	0.10
201	0.3	0.20
202	0.4	0.30
203	0.5	0.40
204	0.6	0.50
205	0.7	0.60
206	0.8	0.70
207	0.9	0.80
208	1.0	0.90
209	1.1	1.00
210	1.2	1.10
211	1.3	1.20
212	1.4	1.30
213	1.5	1.40
214	1.6	1.50
215	1.7	1.60
216	1.8	1.70
217	1.9	1.80
218	2.0	1.90
219	2.1	2.00
220	2.2	2.10
221	2.3	2.20
222	2.4	2.30
223	2.5	2.40
224	2.6	2.50
225	2.7	2.60
226	2.8	2.70
227	2.9	2.80
228	3.0	2.90
229	3.1	3.00
230	3.2	3.10

231	3.3	3.20
232	3.4	3.30
233	3.5	3.40
234	3.6	3.50
235	3.7	3.60
236	3.8	3.70
237	3.9	3.80
238	4.0	3.90
239	4.1	4.00
240	4.2	4.10
241	4.3	4.20
242	4.4	4.30
243	4.5	4.40
244	4.6	4.50
245	4.7	4.60
246	4.8	4.70
247	4.9	4.80
248	5.0	4.90
249	5.1	5.00
250	5.2	5.10
251	5.3	5.20
252	5.4	5.30
253	5.5 and above	5.40

TABLE 2

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

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
257		
258		
259	0.0%	0.10%
260	0.1	0.10
261	0.2	0.10
262	0.3	0.10
263	0.4	0.20

264	0.5	0.30
265	0.6	0.40
266	0.7	0.50
267	0.8	0.60
268	0.9	0.70
269	1.0	0.80
270	1.1	0.90
271	1.2	1.00
272	1.3	1.10
273	1.4	1.20
274	1.5	1.30
275	1.6	1.40
276	1.7	1.50
277	1.8	1.60
278	1.9	1.70
279	2.0	1.80
280	2.1	1.90
281	2.2	2.00
282	2.3	2.10
283	2.4	2.20
284	2.5	2.30
285	2.6	2.40
286	2.7	2.50
287	2.8	2.60
288	2.9	2.70
289	3.0	2.80
290	3.1	2.90
291	3.2	3.00
292	3.3	3.10
293	3.4	3.20
294	3.5	3.30
295	3.6	3.40
296	3.7	3.50

297	3.8	3.60
298	3.9	3.70
299	4.0	3.80
300	4.1	3.90
301	4.2	4.00
302	4.3	4.10
303	4.4	4.20
304	4.5	4.30
305	4.6	4.40
306	4.7	4.50
307	4.8	4.60
308	4.9	4.70
309	5.0	4.80
310	5.1	4.90
311	5.2	5.00
312	5.3	5.10
313	5.4	5.20
314	5.5	5.30
315	5.6 and above	5.40

TABLE 3

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

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
321	0.0%	0.10%
322	0.1	0.10
323	0.2	0.10
324	0.3	0.10
325	0.4	0.10
326	0.5	0.20
327	0.6	0.30
328	0.7	0.40
329	0.8	0.50

330	0.9	0.60
331	1.0	0.70
332	1.1	0.80
333	1.2	0.90
334	1.3	1.00
335	1.4	1.10
336	1.5	1.20
337	1.6	1.30
338	1.7	1.40
339	1.8	1.50
340	1.9	1.60
341	2.0	1.70
342	2.1	1.80
343	2.2	1.90
344	2.3	2.00
345	2.4	2.10
346	2.5	2.20
347	2.6	2.30
348	2.7	2.40
349	2.8	2.50
350	2.9	2.60
351	3.0	2.70
352	3.1	2.80
353	3.2	2.90
354	3.3	3.00
355	3.4	3.10
356	3.5	3.20
357	3.6	3.30
358	3.7	3.40
359	3.8	3.50
360	3.9	3.60
361	4.0	3.70
362	4.1	3.80

363	4.2	3.90
364	4.3	4.00
365	4.4	4.10
366	4.5	4.20
367	4.6	4.30
368	4.7	4.40
369	4.8	4.50
370	4.9	4.60
371	5.0	4.70
372	5.1	4.80
373	5.2	4.90
374	5.3	5.00
375	5.4	5.10
376	5.5	5.20
377	5.6	5.30
378	5.7 and above	5.40

TABLE 4

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

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
384	0.0%	0.10%
385	0.1	0.10
386	0.2	0.10
387	0.3	0.10
388	0.4	0.10
389	0.5	0.10
390	0.6	0.20
391	0.7	0.30
392	0.8	0.40
393	0.9	0.50
394	1.0	0.60
395	1.1	0.70

396	1.2	0.80
397	1.3	0.90
398	1.4	1.00
399	1.5	1.10
400	1.6	1.20
401	1.7	1.30
402	1.8	1.40
403	1.9	1.50
404	2.0	1.60
405	2.1	1.70
406	2.2	1.80
407	2.3	1.90
408	2.4	2.00
409	2.5	2.10
410	2.6	2.20
411	2.7	2.30
412	2.8	2.40
413	2.9	2.50
414	3.0	2.60
415	3.1	2.70
416	3.2	2.80
417	3.3	2.90
418	3.4	3.00
419	3.5	3.10
420	3.6	3.20
421	3.7	3.30
422	3.8	3.40
423	3.9	3.50
424	4.0	3.60
425	4.1	3.70
426	4.2	3.80
427	4.3	3.90
428	4.4	4.00

429	4.5	4.10
430	4.6	4.20
431	4.7	4.30
432	4.8	4.40
433	4.9	4.50
434	5.0	4.60
435	5.1	4.70
436	5.2	4.80
437	5.3	4.90
438	5.4	5.00
439	5.5	5.10
440	5.6	5.20
441	5.7	5.30
442	5.8 and above	5.40

TABLE 5

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

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
446		
447		
448	0.0%	0.10%
449	0.1	0.10
450	0.2	0.10
451	0.3	0.10
452	0.4	0.10
453	0.5	0.10
454	0.6	0.10
455	0.7	0.20
456	0.8	0.30
457	0.9	0.40
458	1.0	0.50
459	1.1	0.60
460	1.2	0.70
461	1.3	0.80

462	1.4	0.90
463	1.5	1.00
464	1.6	1.10
465	1.7	1.20
466	1.8	1.30
467	1.9	1.40
468	2.0	1.50
469	2.1	1.60
470	2.2	1.70
471	2.3	1.80
472	2.4	1.90
473	2.5	2.00
474	2.6	2.10
475	2.7	2.20
476	2.8	2.30
477	2.9	2.40
478	3.0	2.50
479	3.1	2.60
480	3.2	2.70
481	3.3	2.80
482	3.4	2.90
483	3.5	3.00
484	3.6	3.10
485	3.7	3.20
486	3.8	3.30
487	3.9	3.40
488	4.0	3.50
489	4.1	3.60
490	4.2	3.70
491	4.3	3.80
492	4.4	3.90
493	4.5	4.00
494	4.6	4.10

495	4.7	4.20
496	4.8	4.30
497	4.9	4.40
498	5.0	4.50
499	5.1	4.60
500	5.2	4.70
501	5.3	4.80
502	5.4	4.90
503	5.5	5.00
504	5.6	5.10
505	5.7	5.20
506	5.8	5.30
507	5.9 and above	5.40

TABLE 6

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

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
511		
512		
513	0.0%	0.10%
514	0.1	0.10
515	0.2	0.10
516	0.3	0.10
517	0.4	0.10
518	0.5	0.10
519	0.6	0.10
520	0.7	0.10
521	0.8	0.20
522	0.9	0.30
523	1.0	0.40
524	1.1	0.50
525	1.2	0.60
526	1.3	0.70
527	1.4	0.80

528	1.5	0.90
529	1.6	1.00
530	1.7	1.10
531	1.8	1.20
532	1.9	1.30
533	2.0	1.40
534	2.1	1.50
535	2.2	1.60
536	2.3	1.70
537	2.4	1.80
538	2.5	1.90
539	2.6	2.00
540	2.7	2.10
541	2.8	2.20
542	2.9	2.30
543	3.0	2.40
544	3.1	2.50
545	3.2	2.60
546	3.3	2.70
547	3.4	2.80
548	3.5	2.90
549	3.6	3.00
550	3.7	3.10
551	3.8	3.20
552	3.9	3.30
553	4.0	3.40
554	4.1	3.50
555	4.2	3.60
556	4.3	3.70
557	4.4	3.80
558	4.5	3.90
559	4.6	4.00
560	4.7	4.10

561	4.8	4.20
562	4.9	4.30
563	5.0	4.40
564	5.1	4.50
565	5.2	4.60
566	5.3	4.70
567	5.4	4.80
568	5.5	4.90
569	5.6	5.00
570	5.7	5.10
571	5.8	5.20
572	5.9	5.30
573	6.0 and above	5.40

TABLE 7

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

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
577		
578		
579	0.0%	0.10%
580	0.1	0.10
581	0.2	0.10
582	0.3	0.10
583	0.4	0.10
584	0.5	0.10
585	0.6	0.10
586	0.7	0.10
587	0.8	0.10
588	0.9	0.20
589	1.0	0.30
590	1.1	0.40
591	1.2	0.50
592	1.3	0.60
593	1.4	0.70

594	1.5	0.80
595	1.6	0.90
596	1.7	1.00
597	1.8	1.10
598	1.9	1.20
599	2.0	1.30
600	2.1	1.40
601	2.2	1.50
602	2.3	1.60
603	2.4	1.70
604	2.5	1.80
605	2.6	1.90
606	2.7	2.00
607	2.8	2.10
608	2.9	2.20
609	3.0	2.30
610	3.1	2.40
611	3.2	2.50
612	3.3	2.60
613	3.4	2.70
614	3.5	2.80
615	3.6	2.90
616	3.7	3.00
617	3.8	3.10
618	3.9	3.20
619	4.0	3.30
620	4.1	3.40
621	4.2	3.50
622	4.3	3.60
623	4.4	3.70
624	4.5	3.80
625	4.6	3.90
626	4.7	4.00

627	4.8	4.10
628	4.9	4.20
629	5.0	4.30
630	5.1	4.40
631	5.2	4.50
632	5.3	4.60
633	5.4	4.70
634	5.5	4.80
635	5.6	4.90
636	5.7	5.00
637	5.8	5.10
638	5.9	5.20
639	6.0	5.30
640	6.1 and above	5.40

641 TABLE 8

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

644	A	B
645	If Benefit Ratio is	The Individual Experience Rate is
646	0.0%	0.10%
647	0.1	0.10
648	0.2	0.10
649	0.3	0.10
650	0.4	0.10
651	0.5	0.10
652	0.6	0.10
653	0.7	0.10
654	0.8	0.10
655	0.9	0.10
656	1.0	0.20
657	1.1	0.30
658	1.2	0.40
659	1.3	0.50

660	1.4	0.60
661	1.5	0.70
662	1.6	0.80
663	1.7	0.90
664	1.8	1.00
665	1.9	1.10
666	2.0	1.20
667	2.1	1.30
668	2.2	1.40
669	2.3	1.50
670	2.4	1.60
671	2.5	1.70
672	2.6	1.80
673	2.7	1.90
674	2.8	2.00
675	2.9	2.10
676	3.0	2.20
677	3.1	2.30
678	3.2	2.40
679	3.3	2.50
680	3.4	2.60
681	3.5	2.70
682	3.6	2.80
683	3.7	2.90
684	3.8	3.00
685	3.9	3.10
686	4.0	3.20
687	4.1	3.30
688	4.2	3.40
689	4.3	3.50
690	4.4	3.60
691	4.5	3.70
692	4.6	3.80

693	4.7	3.90
694	4.8	4.00
695	4.9	4.10
696	5.0	4.20
697	5.1	4.30
698	5.2	4.40
699	5.3	4.50
700	5.4	4.60
701	5.5	4.70
702	5.6	4.80
703	5.7	4.90
704	5.8	5.00
705	5.9	5.10
706	6.0	5.20
707	6.1	5.30
708	6.2 and above	5.40

TABLE 9

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

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
714	0.0%	0.10%
715	0.1	0.10
716	0.2	0.10
717	0.3	0.10
718	0.4	0.10
719	0.5	0.10
720	0.6	0.10
721	0.7	0.10
722	0.8	0.10
723	0.9	0.10
724	1.0	0.10
725	1.1	0.20

726	1.2	0.30
727	1.3	0.40
728	1.4	0.50
729	1.5	0.60
730	1.6	0.70
731	1.7	0.80
732	1.8	0.90
733	1.9	1.00
734	2.0	1.10
735	2.1	1.20
736	2.2	1.30
737	2.3	1.40
738	2.4	1.50
739	2.5	1.60
740	2.6	1.70
741	2.7	1.80
742	2.8	1.90
743	2.9	2.00
744	3.0	2.10
745	3.1	2.20
746	3.2	2.30
747	3.3	2.40
748	3.4	2.50
749	3.5	2.60
750	3.6	2.70
751	3.7	2.80
752	3.8	2.90
753	3.9	3.00
754	4.0	3.10
755	4.1	3.20
756	4.2	3.30
757	4.3	3.40
758	4.4	3.50

759	4.5	3.60
760	4.6	3.70
761	4.7	3.80
762	4.8	3.90
763	4.9	4.00
764	5.0	4.10
765	5.1	4.20
766	5.2	4.30
767	5.3	4.40
768	5.4	4.50
769	5.5	4.60
770	5.6	4.70
771	5.7	4.80
772	5.8	4.90
773	5.9	5.00
774	6.0	5.10
775	6.1	5.20
776	6.2	5.30
777	6.3 and above	5.40

TABLE 10

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

	A	B
	If Benefit Ratio is	The Individual Experience Rate is
781		
782		
783	0.0%	0.10%
784	0.1	0.10
785	0.2	0.10
786	0.3	0.10
787	0.4	0.10
788	0.5	0.10
789	0.6	0.10
790	0.7	0.10
791	0.8	0.10

792	0.9	0.10
793	1.0	0.10
794	1.1	0.10
795	1.2	0.20
796	1.3	0.30
797	1.4	0.40
798	1.5	0.50
799	1.6	0.60
800	1.7	0.70
801	1.8	0.80
802	1.9	0.90
803	2.0	1.00
804	2.1	1.10
805	2.2	1.20
806	2.3	1.30
807	2.4	1.40
808	2.5	1.50
809	2.6	1.60
810	2.7	1.70
811	2.8	1.80
812	2.9	1.90
813	3.0	2.00
814	3.1	2.10
815	3.2	2.20
816	3.3	2.30
817	3.4	2.40
818	3.5	2.50
819	3.6	2.60
820	3.7	2.70
821	3.8	2.80
822	3.9	2.90
823	4.0	3.00
824	4.1	3.10

825	4.2	3.20
826	4.3	3.30
827	4.4	3.40
828	4.5	3.50
829	4.6	3.60
830	4.7	3.70
831	4.8	3.80
832	4.9	3.90
833	5.0	4.00
834	5.1	4.10
835	5.2	4.20
836	5.3	4.30
837	5.4	4.40
838	5.5	4.50
839	5.6	4.60
840	5.7	4.70
841	5.8	4.80
842	5.9	4.90
843	6.0	5.00
844	6.1	5.10
845	6.2	5.20
846	6.3	5.30
847	6.4 and above	5.40

848 (iv) 1. The contribution rate for each eligible
849 employer shall be the sum of two (2) rates: his individual
850 experience rate in the range from zero percent (0%) to five and
851 four-tenths percent (5.4%), plus a general experience rate. In no
852 event shall the resulting rate be in excess of five and
853 four-tenths percent (5.4%).

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

857 3. The general experience rate shall be
858 determined in the following manner: The commission shall
859 determine annually, for the thirty-six (36) consecutive
860 calendar-month period ending on the computation date, the amount
861 of benefits which were not charged to the record of any employer
862 and of benefits which were ineffectively charged to the employer's
863 experience-rating record. For the purposes of subsection
864 (2)(b)(iv)3, the term "ineffectively charged benefits" shall
865 include:

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

890 four-tenths percent (5.4%), computed to the next higher tenth of
891 one percent (.1%), shall be the general experience rate.

892 4. The general experience rate shall be
893 adjusted by use of the size of fund index factor. This factor may
894 be positive or negative, and shall be determined as follows: From
895 the target SOFI of 1.50, subtract the simple average of the
896 current and preceding years' exposure criterions divided by the
897 cost rate criterion. The result is then multiplied by the product
898 of the CRC and total wages for the twelve-month period ending June
899 30 divided by the taxable wages for the twelve-month period ending
900 June 30. This is the percentage positive or negative added to the
901 general experience rate. This percentage is computed to one (1)
902 decimal place, and rounded to the next higher tenth.

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

907 6. The commission shall include in its annual
908 rate notice to employers a brief explanation of the elements of
909 the general experience rate, and shall include in its regular
910 publications an annual analysis of benefits not charged to the
911 record of any employer, and of the benefit experience of employers
912 by industry group whose benefit ratio exceeds four percent (4%),
913 and of any other factors which may affect the size of the general
914 experience rate.

915 (v) When any employing unit in any manner succeeds
916 to or acquires the organization, trade, business or substantially
917 all the assets thereof of an employer, excepting any assets
918 retained by such employer incident to the liquidation of his
919 obligations, whether or not such acquiring employing unit was an
920 employer within the meaning of Section 71-5-11, subsection H,
921 prior to such acquisition, and continues such organization, trade
922 or business, the experience-rating and payroll records of the

923 predecessor employer shall be transferred as of the date of
924 acquisition to the successor employer for the purpose of rate
925 determination.

926 (vi) When any employing unit succeeds to or
927 acquires a distinct and severable portion of an organization,
928 trade or business, the experience-rating and payroll records of
929 such portion, if separately identifiable, shall be transferred to
930 the successor upon:

931 1. The mutual consent of the predecessor and
932 the successor;

933 2. Approval of the commission;

934 3. Continued operation of the transferred
935 portion by the successor after transfer; and

936 4. The execution and the filing with the
937 commission by the predecessor employer of a waiver relinquishing
938 all rights to have the experience-rating and payroll records of
939 the transferred portion used for the purpose of determining
940 modified rates of contribution for such predecessor.

941 (vii) If the successor was an employer subject to
942 this chapter prior to the date of acquisition, it shall continue
943 to pay contributions at the rate applicable to it from the date
944 the acquisition occurred until the end of the then current tax
945 year. If the successor was not an employer prior to the date of
946 acquisition, it shall pay contributions at the rate applicable to
947 the predecessor or, if more than one (1) predecessor and the same
948 rate is applicable to both, the rate applicable to the predecessor
949 or predecessors, from the date the acquisition occurred until the
950 end of the then current tax year. If the successor was not an
951 employer prior to the date the acquisition occurred and
952 simultaneously acquires the businesses of two (2) or more
953 employers to whom different rates of contributions are applicable,
954 it shall pay contributions from the date of the acquisition until
955 the end of the current tax year at a rate computed on the basis of

956 the combined experience-rating and payroll records of the
957 predecessors as of the computation date for such tax year. In all
958 cases the rate of contributions applicable to such successor for
959 each succeeding tax year shall be computed on the basis of the
960 combined experience-rating and payroll records of the successor
961 and the predecessor or predecessors.

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

978 (ix) The commission shall notify each employer of
979 his rate of contribution as determined for any tax year as soon as
980 reasonably possible after November 1 of the preceding year. Such
981 determination shall be final, conclusive and binding upon such
982 employer unless, within thirty (30) days after the date of the
983 mailing of such notice to his last known address, the employer
984 files with the commission an application for review and
985 redetermination of his contribution rate, setting forth his
986 reasons therefor. If the commission grants such review, the
987 employer shall be promptly notified thereof and shall be afforded
988 an opportunity for a fair hearing by a hearing officer designated

989 by the commission who shall consider and decide these and related
990 applications and protests; but no employer shall be allowed, in
991 any proceeding involving his rate of contributions or contribution
992 liability, to contest the chargeability to his account of any
993 benefits paid in accordance with a determination, redetermination
994 or decision pursuant to Sections 71-5-515 through 71-5-533 except
995 upon the ground that the services on the basis of which such
996 benefits were found to be chargeable did not constitute services
997 performed in employment for him, and then only in the event that
998 he was not a party to such determination, redetermination,
999 decision or to any other proceedings provided in this chapter in
1000 which the character of such services was determined. The employer
1001 shall be promptly notified of the denial of this application or of
1002 the redetermination, both of which shall become final unless,
1003 within ten (10) days after the date of mailing of notice thereof,
1004 there shall be an appeal to the commission itself. Any such
1005 appeal shall be on the record before said designated hearing
1006 officer, and the decision of said commission shall become final
1007 unless, within thirty (30) days after the date of mailing of
1008 notice thereof to the employer's last known address, there shall
1009 be an appeal to the Circuit Court of the First Judicial District
1010 of Hinds County, Mississippi, in accordance with the provisions of
1011 law with respect to review of civil causes by certiorari.

1012 (3) Notwithstanding any other provision of law, the
1013 following shall apply regarding assignment of rates and transfers
1014 of experience:

1015 (a) (i) If an employer transfers its trade or
1016 business, or a portion thereof, to another employer and, at the
1017 time of the transfer, there is substantially common ownership,
1018 management or control of the two (2) employers, then the
1019 unemployment experience attributable to the transferred trade or
1020 business shall be transferred to the employer to whom such
1021 business is so transferred. The rates of both employers shall be

1022 recalculated and made effective on January 1 of the year following
1023 the year the transfer occurred.

1024 (ii) If, following a transfer of experience under
1025 subparagraph (i) of this paragraph (a), the department determines
1026 that a substantial purpose of the transfer of trade or business
1027 was to obtain a reduced liability of contributions, then the
1028 experience-rating accounts of the employers involved shall be
1029 combined into a single account and a single rate assigned to such
1030 account.

1031 (b) Whenever a person who is not an employer or an
1032 employing unit under this chapter at the time it acquires the
1033 trade or business of an employer, the unemployment experience of
1034 the acquired business shall not be transferred to such person if
1035 the department finds that such person acquired the business solely
1036 or primarily for the purpose of obtaining a lower rate of
1037 contributions. Instead, such person shall be assigned the new
1038 employer rate under Section 71-5-353. In determining whether the
1039 business was acquired solely or primarily for the purpose of
1040 obtaining a lower rate of contributions, the department shall use
1041 objective factors which may include the cost of acquiring the
1042 business, whether the person continued the business enterprise of
1043 the acquired business, how long such business enterprise was
1044 continued, or whether a substantial number of new employees were
1045 hired for performance of duties unrelated to the business activity
1046 conducted prior to acquisition.

1047 (c) (i) If a person knowingly violates or attempts to
1048 violate paragraph (a) or (b) of this subsection or any other
1049 provision of this chapter related to determining the assignment of
1050 a contribution rate, or if a person knowingly advises another
1051 person in a way that results in a violation of such provision, the
1052 person shall be subject to the following penalties:

1053 1. If the person is an employer, then such
1054 employer shall be assigned the highest rate assignable under this

1055 chapter for the rate year during which such violation or attempted
1056 violation occurred and the three (3) rate years immediately
1057 following this rate year. However, if the person's business is
1058 already at such highest rate for any year, or if the amount of
1059 increase in the person's rate would be less than two percent (2%)
1060 for such year, then a penalty rate of contributions of two percent
1061 (2%) of taxable wages shall be imposed for such year. The penalty
1062 rate will apply to the successor business as well as the related
1063 entity from which the employees were transferred in an effort to
1064 obtain a lower rate of contributions.

1065 2. If the person is not an employer, such
1066 person shall be subject to a civil money penalty of not more than
1067 Five Thousand Dollars (\$5,000.00). Each such transaction for
1068 which advice was given and each occurrence or reoccurrence after
1069 notification being given by the department shall be a separate
1070 offense and punishable by a separate penalty. Any such fine shall
1071 be deposited in the penalty and interest account established under
1072 Section 71-5-114.

1073 (ii) For purposes of this paragraph (c), the term
1074 "knowingly" means having actual knowledge of or acting with
1075 deliberate ignorance or reckless disregard for the prohibition
1076 involved.

1077 (iii) For purposes of this paragraph (c), the term
1078 "violates or attempts to violate" includes, but is not limited to,
1079 intent to evade, misrepresentation or willful nondisclosure.

1080 (iv) In addition to the penalty imposed by
1081 subparagraph (i) of this paragraph (c), any violation of this
1082 subsection may be punishable by a fine of not more than Ten
1083 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1084 five (5) years, or by both such fine and imprisonment. This
1085 subsection shall prohibit prosecution under any other criminal
1086 statute of this state.

1087 (d) The department shall establish procedures to
1088 identify the transfer or acquisition of a business for purposes of
1089 this subsection.

1090 (e) For purposes of this subsection:

1091 (i) "Person" has the meaning given such term by
1092 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

1093 (ii) "Employing unit" has the meaning as set forth
1094 in Section 71-5-11.

1095 (f) This subsection shall be interpreted and applied in
1096 such a manner as to meet the minimum requirements contained in any
1097 guidance or regulations issued by the United States Department of
1098 Labor.

1099 **SECTION 2.** The following provision shall be codified as
1100 Section 71-5-389, Mississippi Code of 1972:

1101 71-5-389. (1) For the purposes of this section, the
1102 following terms shall have the respective meanings ascribed by
1103 this section:

1104 (a) "Claimant agency" means the Mississippi Department
1105 of Employment Security.

1106 (b) "Debtor" means any individual owing money or having
1107 a delinquent account with any claimant agency, which obligation
1108 has not been adjudicated satisfied by court order, set aside by
1109 court order, or discharged in bankruptcy.

1110 (c) "Debt" means any sum due and owing any claimant
1111 agency, including costs, court costs, fines, penalties and
1112 interest which have accrued through contract, subrogation, tort,
1113 operation of law, or any other legal theory regardless of whether
1114 there is an outstanding judgment for that sum which is legally
1115 collectible and for which a collection effort has been or is being
1116 made.

1117 (d) "Commission" means the State Tax Commission of the
1118 State of Mississippi.

1119 (e) "Refund" means the Mississippi income tax refund
1120 which the commission determines to be due any individual taxpayer.

1121 (2) The collection remedy authorized by this section is in
1122 addition to and is not substitution for any other remedy available
1123 by law.

1124 (3) (a) A claimant agency may submit debts in excess of
1125 Twenty-five Dollars (\$25.00) owed to it to the commission for
1126 collection through setoff, under the procedure established by this
1127 section, except in cases where the validity of the debt is
1128 legitimately in dispute, an alternate means of collection is
1129 pending and believed to be adequate, or such collection would
1130 result in a loss of federal funds or federal assistance.

1131 (b) Upon the request of a claimant agency, the
1132 commission shall set off any refund, as defined herein, against
1133 the sum certified by the claimant agency as provided in this
1134 section.

1135 (4) (a) Within the time frame specified by the commission,
1136 a claimant agency seeking to collect a debt through setoff shall
1137 supply the information necessary to identify each debtor whose
1138 refund is sought to be set off and certify the amount of debt or
1139 debts owed by each such debtor.

1140 (b) If a debtor identified by a claimant agency is
1141 determined by the commission to be entitled to a refund of at
1142 least Twenty-five Dollars (\$25.00), the commission shall transfer
1143 an amount equal to the refund owed, not to exceed the amount of
1144 the claimed debt certified, to the claimant agency. The State Tax
1145 Commission shall send the excess amount to the debtor within a
1146 reasonable time after such excess is determined. At the time of
1147 the transfer of funds to a claimant agency pursuant to this
1148 paragraph (b), the commission shall notify the taxpayer or
1149 taxpayers whose refund is sought to be set off that the transfer
1150 has been made. Such notice shall clearly set forth the name of
1151 the debtor, the manner in which the debt arose, the amount of the

1152 claimed debt, the transfer of funds to the claimant agency
1153 pursuant to this paragraph (b) and the intention to set off the
1154 refund against the debt, the amount of the refund in excess of the
1155 claimed debt, the taxpayer's opportunity to give written notice to
1156 contest the setoff within thirty (30) days of the date of mailing
1157 of the notice, the name and mailing address of the claimant agency
1158 to which the application for such a hearing must be sent, and the
1159 fact that the failure to apply for such a hearing, in writing,
1160 within the thirty-day period will be deemed a waiver of the
1161 opportunity to contest the setoff. In the case of a joint return
1162 or a joint refund, the notice shall also state the name of the
1163 taxpayer named in the return, if any, against whom no debt is
1164 claimed, the fact that a debt is not claimed against such
1165 taxpayer, the fact that such taxpayer is entitled to receive a
1166 refund if it is due him regardless of the debt asserted against
1167 his spouse, and that in order to obtain a refund due him such
1168 taxpayer must apply in writing for a hearing with the claimant
1169 agency named in the notice within thirty (30) days of the date of
1170 the mailing of the notice. If a taxpayer fails to apply in
1171 writing for such a hearing within thirty (30) days of the mailing
1172 of such notice, he will have waived his opportunity to contest the
1173 setoff.

1174 (c) Upon receipt of funds transferred from the
1175 commission pursuant to paragraph (b) of this subsection, the
1176 claimant agency shall deposit and hold such funds in an escrow
1177 account until a final determination of the validity of the debt.

1178 (d) The claimant agency shall pay the commission a fee,
1179 not to exceed Seventeen Dollars (\$17.00) in each case in which a
1180 tax refund is identified as being available for offset. Such fees
1181 shall be deposited by the commission into a special fund hereby
1182 created in the State Treasury, out of which the Legislature shall
1183 appropriate monies to defray expenses of the commission in
1184 employing personnel to administer the provisions of this section.

1185 (5) (a) When the claimant agency receives a protest or an
1186 application in writing from a taxpayer within thirty (30) days of
1187 the notice issued by the commission, the claimant agency shall set
1188 a date to hear the protest and give notice to the taxpayer by
1189 registered or certified mail of the date so set. The time and
1190 place of such hearing shall be designated in such notice and the
1191 date set shall not be less than fifteen (15) days from the date of
1192 such notice. If, at the hearing, the sum asserted as due and
1193 owing is found not to be correct, an adjustment to the claim may
1194 be made. The claimant agency shall give notice to the debtor of
1195 its final determination as provided in paragraph (c) of this
1196 subsection.

1197 (b) No issues shall be reconsidered at the hearing
1198 which have been previously litigated.

1199 (c) If any debtor is dissatisfied with the final
1200 determination made at the hearing by the claimant agency, he may
1201 appeal the final determination to the circuit court of the county
1202 in which the main office of the claimant agency is located by
1203 filing notice of appeal with the administrative head of the
1204 claimant agency and with the clerk of the circuit court of the
1205 county in which the appeal shall be taken within thirty (30) days
1206 from the date the notice of final determination was given by the
1207 claimant agency.

1208 (6) (a) Upon final determination of the amount of the debt
1209 due and owing by means of hearing or by the taxpayer's default
1210 through failure to comply with timely request for review, the
1211 claimant agency shall remove the amount of the debt due and owing
1212 from the escrow account and credit such amount to the debtor's
1213 obligation.

1214 (b) Upon transfer of the debt due and owing from the
1215 escrow account to the credit of the debtor's account, the claimant
1216 agency shall notify the debtor in writing of the finalization of
1217 the setoff. Such notice shall include a final accounting if the

1218 refund which was set off, including the amount of the refund to
1219 which the debtor was entitled prior to the setoff, the amount of
1220 the debt due and owing, the amount of the commission's collection
1221 fee, the amount of the refund in excess of the debt which was
1222 returned to the debtor by the commission, and the amount of the
1223 funds transferred to the claimant agency in excess of the debt
1224 determined to be due and owing at a hearing, if such a hearing was
1225 held. At such time, the claimant agency shall refund to the
1226 debtor the amount of the claimed debt originally certified and
1227 transferred to it by the commission in excess of the amount of
1228 debt finally found to be due and owing.

1229 (7) (a) Notwithstanding the provision that prohibits
1230 disclosure by the commission of the contents of taxpayer records
1231 or information and notwithstanding any other confidentiality
1232 statute, the State Tax Commission may provide to a claimant agency
1233 all information necessary to accomplish and effectuate the intent
1234 of the section.

1235 (b) The information obtained by claimant agency from
1236 the commission in accordance with the provisions of this section
1237 shall retain its confidentiality and shall only be used by a
1238 claimant agency in the pursuit of its debt collection duties and
1239 practices; and any employee or prior employee of any claimant
1240 agency who unlawfully discloses any such information for any other
1241 purpose, except as specifically authorized by law, shall be
1242 subject to the same penalties specified by law for unauthorized
1243 confidential information by an agent or employee of the State Tax
1244 Commission.

1245 **SECTION 3.** This act shall take effect and be in force from
1246 and after January 1, 2005.