

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**Senate Bill No. 2469**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

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

33           71-5-11. As used in this chapter, unless the context clearly  
34 requires otherwise:

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

38           B. "Benefits" means the money payments payable to an  
39 individual, as provided in this chapter, with respect to his  
40 unemployment.

41           C. "Benefit year" with respect to any individual means the  
42 period beginning with the first day of the first week with respect  
43 to which he first files a valid claim for benefits, and ending  
44 with the day preceding the same day of the same month in the next  
45 calendar year; and, thereafter, the period beginning with the  
46 first day of the first week with respect to which he next files  
47 his valid claim for benefits, and ending with the day preceding  
48 the same day of the same month in the next calendar year. Any  
49 claim for benefits made in accordance with Section 71-5-515 shall

50 be deemed to be a "valid claim" for purposes of this subsection if  
51 the individual has been paid the wages for insured work required  
52 under Section 71-5-511(e).

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

55 E. "Calendar quarter" means the period of three (3)  
56 consecutive calendar months ending on March 31, June 30, September  
57 30, or December 31.

58 F. "Department" or "commission" means the Mississippi  
59 Department of Employment Security, Office of the Governor.

60 G. "Executive director" means the Executive Director of the  
61 Mississippi Department of Employment Security, Office of the  
62 Governor, appointed under Section 71-5-107.

63 H. "Employing unit" means this state or another state or any  
64 instrumentalities or any political subdivisions thereof or any of  
65 their instrumentalities or any instrumentality of more than one  
66 (1) of the foregoing or any instrumentality of any of the  
67 foregoing and one or more other states or political subdivisions,  
68 any Indian tribe as defined in Section 3306(u) of the Federal  
69 Unemployment Tax Act (FUTA), which includes any subdivision,  
70 subsidiary or business enterprise wholly owned by such Indian  
71 tribe, any individual or type of organization, including any  
72 partnership, association, trust, estate, joint-stock company,  
73 insurance company, or corporation, whether domestic or foreign, or  
74 the receiver, trustee in bankruptcy, trustee or successor thereof,  
75 or the legal representative of a deceased person, which has or had  
76 in its employ one or more individuals performing services for it  
77 within this state. All individuals performing services within  
78 this state for any employing unit which maintains two (2) or more  
79 separate establishments within this state shall be deemed to be  
80 employed by a single employing unit for all the purposes of this  
81 chapter. Each individual employed to perform or to assist in

82 performing the work of any agent or employee of an employing unit  
83 shall be deemed to be employed by such employing unit for all  
84 purposes of this chapter, whether such individual was hired or  
85 paid directly by such employing unit or by such agent or employee,  
86 provided the employing unit had actual or constructive knowledge  
87 of the work. All individuals performing services in the employ of  
88 an elected fee-paid county official, other than those related by  
89 blood or marriage within the third degree computed by the rule of  
90 the civil law to such fee-paid county official, shall be deemed to  
91 be employed by such county as the employing unit for all the  
92 purposes of this chapter. For purposes of defining an "employing  
93 unit" which shall pay contributions on remuneration paid to  
94 individuals, if two (2) or more related corporations concurrently  
95 employ the same individual and compensate such individual through  
96 a common paymaster which is one (1) of such corporations, then  
97 each such corporation shall be considered to have paid as  
98 remuneration to such individual only the amounts actually  
99 disbursed by it to such individual and shall not be considered to  
100 have paid as remuneration to such individual such amounts actually  
101 disbursed to such individual by another of such corporations.

102 I. "Employer" means:

103 (1) Any employing unit which,

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

108 (b) For some portion of a day in each of twenty  
109 (20) different calendar weeks, whether or not such weeks were  
110 consecutive, in either the current or the preceding calendar year  
111 had in employment at least one (1) individual (irrespective of  
112 whether the same individual was in employment in each such day),  
113 except as provided in paragraph (9) of this subsection;

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

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

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

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

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

128 (6) Any individual or employing unit which acquired its  
129 organization, trade, business, or substantially all the assets  
130 thereof, from another employing unit, if the employment record of  
131 the acquiring individual or employing unit subsequent to such  
132 acquisition, together with the employment record of the acquired  
133 organization, trade, or business prior to such acquisition, both  
134 within the same calendar year, would be sufficient to constitute  
135 an employing unit as an employer subject to this chapter under  
136 paragraph (1) or (3) of this subsection;

137 (7) Any employing unit which, having become an employer  
138 under paragraph (1), (3), (5) or (6) of this subsection or under  
139 any other provisions of this chapter, has not, under Section  
140 71-5-361, ceased to be an employer subject to this chapter;

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

144 (9) (a) In determining whether or not an employing  
145 unit for which service other than domestic service is also

146 performed is an employer under paragraph (1) or (4)(a) of this  
147 subsection, the wages earned or the employment of an employee  
148 performing domestic service, shall not be taken into account;

149 (b) In determining whether or not an employing  
150 unit for which service other than agricultural labor is also  
151 performed is an employer under paragraph (1) or (4)(b) of this  
152 subsection, the wages earned or the employment of an employee  
153 performing services in agricultural labor, shall not be taken into  
154 account. If an employing unit is determined an employer of  
155 agricultural labor, such employing unit shall be determined an  
156 employer for purposes of paragraph (1) of this subsection;

157 (10) All entities utilizing the services of any  
158 employee leasing firm shall be considered the employer of the  
159 individuals leased from the employee leasing firm. Temporary help  
160 firms shall be considered the employer of the individuals they  
161 provide to perform services for other individuals or  
162 organizations.

163 J. "Employment" means and includes:

164 (1) Any service performed, which was employment as  
165 defined in this section and, subject to the other provisions of  
166 this subsection, including service in interstate commerce,  
167 performed for wages or under any contract of hire, written or  
168 oral, express or implied.

169 (2) Services performed for remuneration for a  
170 principal:

171 (a) As an agent-driver or commission-driver  
172 engaged in distributing meat products, vegetable products, fruit  
173 products, bakery products, beverages (other than milk), or laundry  
174 or dry cleaning services;

175 (b) As a traveling or city salesman, other than as  
176 an agent-driver or commission-driver, engaged upon a full-time  
177 basis in the solicitation on behalf of, and the transmission to, a

178 principal (except for sideline sales activities on behalf of some  
179 other person) of orders from wholesalers, retailers, contractors,  
180 or operator of hotels, restaurants, or other similar  
181 establishments for merchandise for resale or supplies for use in  
182 their business operations.

183         However, for purposes of this subsection, the term  
184 "employment" shall include services described in subsection  
185 I(2)(a) and (b) of this section, only if:

186                     (i) The contract of service contemplates that  
187 substantially all of the services are to be performed personally  
188 by such individual;

189                     (ii) The individual does not have a  
190 substantial investment in facilities used in connection with the  
191 performance of the services (other than in facilities for  
192 transportation); and

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

196         (3) Service performed in the employ of this state or  
197 any of its instrumentalities or any political subdivision thereof  
198 or any of its instrumentalities or any instrumentality of more  
199 than one (1) of the foregoing or any instrumentality of any of the  
200 foregoing and one or more other states or political subdivisions  
201 or any Indian tribe as defined in Section 3306(u) of the Federal  
202 Unemployment Tax Act (FUTA), which includes any subdivision,  
203 subsidiary or business enterprise wholly owned by such Indian  
204 tribe; however, such service is excluded from "employment" as  
205 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)  
206 of that act and is not excluded from "employment" under subsection  
207 I(5) of this section.

208         (4) (a) Services performed in the employ of a  
209 religious, charitable, educational, or other organization, but

210 only if the service is excluded from "employment" as defined in  
211 the Federal Unemployment Tax Act, 26 USCS Section 3306(c)(8), and

212 (b) The organization had four (4) or more  
213 individuals in employment for some portion of a day in each of  
214 twenty (20) different weeks, whether or not such weeks were  
215 consecutive, within the current or preceding calendar year,  
216 regardless of whether they were employed at the same moment of  
217 time.

218 (5) For the purposes of subsection I(3) and (4) of this  
219 section, the term "employment" does not apply to service  
220 performed:

221 (a) In the employ of:

222 (i) A church or convention or association of  
223 churches; or

224 (ii) An organization which is operated  
225 primarily for religious purposes and which is operated,  
226 supervised, controlled, or principally supported by a church or  
227 convention or association of churches; or

228 (b) By a duly ordained, commissioned, or licensed  
229 minister of a church in the exercise of his ministry, or by a  
230 member of a religious order in the exercise of duties required by  
231 such order; or

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

235 (i) As an elected official;

236 (ii) As a member of a legislative body, or a  
237 member of the judiciary, of a state or political subdivision or a  
238 member of an Indian tribal council;

239 (iii) As a member of the State National Guard  
240 or Air National Guard;

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

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

247 1. A major nontenured policy-making or  
248 advisory position, or

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

252 (d) In a facility conducted for the purpose of  
253 carrying out a program of rehabilitation for individuals whose  
254 earning capacity is impaired by age or physical or mental  
255 deficiency or injury, or providing remunerative work for  
256 individuals who because of their impaired physical or mental  
257 capacity cannot be readily absorbed in the competitive labor  
258 market, by an individual receiving such rehabilitation or  
259 remunerative work; or

260 (e) By an inmate of a custodial or penal  
261 institution; or

262 (f) As part of an unemployment work-relief or  
263 work-training program assisted or financed in whole or in part by  
264 any federal agency or agency of a state or political subdivision  
265 thereof or of an Indian tribe, by an individual receiving such  
266 work relief or work training, unless coverage of such service is  
267 required by federal law or regulation.

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

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

271 (i) During any calendar quarter in either the  
272 current or the preceding calendar year paid remuneration in cash



273 of Twenty Thousand Dollars (\$20,000.00) or more to individuals  
274 employed in agricultural labor, or

275 (ii) For some portion of a day in each of  
276 twenty (20) different calendar weeks, whether or not such weeks  
277 were consecutive, in either the current or the preceding calendar  
278 year, employed in agricultural labor ten (10) or more individuals,  
279 regardless of whether they were employed at the same moment of  
280 time.

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

285 (i) If such crew leader holds a valid  
286 certificate of registration under the Farm Labor Contractor  
287 Registration Act of 1963; or substantially all the members of such  
288 crew operate or maintain tractors, mechanized harvesting or crop  
289 dusting equipment, or any other mechanized equipment, which is  
290 provided by such crew leader; and

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

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

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

300 (ii) Such other person shall be treated as  
301 having paid cash remuneration to such individual in an amount  
302 equal to the amount of cash remuneration paid to such individual  
303 by the crew leader (either on his own behalf or on behalf of such

304 other person) for the service in agricultural labor performed for  
305 such other person.

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

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

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

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

316 (7) The term "employment" shall include domestic  
317 service in a private home, local college club or local chapter of  
318 a college fraternity or sorority performed for an employing unit  
319 which paid cash remuneration of One Thousand Dollars (\$1,000.00)  
320 or more in any calendar quarter in the current or the preceding  
321 calendar year to individuals employed in such domestic service.  
322 For the purpose of this subsection, the term "employment" does not  
323 apply to service performed as a "sitter" at a hospital in the  
324 employ of an individual.

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

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

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

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

333 (ii) The base of operations or place from  
334 which such service is directed or controlled is not in any state

335 in which some part of the service is performed, but the  
336 individual's residence is in this state.

337 (9) Services not covered under paragraph (8) of this  
338 subsection and performed entirely without this state, with respect  
339 to no part of which contributions are required and paid under an  
340 unemployment compensation law of any other state or of the federal  
341 government, shall be deemed to be employment subject to this  
342 chapter if the individual performing such services is a resident  
343 of this state and the department approves the election of the  
344 employing unit for whom such services are performed that the  
345 entire service of such individual shall be deemed to be employment  
346 subject to this chapter.

347 (10) Service shall be deemed to be localized within a  
348 state if:

349 (a) The service is performed entirely within such  
350 state; or

351 (b) The service is performed both within and  
352 without such state, but the service performed without such state  
353 is incidental to the individual's service within the state; for  
354 example, is temporary or transitory in nature or consists of  
355 isolated transactions.

356 (11) The services of an individual who is a citizen of  
357 the United States, performed outside the United States (except in  
358 Canada), in the employ of an American employer (other than service  
359 which is deemed "employment" under the provisions of paragraph  
360 (8), (9) or (10) of this subsection or the parallel provisions of  
361 another state's law), if:

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

364 (b) The employer has no place of business in the  
365 United States; but

366 (i) The employer is an individual who is a  
367 resident of this state; or  
368 (ii) The employer is a corporation which is  
369 organized under the laws of this state; or  
370 (iii) The employer is a partnership or a  
371 trust and the number of the partners or trustees who are residents  
372 of this state is greater than the number who are residents of any  
373 one (1) other state; or

374 (c) None of the criteria of subparagraphs (a) and  
375 (b) of this paragraph are met but the employer has elected  
376 coverage in this state or, the employer having failed to elect  
377 coverage in any state, the individual has filed a claim for  
378 benefits, based on such service, under the law of this state; or

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

381 (i) An individual who is a resident of the  
382 United States; or

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

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

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

389 (12) All services performed by an officer or member of  
390 the crew of an American vessel on or in connection with such  
391 vessel, if the operating office from which the operations of such  
392 vessel operating on navigable waters within, or within and  
393 without, the United States are ordinarily and regularly  
394 supervised, managed, directed and controlled, is within this  
395 state; notwithstanding the provisions of subsection I(8).

396 (13) Service with respect to which a tax is required to  
397 be paid under any federal law imposing a tax against which credit

398 may be taken for contributions required to be paid into a state  
399 unemployment fund, or which as a condition for full tax credit  
400 against the tax imposed by the Federal Unemployment Tax Act, 26  
401 USCS Section 3301 et seq., is required to be covered under this  
402 chapter, notwithstanding any other provisions of this subsection.

403           (14) Services performed by an individual for wages  
404 shall be deemed to be employment subject to this chapter unless  
405 and until it is shown to the satisfaction of the department that  
406 such individual has been and will continue to be free from control  
407 and direction over the performance of such services both under his  
408 contract of service and in fact; and the relationship of employer  
409 and employee shall be determined in accordance with the principles  
410 of the common law governing the relation of master and servant.

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

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

415                           (i) On a farm or in a forest in the employ of  
416 any employing unit in connection with cultivating the soil, in  
417 connection with cutting, planting, deadening, marking or otherwise  
418 improving timber, or in connection with raising or harvesting any  
419 agricultural or horticultural commodity, including the raising,  
420 shearing, feeding, caring for, training, and management of  
421 livestock, bees, poultry, fur-bearing animals and wildlife;

422                           (ii) In the employ of the owner or tenant or  
423 other operator of a farm, in connection with the operation,  
424 management, conservation, improvement or maintenance of such farm  
425 and its tools and equipment, or in salvaging timber or clearing  
426 land of brush and other debris left by a hurricane, if the major  
427 part of such service is performed on a farm;

428                           (iii) In connection with the production or  
429 harvesting of naval stores products or any commodity defined in

430 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),  
431 or in connection with the raising or harvesting of mushrooms, or  
432 in connection with the ginning of cotton, or in connection with  
433 the operation or maintenance of ditches, canals, reservoirs, or  
434 waterways not owned or operated for profit, used exclusively for  
435 supplying and storing water for farming purposes;

436 (iv) (A) In the employ of the operator of a  
437 farm in handling, planting, drying, packing, packaging,  
438 processing, freezing, grading, storing or delivering to storage or  
439 to market or to a carrier for transportation to market, in its  
440 unmanufactured state, any agricultural or horticultural commodity;  
441 but only if such operator produced more than one-half (1/2) of the  
442 commodity with respect to which such service is performed;

443 (B) In the employ of a group of  
444 operators of farms (or a cooperative organization of which such  
445 operators are members) in the performance of service described in  
446 subitem (A), but only if such operators produced more than  
447 one-half (1/2) of the commodity with respect to which such service  
448 is performed;

449 (C) The provisions of subitems (A) and  
450 (B) shall not be deemed to be applicable with respect to service  
451 performed in connection with commercial canning or commercial  
452 freezing or in connection with any agricultural or horticultural  
453 commodity after its delivery to a terminal market for distribution  
454 for consumption;

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

457 (vi) As used in paragraph (15)(a) of this  
458 subsection, the term "farm" includes stock, dairy, poultry, fruit,  
459 fur-bearing animals, and truck farms, plantations, ranches,  
460 nurseries, ranges, greenhouses, or other similar structures used

461 primarily for the raising of agricultural or horticultural  
462 commodities, and orchards.

463 (b) Domestic service in a private home, local  
464 college club, or local chapter of a college fraternity or  
465 sorority, except as provided in subsection I(7) of this section,  
466 or service performed as a "sitter" at a hospital in the employ of  
467 an individual.

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

470 (d) Service performed by an individual in the  
471 employ of his son, daughter, or spouse, and service performed by a  
472 child under the age of twenty-one (21) in the employ of his father  
473 or mother.

474 (e) Service performed in the employ of the United  
475 States government or of an instrumentality wholly owned by the  
476 United States; except that if the Congress of the United States  
477 shall permit states to require any instrumentalities of the United  
478 States to make payments into an unemployment fund under a state  
479 unemployment compensation act, then to the extent permitted by  
480 Congress and from and after the date as of which such permission  
481 becomes effective, all of the provisions of this chapter shall be  
482 applicable to such instrumentalities and to services performed by  
483 employees for such instrumentalities in the same manner, to the  
484 same extent, and on the same terms as to all other employers and  
485 employing units. If this state should not be certified under the  
486 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any  
487 year, then the payment required by such instrumentality with  
488 respect to such year shall be deemed to have been erroneously  
489 collected and shall be refunded by the department from the fund in  
490 accordance with the provisions of Section 71-5-383.

491 (f) Service performed in the employ of an  
492 "employer" as defined by the Railroad Unemployment Insurance Act,

493 45 USCS Section 351(a), or as an "employee representative" as  
494 defined by the Railroad Unemployment Insurance Act, 45 USCS  
495 Section 351(f), and service with respect to which unemployment  
496 compensation is payable under an unemployment compensation system  
497 for maritime employees, or under any other unemployment  
498 compensation system established by an act of Congress; however,  
499 the department is authorized and directed to enter into agreements  
500 with the proper agencies under such act or acts of Congress, which  
501 agreements shall become effective ten (10) days after publication  
502 thereof in the manner provided in Section 71-5-117 for general  
503 rules, to provide reciprocal treatment to individuals who have,  
504 after acquiring potential rights to benefits under this chapter,  
505 acquired rights to unemployment compensation under such act or  
506 acts of Congress or who have, after acquiring potential rights to  
507 unemployment compensation under such act or acts of Congress,  
508 acquired rights to benefits under this chapter.

509 (g) Service performed in any calendar quarter in  
510 the employ of any organization exempt from income tax under the  
511 Internal Revenue Code, 26 USCS Section 501(a) (other than an  
512 organization described in 26 USCS Section 401(a)), or exempt from  
513 income tax under 26 USCS Section 521 if the remuneration for such  
514 service is less than Fifty Dollars (\$50.00).

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

517 (i) By a student who is enrolled and is  
518 regularly attending classes at such school, college or university,  
519 or

520 (ii) By the spouse of such a student if such  
521 spouse is advised, at the time such spouse commences to perform  
522 such service, that

523 (A) The employment of such spouse to  
524 perform such service is provided under a program to provide



525 financial assistance to such student by such school, college, or  
526 university, and

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

529 (i) Service performed by an individual under the  
530 age of twenty-two (22) who is enrolled at a nonprofit or public  
531 educational institution which normally maintains a regular faculty  
532 and curriculum and normally has a regularly organized body of  
533 students in attendance at the place where its educational  
534 activities are carried on, as a student in a full-time program  
535 taken for credit at such institution, which combines academic  
536 instruction with work experience, if such service is an integral  
537 part of such program and such institution has so certified to the  
538 employer, except that this subparagraph shall not apply to service  
539 performed in a program established for or on behalf of an employer  
540 or group of employers.

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

544 (k) Service performed as a student nurse in the  
545 employ of a hospital or a nurses' training school by an individual  
546 who is enrolled and is regularly attending classes in a nurses'  
547 training school chartered or approved pursuant to state law; and  
548 services performed as an intern in the employ of a hospital by an  
549 individual who has completed a four-year course in a medical  
550 school chartered or approved pursuant to state law.

551 (l) Service performed by an individual as an  
552 insurance agent or as an insurance solicitor, if all such service  
553 performed by such individual is performed for remuneration solely  
554 by way of commission.

555 (m) Service performed by an individual under the  
556 age of eighteen (18) in the delivery or distribution of newspapers

557 or shopping news, not including delivery or distribution to any  
558 point for subsequent delivery or distribution.

559 (n) If the services performed during one-half  
560 (1/2) or more of any pay period by an employee for the employing  
561 unit employing him constitute employment, all the services of such  
562 employee for such period shall be deemed to be employment; but if  
563 the services performed during more than one-half (1/2) of any such  
564 pay period by an employee for the employing unit employing him do  
565 not constitute employment, then none of the services of such  
566 employee for such period shall be deemed to be employment. As  
567 used in this subsection the term "pay period" means a period (of  
568 not more than thirty-one (31) consecutive days) for which a  
569 payment of remuneration is ordinarily made to the employee by the  
570 employing unit employing him.

571 (o) Service performed by a barber or beautician  
572 whose work station is leased to him or her by the owner of the  
573 shop in which he or she works and who is compensated directly by  
574 the patrons he or she serves and who is free from direction and  
575 control by the lessor.

576 K. "Employment office" means a free public employment office  
577 or branch thereof, operated by this state or maintained as a part  
578 of the state controlled system of public employment offices.

579 L. "Public employment service" means the operation of a  
580 program that offers free placement and referral services to  
581 applicants and employers, including job development.

582 M. "Fund" means the Unemployment Compensation Fund  
583 established by this chapter, to which all contributions required  
584 and from which all benefits provided under this chapter shall be  
585 paid.

586 N. "Hospital" means an institution which has been licensed,  
587 certified, or approved by the State Department of Health as a  
588 hospital.

589 O. "Institution of higher learning," for the purposes of  
590 this section, means an educational institution which:

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

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

596 (3) Provides an educational program for which it awards  
597 a bachelor's or higher degree, or provides a program which is  
598 acceptable for full credit toward such a degree, a program of  
599 postgraduate or postdoctoral studies, or a program of training to  
600 prepare students for gainful employment in a recognized  
601 occupation;

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

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

606 P. (1) "State" includes, in addition to the states of the  
607 United States of America, the District of Columbia, Commonwealth  
608 of Puerto Rico and the Virgin Islands.

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

612 (3) The provisions of paragraphs (1) and (2) of  
613 subsection P, as including the Virgin Islands, shall become  
614 effective on the day after the day on which the United States  
615 Secretary of Labor approves for the first time under Section  
616 3304(a) of the Internal Revenue Code of 1954 an unemployment  
617 compensation law submitted to the secretary by the Virgin Islands  
618 for such approval.

619 Q. "Unemployment."

620           (1) An individual shall be deemed "unemployed" in any  
621 week during which he performs no services and with respect to  
622 which no wages are payable to him, or in any week of less than  
623 full-time work if the wages payable to him with respect to such  
624 week are less than his weekly benefit amount as computed and  
625 adjusted in Section 71-5-505. The department shall prescribe  
626 regulations applicable to unemployed individuals, making such  
627 distinctions in the procedure as to total unemployment, part-total  
628 unemployment, partial unemployment of individuals attached to  
629 their regular jobs, and other forms of short-time work, as the  
630 department deems necessary.

631           (2) An individual's week of total unemployment shall be  
632 deemed to commence only after his registration at an employment  
633 office, except as the department may by regulation otherwise  
634 prescribe.

635           R. (1) "Wages" means all remuneration for personal  
636 services, including commissions and bonuses and the cash value of  
637 all remuneration in any medium other than cash, except that  
638 "wages," for purposes of determining employer's coverage and  
639 payment of contributions for agricultural and domestic service  
640 means cash remuneration only. The reasonable cash value of  
641 remuneration in any medium other than cash shall be estimated and  
642 determined in accordance with rules prescribed by the department;  
643 however, that the term "wages" shall not include:

644                   (a) The amount of any payment made to, or on  
645 behalf of, an employee under a plan or system established by an  
646 employer which makes provision for his employees generally or for  
647 a class or classes of his employees (including any amount paid by  
648 an employer for insurance or annuities, or into a fund, to provide  
649 for any such payment), on account of:

650                           (i) Retirement, or

651                           (ii) Sickness or accident disability, or

652 (iii) Medical or hospitalization expenses in  
653 connection with sickness or actual disability, or

654 (iv) Death, provided the employee:

655 (A) Has not the option to receive,  
656 instead of provision for such death benefit, any part of such  
657 payment or, if such death benefit is insured, any part of the  
658 premiums (or contributions to premiums) paid by his employer, and

659 (B) Has not the right, under the  
660 provisions of the plan or system or policy of insurance providing  
661 for such death benefit, to assign such benefit or to receive a  
662 cash consideration in lieu of such benefit, either upon his  
663 withdrawal from the plan or system providing for such benefit or  
664 upon termination of such plan or system or policy of insurance or  
665 of his employment with such employer;

666 (b) Dismissal payments which the employer is not  
667 legally required to make;

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

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

674 (i) Qualifies under Section 125 of the  
675 Internal Revenue Code;

676 (ii) Covers only employees;

677 (iii) Covers only noncash benefits;

678 (iv) Does not include deferred compensation  
679 plans.

680 (2) [Not enacted].

681 S. "Week" means calendar week or such period of seven (7)  
682 consecutive days as the department may by regulation prescribe.  
683 The department may by regulation prescribe that a week shall be

684 deemed to be in, within, or during any benefit year which includes  
685 any part of such week.

686 T. "Insured work" means "employment" for "employers."

687 U. The term "includes" and "including," when used in a  
688 definition contained in this chapter, shall not be deemed to  
689 exclude other things otherwise within the meaning of the term  
690 defined.

691 V. "Employee leasing arrangement" means any agreement  
692 between an employee leasing firm and a client, whereby specified  
693 client responsibilities such as payment of wages, reporting of  
694 wages for unemployment insurance purposes, payment of unemployment  
695 insurance contributions and other such administrative duties are  
696 to be performed by an employee leasing firm, on an ongoing basis.

697 W. "Employee leasing firm" means any entity which provides  
698 specified duties for a client company such as payment of wages,  
699 reporting of wages for unemployment insurance purposes, payment of  
700 unemployment insurance contributions and other administrative  
701 duties, in connection with the client's employees, that are  
702 directed and controlled by the client and that are providing  
703 ongoing services for the client.

704 X. (1) "Temporary help firm" means an entity which hires  
705 its own employees and provides those employees to other  
706 individuals or organizations to perform some service, to support  
707 or supplement the existing work force in special situations such  
708 as employee absences, temporary skill shortages, seasonal  
709 workloads and special assignments and projects, with the  
710 expectation that the worker's position will be terminated upon the  
711 completion of the specified task or function.

712 (2) "Temporary employee" means an employee assigned to  
713 work for the clients of a temporary help firm.

714 Y. For the purposes of this chapter, the term "notice" shall  
715 include any official communication, statement or other

716 correspondence required under the administration of this chapter,  
717 and sent by the department through the United States Postal  
718 Service or electronic or digital transfer, via modem or the  
719 Internet.

720         **SECTION 2.** Section 71-5-19, Mississippi Code of 1972, is  
721 amended as follows:

722         71-5-19. (1) Whoever makes a false statement or  
723 representation knowing it to be false, or knowingly fails to  
724 disclose a material fact, to obtain or increase any benefit or  
725 other payment under this chapter or under an employment security  
726 law of any other state, of the federal government or of a foreign  
727 government, either for himself or for any other person, shall be  
728 punished by a fine of not less than One Hundred Dollars (\$100.00)  
729 nor more than Five Hundred Dollars (\$500.00), or by imprisonment  
730 for not longer than thirty (30) days, or by both such fine and  
731 imprisonment; and each such false statement or representation or  
732 failure to disclose a material fact shall constitute a separate  
733 offense.

734         (2) Any employing unit, any officer or agent of an employing  
735 unit or any other person who makes a false statement or  
736 representation knowing it to be false, or who knowingly fails to  
737 disclose a material fact, to prevent or reduce the payment of  
738 benefits to any individual entitled thereto, or to avoid becoming  
739 or remaining subject hereto, or to avoid or reduce any  
740 contribution or other payment required from any employing unit  
741 under this chapter, or who willfully fails or refuses to make any  
742 such contribution or other payment, or to furnish any reports  
743 required hereunder or to produce or permit the inspection or  
744 copying of records as required hereunder, shall be punished by a  
745 fine of not less than One Hundred Dollars (\$100.00) nor more than  
746 One Thousand Dollars (\$1,000.00), or by imprisonment for not  
747 longer than sixty (60) days, or by both such fine and

748 imprisonment; and each such false statement, or representation, or  
749 failure to disclose a material fact, and each day of such failure  
750 or refusal shall constitute a separate offense. In lieu of such  
751 fine and imprisonment, the employing unit or representative, or  
752 both employing unit and representative, if such representative is  
753 an employing unit in this state and is found to be a party to such  
754 violation, shall not be eligible for a contributions rate of less  
755 than five and four-tenths percent (5.4%) for the tax year in which  
756 such violation is discovered by the department and for the next  
757 two (2) succeeding tax years.

758 (3) Any person who shall willfully violate any provision of  
759 this chapter or any other rule or regulation thereunder, the  
760 violation of which is made unlawful or the observance of which is  
761 required under the terms of this chapter and for which a penalty  
762 is neither prescribed herein nor provided by any other applicable  
763 statute, shall be punished by a fine of not less than One Hundred  
764 Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00),  
765 or by imprisonment for not longer than sixty (60) days, or by both  
766 such fine and imprisonment; and each day such violation continues  
767 shall be deemed to be a separate offense. In lieu of such fine  
768 and imprisonment, the employing unit or representative, or both  
769 employing unit and representative, if such representative is an  
770 employing unit in this state and is found to be a party to such  
771 violation, shall not be eligible for a contributions rate of less  
772 than five and four-tenths percent (5.4%) for the tax year in which  
773 the violation is discovered by the department and for the next two  
774 (2) succeeding tax years.

775 (4) Any person who, by reason of the nondisclosure or  
776 misrepresentation by him or by another of a material fact,  
777 irrespective of whether such nondisclosure or misrepresentation  
778 was known or fraudulent, or who, for any other reason has received  
779 any such benefits under this chapter, while any conditions for the



780 receipt of benefits imposed by this chapter were not fulfilled in  
781 his case, or while he was disqualified from receiving benefits,  
782 shall, in the discretion of the department, either be liable to  
783 have such sum deducted from any future benefits payable to him  
784 under this chapter or shall be liable to repay to the department  
785 for the Unemployment Compensation Fund a sum equal to the amount  
786 so received by him; and such sum shall be collectible in the  
787 manner provided in Sections 71-5-363 through 71-5-383 for the  
788 collection of past-due contributions. \* \* \*

789 (5) The department, by agreement with another state or the  
790 United States, as provided under Section 303(g) of the Social  
791 Security Act, may recover any overpayment of benefits paid to any  
792 individual under the laws of this state or of another state or  
793 under an unemployment benefit program of the United States. Any  
794 overpayments subject to this subsection may be deducted from any  
795 future benefits payable to the individual under the laws of this  
796 state or of another state or under an unemployment program of the  
797 United States.

798 **SECTION 3.** Section 71-5-119, Mississippi Code of 1972, is  
799 amended as follows:

800 71-5-119. The department shall cause to be available for  
801 distribution to the public the text of this chapter, its  
802 regulations and general rules, its reports to the Governor, and  
803 any other material it deems relevant and suitable, and shall  
804 furnish the same to any person upon application therefor.

805 **SECTION 4.** Section 71-5-127, Mississippi Code of 1972, is  
806 amended as follows:

807 71-5-127. (1) Any information or records concerning an  
808 individual or employing unit obtained by the department pursuant  
809 to the administration of this chapter or any other federally  
810 funded programs for which the department has responsibility shall  
811 be private and confidential, except as otherwise provided in this

812 article or by regulation. Information or records may be released  
813 by the department when the release is required by the federal  
814 government in connection with, or as a condition of funding for, a  
815 program being administered by the department.

816 (2) Each employing unit shall keep true and accurate work  
817 records, containing such information as the department may  
818 prescribe. Such records shall be open to inspection and be  
819 subject to being copied by the department or its authorized  
820 representatives at any reasonable time and as often as may be  
821 necessary. The department, Board of Review and any referee may  
822 require from any employing unit any sworn or unsworn reports with  
823 respect to persons employed by it which they or any of them deem  
824 necessary for the effective administration of this chapter.  
825 Information, statements, transcriptions of proceedings,  
826 transcriptions of recordings, electronic recordings, letters,  
827 memoranda, and other documents and reports thus obtained or  
828 obtained from any individual pursuant to the administration of  
829 this chapter shall, except to the extent necessary for the proper  
830 administration of this chapter, be held confidential and shall not  
831 be published or be opened to public inspection (other than to  
832 public employees in the performance of their public duties) in any  
833 manner revealing the individual's or employing unit's identity.

834 (3) \* \* \* Any claimant or his legal representative at a  
835 hearing before an appeal tribunal or the Board of Review shall be  
836 supplied with information from such records to the extent  
837 necessary for the proper presentation of his claim in any  
838 proceeding pursuant to this chapter.

839 (4) Any employee or member of the Board of Review or any  
840 employee of the department who violates any provisions of this  
841 section shall be fined not less than Twenty Dollars (\$20.00) nor  
842 more than Two Hundred Dollars (\$200.00), or imprisoned for not  
843 longer than ninety (90) days, or both.

844       (5) The department may make the state's records relating to  
845 the administration of this chapter available to the Railroad  
846 Retirement Board, and may furnish the Railroad Retirement Board,  
847 at the expense of such board, such copies thereof as the Railroad  
848 Retirement Board deems necessary for its purposes. The department  
849 may afford reasonable cooperation with every agency of the United  
850 States charged with the administration of any unemployment  
851 insurance law.

852       **SECTION 5.** Section 71-5-135, Mississippi Code of 1972, is  
853 amended as follows:

854       71-5-135. If any employing unit fails to make any report  
855 required by this chapter, the department or its authorized agents  
856 shall give \* \* \* notice \* \* \* to such employing unit to make and  
857 file such report within fifteen (15) days from the date of such  
858 notice. If such employing unit, by its proper members, officers  
859 or agents, shall fail or refuse to make and file such reports  
860 within such time, then and in that event such report shall be made  
861 by the department or its authorized agents from the best  
862 information available, and the amount of contributions due shall  
863 be computed thereon; and such report shall be prima facie correct  
864 for the purposes of this chapter.

865       **SECTION 6.** Section 71-5-355, Mississippi Code of 1972, is  
866 amended as follows:

867       71-5-355. (1) As used in this section, the following words  
868 and phrases shall have the following meanings, unless the context  
869 clearly requires otherwise:

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

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

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

876           (d) Except as hereinafter provided, "payroll" means the  
877 total of all wages paid for employment by an employer as defined  
878 in Section 71-5-11, subsection H, plus the total of all  
879 remuneration paid by such employer excluded from the definition of  
880 wages by Section 71-5-351. For the computation of modified rates,  
881 "payroll" means the total of all wages paid for employment by an  
882 employer as defined in Section 71-5-11, subsection H.

883           (e) For the computation of modified rates, "eligible  
884 employer" means an employer whose experience-rating record has  
885 been chargeable with benefits throughout the thirty-six (36)  
886 consecutive calendar-month period ending on the computation date,  
887 except that any employer who has not been subject to the  
888 Mississippi Employment Security Law for a period of time  
889 sufficient to meet the thirty-six (36) consecutive calendar-month  
890 requirement shall be an eligible employer if his experience-rating  
891 record has been chargeable throughout not less than the twelve  
892 (12) consecutive calendar-month period ending on the computation  
893 date. No employer shall be considered eligible for a contribution  
894 rate less than five and four-tenths percent (5.4%) with respect to  
895 any tax year, who has failed to file any two (2) quarterly reports  
896 within the qualifying period by September 30 following the  
897 computation date. No employer or employing unit shall be eligible  
898 for a contribution rate of less than five and four-tenths percent  
899 (5.4%) for the tax year in which the employing unit is found by  
900 the department to be in violation of Section 71-5-19(2) or (3) and  
901 for the next two (2) succeeding tax years. No representative of  
902 such employing unit who was a party to a violation as described in  
903 Section 71-5-19(2) or (3), if such representative was or is an  
904 employing unit in this state, shall be eligible for a contribution  
905 rate of less than five and four-tenths percent (5.4%) for the tax  
906 year in which such violation was detected by the department and  
907 for the next two (2) succeeding tax years.

908           (f) With respect to any tax year, "reserve ratio" means  
909 the ratio which the total amount available for the payment of  
910 benefits in the Unemployment Compensation Fund, excluding any  
911 amount which has been credited to the account of this state under  
912 Section 903 of the Social Security Act, as amended, and which has  
913 been appropriated for the expenses of administration pursuant to  
914 Section 71-5-457 whether or not withdrawn from such account, on  
915 November 1 of each calendar year bears to the aggregate of the  
916 taxable payrolls of all employers for the twelve (12) calendar  
917 months ending on June 30 next preceding.

918           (g) "Modified rates" means the rates of employer  
919 contributions determined under the provisions of this chapter and  
920 the rates of newly subject employers, as provided in Section  
921 71-5-353.

922           (h) For the computation of modified rates, "qualifying  
923 period" means a period of not less than the thirty-six (36)  
924 consecutive calendar months ending on the computation date  
925 throughout which an employer's experience-rating record has been  
926 chargeable with benefits; except that with respect to any eligible  
927 employer who has not been subject to this article for a period of  
928 time sufficient to meet the thirty-six (36) consecutive  
929 calendar-month requirement, "qualifying period" means the period  
930 ending on the computation date throughout which his  
931 experience-rating record has been chargeable with benefits, but in  
932 no event less than the twelve (12) consecutive calendar-month  
933 period ending on the computation date throughout which his  
934 experience-rating record has been so chargeable.

935           (i) The "exposure criterion" (EC) is defined as the  
936 cash balance of the Unemployment Compensation Fund which is  
937 available for the payment of benefits as of November 1 of each  
938 calendar year, divided by the total wages, exclusive of wages paid  
939 by all state agencies, all political subdivisions, reimbursable

940 nonprofit corporations, and tax exempt public service employment,  
941 for the twelve-month period ending June 30 immediately preceding  
942 such date. The EC shall be computed to four (4) decimal places.

943 (j) The "cost rate criterion" (CRC) is defined as  
944 follows: Beginning with January 1974, the benefits paid for the  
945 twelve-month period ending December 1974 are summed and divided by  
946 the total wages for the twelve-month period ending on June 30,  
947 1975. Similar ratios are computed by subtracting the earliest  
948 month's benefit payments and adding the benefits of the next month  
949 in the sequence and dividing each sum of twelve (12) months'  
950 benefits by the total wages for the twelve-month period ending on  
951 the June 30 which is nearest to the final month of the period used  
952 to compute the numerator. If December is the final month of the  
953 period used to compute the numerator, then the twelve-month period  
954 ending the following June 30 will be used for the denominator.  
955 The highest value of these ratios beginning with the ratio for  
956 benefits paid in calendar year 1974 is the cost rate criterion.  
957 The cost rate criterion shall be computed to four (4) decimal  
958 places. Benefits and total wages used in the computation of the  
959 cost rate criterion shall exclude all benefits and total wages  
960 applicable to state agencies, political subdivisions, reimbursable  
961 nonprofit corporations, and tax exempt PSE employment. For rate  
962 years 2005 and 2006, the CRC shall be adjusted downward by an  
963 amount necessary to satisfy one-half (1/2) the reductions required  
964 to maintain a general experience rate of nine-tenths of one  
965 percent (.9%). For rate year 2007 and subsequent years, the CRC  
966 shall be adjusted downward by an amount necessary to satisfy  
967 one-half (1/2) the reductions required to maintain a general  
968 experience rate of seven-tenths of one percent (.7%) until such  
969 time as the CRC equals the average for the highest value of the  
970 cost rate criterion computations during each of the economic  
971 cycles (economic cycles shall be those defined by the National

972 Bureau of Economic Research) since the calendar year 1974, except  
973 as provided in subsection (3) of Section 71-5-353. When the  
974 remaining reduction is insufficient to cause the reductions as  
975 specified in this paragraph, additional reductions specified in  
976 subsection (1)(k) of this section may be made to the size of fund  
977 index to achieve the general experience rate specified in this  
978 paragraph, except as provided in Section 71-3-353. The CRC shall  
979 not be raised except as provided through annual computations and  
980 additions of future economic cycles.

981 (k) "Size of fund index" (SOFI) is defined as the ratio  
982 of the EC to the CRC. For the rate years 2005 and 2006, the SOFI  
983 shall be adjusted downward by an amount necessary to satisfy  
984 one-half (1/2) the reductions required to maintain a general  
985 experience rate of nine-tenths of one percent (.9%). For rate  
986 year 2007 and subsequent years, the SOFI shall be adjusted  
987 downward by an amount necessary to satisfy one-half (1/2) the  
988 reductions required to maintain a minimum general experience rate  
989 of seven-tenths of one percent (.7%) until such time as the SOFI  
990 is reduced from a target size of 1.5 to 1.0, except as provided in  
991 subsection (3) of Section 71-5-353. The SOFI shall not be raised  
992 in any event. In the event Section 71-5-353 is suspended, the  
993 SOFI shall remain at the current level until the suspension is  
994 lifted.

995 (l) No employer's contribution rate shall exceed five  
996 and four-tenths percent (5.4%), nor be less than four-tenths of  
997 one percent (.4%). However, from and after January 1, 2005, and  
998 continuing unless Section 71-5-353(3) shall be suspended, the  
999 reduction shall be accomplished as described in Section  
1000 71-5-355(1)(j) and (k), no employer's unemployment contribution  
1001 rate shall be less than one-tenth of one percent (.1%).

1002 (2) Modified rates:

1003           (a) For any tax year, when the reserve ratio on the  
1004 preceding November 1, in the case of any tax year, equals or  
1005 exceeds four percent (4%), the modified rates, as hereinafter  
1006 prescribed, shall be in effect.

1007           (b) Modified rates shall be determined for the tax year  
1008 for each eligible employer on the basis of his experience-rating  
1009 record in the following manner:

1010                   (i) The department shall maintain an  
1011 experience-rating record for each employer. Nothing in this  
1012 chapter shall be construed to grant any employer or individuals  
1013 performing services for him any prior claim or rights to the  
1014 amounts paid by the employer into the fund.

1015                   (ii) Benefits paid to an eligible individual shall  
1016 be charged against the experience-rating record of his base period  
1017 employers in the proportion to which the wages paid by each base  
1018 period employer bears to the total wages paid to the individual by  
1019 all the base period employers, provided that benefits shall not be  
1020 charged to an employer's experience-rating record if the  
1021 department finds that the individual:

1022                               1. Voluntarily left the employ of such  
1023 employer without good cause attributable to the employer;

1024                               2. Was discharged by such employer for  
1025 misconduct connected with his work;

1026                               3. Refused an offer of suitable work by such  
1027 employer without good cause, and the department further finds that  
1028 such benefits are based on wages for employment for such employer  
1029 prior to such voluntary leaving, discharge or refusal of suitable  
1030 work, as the case may be;

1031                               4. Had base period wages which included wages  
1032 for previously uncovered services as defined in Section  
1033 71-5-511(e) to the extent that the Unemployment Compensation Fund



1034 is reimbursed for such benefits pursuant to Section 121 of Public  
1035 Law 94-566;

1036                   5. Extended benefits paid under the  
1037 provisions of Section 71-5-541 which are not reimbursable from  
1038 federal funds shall be charged to the experience-rating record of  
1039 base period employers;

1040                   6. Is still working for such employer on a  
1041 regular part-time basis under the same employment conditions as  
1042 hired. Provided, however, that benefits shall be charged against  
1043 an employer if an eligible individual is paid benefits who is  
1044 still working for such employer on a part-time "as-needed" basis;

1045                   7. Was hired to replace a United States  
1046 serviceman or servicewoman called into active duty and was laid  
1047 off upon the return to work by that serviceman or servicewoman,  
1048 unless such employer is a state agency or other political  
1049 subdivision or instrumentality of the state;

1050                   8. Was paid benefits during any week while in  
1051 training with the approval of the department, under the provisions  
1052 of Section 71-5-513B, or for any week while in training approved  
1053 under Section 236(a)(1) of the Trade Act of 1974, under the  
1054 provisions of Section 71-5-513C; or

1055                   9. Is not required to serve the one-week  
1056 waiting period as described in Section 71-5-505(2). In that  
1057 event, only the benefits paid in lieu of the waiting period week  
1058 may be noncharged.

1059                   (iii) The department shall compute a benefit ratio  
1060 for each eligible employer, which shall be the quotient obtained  
1061 by dividing the total benefits charged to his experience-rating  
1062 record during the period his experience-rating record has been  
1063 chargeable, but not less than the twelve (12) consecutive  
1064 calendar-month period nor more than the thirty-six (36)  
1065 consecutive calendar-month period ending on the computation date,

1066 by his total taxable payroll for the same period on which all  
1067 contributions due have been paid on or before the September 30  
1068 immediately following the computation date. Such benefit ratio  
1069 shall be computed to the tenth of a percent (.1%), rounding any  
1070 remainder to the next higher tenth.

1071 The following table shall be applied to reduce contribution  
1072 rates until Section 71-5-353(3) and (4) is suspended:

1073	Benefit Ratio	Individual Experience Rate:
1074	0.0%	- 0.3%
1075	0.1	- 0.2
1076	0.2	- 0.10
1077	0.3	0.0
1078	0.4	0.1
1079	0.5	0.2
1080	0.6	0.3
1081	0.7	0.4
1082	0.8	0.5
1083	0.9	0.6
1084	1.0	0.7
1085	1.1	0.8
1086	1.2	0.9
1087	1.3	1.0
1088	1.4	1.1
1089	1.5	1.2
1090	1.6	1.3
1091	1.7	1.4
1092	1.8	1.5
1093	1.9	1.6
1094	2.0	1.7
1095	2.1	1.8
1096	2.2	1.9
1097	2.3	2.0

1098	2.4	2.1
1099	2.5	2.2
1100	2.6	2.3
1101	2.7	2.4
1102	2.8	2.5
1103	2.9	2.6
1104	3.0	2.7
1105	3.1	2.8
1106	3.2	2.9
1107	3.3	3.0
1108	3.4	3.1
1109	3.5	3.2
1110	3.6	3.3
1111	3.7	3.4
1112	3.8	3.5
1113	3.9	3.6
1114	4.0	3.7
1115	4.1	3.8
1116	4.2	3.9
1117	4.3	4.0
1118	4.4	4.1
1119	4.5	4.2
1120	4.6	4.3
1121	4.7	4.4
1122	4.8	4.5
1123	4.9	4.6
1124	5.0	4.7
1125	5.1	4.8
1126	5.2	4.9
1127	5.3	5.0
1128	5.4	5.1
1129	5.5	5.2

1130	5.6	5.3
1131	5.7 and above	5.4

1132 (iv) 1. The contribution rate for each eligible  
1133 employer shall be the sum of two (2) rates: his individual  
1134 experience rate in the range from zero percent (0%) to five and  
1135 four-tenths percent (5.4%), plus a general experience rate. In no  
1136 event shall the resulting rate be in excess of five and  
1137 four-tenths percent (5.4%).

1138 2. The employer's individual experience rate  
1139 shall be equal to his benefit ratio as computed under subsection  
1140 (2)(b)(iii) above.

1141 3. The general experience rate shall be  
1142 determined in the following manner: The department shall  
1143 determine annually, for the thirty-six (36) consecutive  
1144 calendar-month period ending on the computation date, the amount  
1145 of benefits which were not charged to the record of any employer  
1146 and of benefits which were ineffectively charged to the employer's  
1147 experience-rating record. For the purposes of subsection  
1148 (2)(b)(iv)3, the term "ineffectively charged benefits" shall  
1149 include:

1150 The total of the amounts of benefits charged to the  
1151 experience-rating records of all eligible employers which caused  
1152 their benefit ratios to exceed five and four-tenths percent  
1153 (5.4%), the total of the amounts of benefits charged to the  
1154 experience-rating records of all ineligible employers which would  
1155 cause their benefit ratios to exceed five and four-tenths percent  
1156 (5.4%) if they were eligible employers, and the total of the  
1157 amounts of benefits charged or chargeable to the experience-rating  
1158 record of any employer who has discontinued his business or whose  
1159 coverage has been terminated within such period; provided, that  
1160 solely for the purposes of determining the amounts of  
1161 ineffectively charged benefits as herein defined, a "benefit

1162 ratio" shall be computed for each ineligible employer, which shall  
1163 be the quotient obtained by dividing the total benefits charged to  
1164 his experience-rating record throughout the period ending on the  
1165 computation date, during which his experience-rating record has  
1166 been chargeable with benefits, by his total taxable payroll for  
1167 the same period on which all contributions due have been paid on  
1168 or before the September 30 immediately following the computation  
1169 date; and provided further, that such benefit ratio shall be  
1170 computed to the tenth of one percent (.1%) and any remainder shall  
1171 be rounded to the next higher tenth. The ratio of the sum of  
1172 these amounts to the taxable wages paid during the same period by  
1173 all eligible employers whose benefit ratio did not exceed five and  
1174 four-tenths percent (5.4%), computed to the next higher tenth of  
1175 one percent (.1%), shall be the general experience rate.

1176           4. The general experience rate shall be  
1177 adjusted by use of the size of fund index factor. This factor may  
1178 be positive or negative, and shall be determined as follows: From  
1179 the target SOFI, as defined in subsection (1)(k) of this section,  
1180 subtract the simple average of the current and preceding years'  
1181 exposure criterions divided by the cost rate criterion, as defined  
1182 in subsection (1)(j) of this section. The result is then  
1183 multiplied by the product of the CRC, as defined in subsection  
1184 (1)(j) of this section, and total wages for the twelve-month  
1185 period ending June 30 divided by the taxable wages for the  
1186 twelve-month period ending June 30. This is the percentage  
1187 positive or negative added to the general experience rate. This  
1188 percentage is computed to one (1) decimal place, and rounded to  
1189 the next higher tenth.

1190           5. Notwithstanding any other provisions of  
1191 subsection (2)(b)(iv), if the general experience rate for any tax  
1192 year as computed and adjusted on the basis of the size of fund  
1193 index is a negative percentage, it shall be disregarded.

1194                   6. The department shall include in its annual  
1195 rate notice to employers a brief explanation of the elements of  
1196 the general experience rate, and shall include in its regular  
1197 publications an annual analysis of benefits not charged to the  
1198 record of any employer, and of the benefit experience of employers  
1199 by industry group whose benefit ratio exceeds four percent (4%),  
1200 and of any other factors which may affect the size of the general  
1201 experience rate.

1202                   (v) When any employing unit in any manner succeeds  
1203 to or acquires the organization, trade, business or substantially  
1204 all the assets thereof of an employer, excepting any assets  
1205 retained by such employer incident to the liquidation of his  
1206 obligations, whether or not such acquiring employing unit was an  
1207 employer within the meaning of Section 71-5-11, subsection H,  
1208 prior to such acquisition, and continues such organization, trade  
1209 or business, the experience-rating and payroll records of the  
1210 predecessor employer shall be transferred as of the date of  
1211 acquisition to the successor employer for the purpose of rate  
1212 determination.

1213                   (vi) When any employing unit succeeds to or  
1214 acquires a distinct and severable portion of an organization,  
1215 trade or business, the experience-rating and payroll records of  
1216 such portion, if separately identifiable, shall be transferred to  
1217 the successor upon:

1218                   1. The mutual consent of the predecessor and  
1219 the successor;

1220                   2. Approval of the department;

1221                   3. Continued operation of the transferred  
1222 portion by the successor after transfer; and

1223                   4. The execution and the filing with the  
1224 department by the predecessor employer of a waiver relinquishing  
1225 all rights to have the experience-rating and payroll records of

1226 the transferred portion used for the purpose of determining  
1227 modified rates of contribution for such predecessor.

1228 (vii) If the successor was an employer subject to  
1229 this chapter prior to the date of acquisition, it shall continue  
1230 to pay contributions at the rate applicable to it from the date  
1231 the acquisition occurred until the end of the then current tax  
1232 year. If the successor was not an employer prior to the date of  
1233 acquisition, it shall pay contributions at the rate applicable to  
1234 the predecessor or, if more than one (1) predecessor and the same  
1235 rate is applicable to both, the rate applicable to the predecessor  
1236 or predecessors, from the date the acquisition occurred until the  
1237 end of the then current tax year. If the successor was not an  
1238 employer prior to the date the acquisition occurred and  
1239 simultaneously acquires the businesses of two (2) or more  
1240 employers to whom different rates of contributions are applicable,  
1241 it shall pay contributions from the date of the acquisition until  
1242 the end of the current tax year at a rate computed on the basis of  
1243 the combined experience-rating and payroll records of the  
1244 predecessors as of the computation date for such tax year. In all  
1245 cases the rate of contributions applicable to such successor for  
1246 each succeeding tax year shall be computed on the basis of the  
1247 combined experience-rating and payroll records of the successor  
1248 and the predecessor or predecessors.

1249 (viii) The department shall notify each employer  
1250 quarterly of the benefits paid and charged to his  
1251 experience-rating record; and such notification, in the absence of  
1252 an application for redetermination filed within thirty (30) days  
1253 after the date of \* \* \* such notice, shall be final, conclusive  
1254 and binding upon the employer for all purposes. A  
1255 redetermination, made after notice and opportunity for a fair  
1256 hearing, by a hearing officer designated by the department who  
1257 shall consider and decide these and related applications and

1258 protests; and the finding of fact in connection therewith may be  
1259 introduced into any subsequent administrative or judicial  
1260 proceedings involving the determination of the rate of  
1261 contributions of any employer for any tax year, and shall be  
1262 entitled to the same finality as is provided in this subsection  
1263 with respect to the findings of fact in proceedings to redetermine  
1264 the contribution rate of an employer.

1265           (ix) The department shall notify each employer of  
1266 his rate of contribution as determined for any tax year as soon as  
1267 reasonably possible after November 1 of the preceding year. Such  
1268 determination shall be final, conclusive and binding upon such  
1269 employer unless, within thirty (30) days after the date of \* \* \*  
1270 such notice to his last known address, the employer files with the  
1271 department an application for review and redetermination of his  
1272 contribution rate, setting forth his reasons therefor. If the  
1273 department grants such review, the employer shall be promptly  
1274 notified thereof and shall be afforded an opportunity for a fair  
1275 hearing by a hearing officer designated by the department who  
1276 shall consider and decide these and related applications and  
1277 protests; but no employer shall be allowed, in any proceeding  
1278 involving his rate of contributions or contribution liability, to  
1279 contest the chargeability to his account of any benefits paid in  
1280 accordance with a determination, redetermination or decision  
1281 pursuant to Sections 71-5-515 through 71-5-533 except upon the  
1282 ground that the services on the basis of which such benefits were  
1283 found to be chargeable did not constitute services performed in  
1284 employment for him, and then only in the event that he was not a  
1285 party to such determination, redetermination, decision or to any  
1286 other proceedings provided in this chapter in which the character  
1287 of such services was determined. The employer shall be promptly  
1288 notified of the denial of this application or of the  
1289 redetermination, both of which shall become final unless, within



1290 ten (10) days after the date of \* \* \* notice thereof, there shall  
1291 be an appeal to the department itself. Any such appeal shall be  
1292 on the record before said designated hearing officer, and the  
1293 decision of said department shall become final unless, within  
1294 thirty (30) days after the date of \* \* \* notice thereof to the  
1295 employer's last known address, there shall be an appeal to the  
1296 Circuit Court of the First Judicial District of Hinds County,  
1297 Mississippi, in accordance with the provisions of law with respect  
1298 to review of civil causes by certiorari.

1299 (3) Notwithstanding any other provision of law, the  
1300 following shall apply regarding assignment of rates and transfers  
1301 of experience:

1302 (a) (i) If an employer transfers its trade or  
1303 business, or a portion thereof, to another employer and, at the  
1304 time of the transfer, there is substantially common ownership,  
1305 management or control of the two (2) employers, then the  
1306 unemployment experience attributable to the transferred trade or  
1307 business shall be transferred to the employer to whom such  
1308 business is so transferred. The rates of both employers shall be  
1309 recalculated and made effective on January 1 of the year following  
1310 the year the transfer occurred.

1311 (ii) If, following a transfer of experience under  
1312 subparagraph (i) of this paragraph (a), the department determines  
1313 that a substantial purpose of the transfer of trade or business  
1314 was to obtain a reduced liability of contributions, then the  
1315 experience-rating accounts of the employers involved shall be  
1316 combined into a single account and a single rate assigned to such  
1317 account.

1318 (b) Whenever a person who is not an employer or an  
1319 employing unit under this chapter at the time it acquires the  
1320 trade or business of an employer, the unemployment experience of  
1321 the acquired business shall not be transferred to such person if

1322 the department finds that such person acquired the business solely  
1323 or primarily for the purpose of obtaining a lower rate of  
1324 contributions. Instead, such person shall be assigned the new  
1325 employer rate under Section 71-5-353. In determining whether the  
1326 business was acquired solely or primarily for the purpose of  
1327 obtaining a lower rate of contributions, the department shall use  
1328 objective factors which may include the cost of acquiring the  
1329 business, whether the person continued the business enterprise of  
1330 the acquired business, how long such business enterprise was  
1331 continued, or whether a substantial number of new employees were  
1332 hired for performance of duties unrelated to the business activity  
1333 conducted prior to acquisition.

1334 (c) (i) If a person knowingly violates or attempts to  
1335 violate paragraph (a) or (b) of this subsection or any other  
1336 provision of this chapter related to determining the assignment of  
1337 a contribution rate, or if a person knowingly advises another  
1338 person in a way that results in a violation of such provision, the  
1339 person shall be subject to the following penalties:

1340 1. If the person is an employer, then such  
1341 employer shall be assigned the highest rate assignable under this  
1342 chapter for the rate year during which such violation or attempted  
1343 violation occurred and the three (3) rate years immediately  
1344 following this rate year. However, if the person's business is  
1345 already at such highest rate for any year, or if the amount of  
1346 increase in the person's rate would be less than two percent (2%)  
1347 for such year, then a penalty rate of contributions of two percent  
1348 (2%) of taxable wages shall be imposed for such year. The penalty  
1349 rate will apply to the successor business as well as the related  
1350 entity from which the employees were transferred in an effort to  
1351 obtain a lower rate of contributions.

1352 2. If the person is not an employer, such  
1353 person shall be subject to a civil money penalty of not more than

1354 Five Thousand Dollars (\$5,000.00). Each such transaction for  
1355 which advice was given and each occurrence or reoccurrence after  
1356 notification being given by the department shall be a separate  
1357 offense and punishable by a separate penalty. Any such fine shall  
1358 be deposited in the penalty and interest account established under  
1359 Section 71-5-114.

1360 (ii) For purposes of this paragraph (c), the term  
1361 "knowingly" means having actual knowledge of or acting with  
1362 deliberate ignorance or reckless disregard for the prohibition  
1363 involved.

1364 (iii) For purposes of this paragraph (c), the term  
1365 "violates or attempts to violate" includes, but is not limited to,  
1366 intent to evade, misrepresentation or willful nondisclosure.

1367 (iv) In addition to the penalty imposed by  
1368 subparagraph (i) of this paragraph (c), any violation of this  
1369 subsection may be punishable by a fine of not more than Ten  
1370 Thousand Dollars (\$10,000.00) or by imprisonment for not more than  
1371 five (5) years, or by both such fine and imprisonment. This  
1372 subsection shall prohibit prosecution under any other criminal  
1373 statute of this state.

1374 (d) The department shall establish procedures to  
1375 identify the transfer or acquisition of a business for purposes of  
1376 this subsection.

1377 (e) For purposes of this subsection:

1378 (i) "Person" has the meaning given such term by  
1379 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

1380 (ii) "Employing unit" has the meaning as set forth  
1381 in Section 71-5-11.

1382 (f) This subsection shall be interpreted and applied in  
1383 such a manner as to meet the minimum requirements contained in any  
1384 guidance or regulations issued by the United States Department of  
1385 Labor.

1386           **SECTION 7.** Section 71-5-357, Mississippi Code of 1972, is  
1387 amended as follows:

1388           71-5-357. Benefits paid to employees of nonprofit  
1389 organizations shall be financed in accordance with the provisions  
1390 of this section. For the purpose of this section, a nonprofit  
1391 organization is an organization (or group of organizations)  
1392 described in Section 501(c)(3) of the Internal Revenue Code of  
1393 1954 which is exempt from income tax under Section 501(a) of such  
1394 code (26 USCS Section 501).

1395           (a) Any nonprofit organization which, under Section  
1396 71-5-11, subsection I(3), is or becomes subject to this chapter  
1397 shall pay contributions under the provisions of Sections 71-5-351  
1398 through 71-5-355 unless it elects, in accordance with this  
1399 paragraph, to pay to the department for the unemployment fund an  
1400 amount equal to the amount of regular benefits and one-half (1/2)  
1401 of the extended benefits paid, that is attributable to service in  
1402 the employ of such nonprofit organization, to individuals for  
1403 weeks of unemployment which begin during the effective period of  
1404 such election.

1405           (i) Any nonprofit organization which becomes  
1406 subject to this chapter may elect to become liable for payments in  
1407 lieu of contributions for a period of not less than twelve (12)  
1408 months, beginning with the date on which such subjectivity begins,  
1409 by filing a written notice of its election with the department not  
1410 later than thirty (30) days immediately following the date of the  
1411 determination of such subjectivity.

1412           (ii) Any nonprofit organization which makes an  
1413 election in accordance with subparagraph (i) of this paragraph  
1414 will continue to be liable for payments in lieu of contributions  
1415 unless it files with the department a written termination notice  
1416 not later than thirty (30) days prior to the beginning of the tax  
1417 year for which such termination shall first be effective.

1418 (iii) Any nonprofit organization which has been  
1419 paying contributions under this chapter may change to a  
1420 reimbursable basis by filing with the department, not later than  
1421 thirty (30) days prior to the beginning of any tax year, a written  
1422 notice of election to become liable for payments in lieu of  
1423 contributions. Such election shall not be terminable by the  
1424 organization for that and the next tax year.

1425 (iv) The department may for good cause extend the  
1426 period within which a notice of election or a notice of  
1427 termination must be filed, and may permit an election to be  
1428 retroactive.

1429 (v) The department, in accordance with such  
1430 regulations as it may prescribe, shall notify each nonprofit  
1431 organization of any determination which it may make of its status  
1432 as an employer, of the effective date of any election which it  
1433 makes and of any termination of such election. Such  
1434 determinations shall be subject to reconsideration, appeal and  
1435 review in accordance with the provisions of Sections 71-5-351  
1436 through 71-5-355.

1437 (b) Payments in lieu of contributions shall be made in  
1438 accordance with the provisions of subparagraph (i) of this  
1439 paragraph.

1440 (i) At the end of each calendar quarter, or at the  
1441 end of any other period as determined by the department, the  
1442 department shall bill each nonprofit organization (or group of  
1443 such organizations) which has elected to make payments in lieu of  
1444 contributions, for an amount equal to the full amount of regular  
1445 benefits plus one-half (1/2) of the amount of extended benefits  
1446 paid during such quarter or other prescribed period that is  
1447 attributable to service in the employ of such organization.

1448 (ii) Payment of any bill rendered under  
1449 subparagraph (i) of this paragraph shall be made not later than

1450 forty-five (45) days after such bill was delivered to the \* \* \*  
1451 nonprofit organization \* \* \*, unless there has been an application  
1452 for review and redetermination in accordance with subparagraph (v)  
1453 of this paragraph.

1454                   1. All of the enforcement procedures for the  
1455 collection of delinquent contributions contained in Sections  
1456 71-5-363 through 71-5-383 shall be applicable in all respects for  
1457 the collection of delinquent payments due by nonprofit  
1458 organizations who have elected to become liable for payments in  
1459 lieu of contributions.

1460                   2. If any nonprofit organization is  
1461 delinquent in making payments in lieu of contributions, the  
1462 department may terminate such organization's election to make  
1463 payments in lieu of contributions as of the beginning of the next  
1464 tax year, and such termination shall be effective for the balance  
1465 of such tax year.

1466                   (iii) Payments made by any nonprofit organization  
1467 under the provisions of this paragraph shall not be deducted or  
1468 deductible, in whole or in part, from the remuneration of  
1469 individuals in the employ of the organization.

1470                   (iv) Payments due by employers who elect to  
1471 reimburse the fund in lieu of contributions as provided in this  
1472 paragraph may not be noncharged under any condition. The  
1473 reimbursement must be on a dollar-for-dollar basis (One Dollar  
1474 (\$1.00) reimbursement for each dollar paid in benefits) in every  
1475 case, so that the trust fund shall be reimbursed in full, such  
1476 reimbursement to include, but not be limited to, benefits or  
1477 payments erroneously or incorrectly paid, or paid as a result of a  
1478 determination of eligibility which is subsequently reversed, or  
1479 paid as a result of claimant fraud. However, political  
1480 subdivisions who are reimbursing employers may elect to pay to the  
1481 fund an amount equal to five-tenths percent (.5%) of the taxable

1482 wages paid during the calendar year with respect to employment,  
1483 and those employers who so elect shall be relieved of liability  
1484 for reimbursement of benefits paid under the same conditions that  
1485 benefits are not charged to the experience rating record of a  
1486 contributing employer as provided in Section 71-5-355(2)(b)(ii)  
1487 other than Clause 5 thereof. Benefits paid in such circumstances  
1488 for which reimbursing employers are relieved of liability for  
1489 reimbursement shall not be considered attributable to service in  
1490 the employment of such reimbursing employer.

1491           (v) The amount due specified in any bill from the  
1492 department shall be conclusive on the organization unless, not  
1493 later than fifteen (15) days after the bill was \* \* \* delivered to  
1494 it, the organization files an application for redetermination by  
1495 the department, setting forth the grounds for such application or  
1496 appeal. The department shall promptly review and reconsider the  
1497 amount due specified in the bill and shall thereafter issue a  
1498 redetermination in any case in which such application for  
1499 redetermination has been filed. Any such redetermination shall be  
1500 conclusive on the organization unless, not later than fifteen (15)  
1501 days after the redetermination was \* \* \* delivered to it, the  
1502 organization files an appeal to the Circuit Court of the First  
1503 Judicial District of Hinds County, Mississippi, in accordance with  
1504 the provisions of law with respect to review of civil causes by  
1505 certiorari.

1506           (vi) Past due payments of amounts in lieu of  
1507 contributions shall be subject to the same interest and penalties  
1508 that, pursuant to Section 71-5-363, apply to past due  
1509 contributions.

1510           (c) Each employer that is liable for payments in lieu  
1511 of contributions shall pay to the department for the fund the  
1512 amount of regular benefits plus the amount of one-half (1/2) of  
1513 extended benefits paid are attributable to service in the employ

1514 of such employer. If benefits paid to an individual are based on  
1515 wages paid by more than one (1) employer and one or more of such  
1516 employers are liable for payments in lieu of contributions, the  
1517 amount payable to the fund by each employer that is liable for  
1518 such payments shall be determined in accordance with the  
1519 provisions of subparagraph (i) or subparagraph (ii) of this  
1520 paragraph.

1521 (i) If benefits paid to an individual are based on  
1522 wages paid by one or more employers that are liable for payment in  
1523 lieu of contributions and on wages paid by one or more employers  
1524 who are liable for contributions, the amount of benefits payable  
1525 by each employer that is liable for payments in lieu of  
1526 contributions shall be an amount which bears the same ratio to the  
1527 total benefits paid to the individual as the total base-period  
1528 wages paid to the individual by such employer bear to the total  
1529 base-period wages paid to the individual by all of his base-period  
1530 employers.

1531 (ii) If benefits paid to an individual are based  
1532 on wages paid by two (2) or more employers that are liable for  
1533 payments in lieu of contributions, the amount of benefits payable  
1534 by each such employer shall be an amount which bears the same  
1535 ratio to the total benefits paid to the individual as the total  
1536 base-period wages paid to the individual by such employer bear to  
1537 the total base-period wages paid to the individual by all of his  
1538 base-period employers.

1539 (d) In the discretion of the department, any nonprofit  
1540 organization that elects to become liable for payments in lieu of  
1541 contributions shall be required \* \* \* to execute and file with the  
1542 department a surety bond approved by the department, or it may  
1543 elect instead to deposit with the department money or securities.  
1544 The amount of such bond or deposit shall be determined in  
1545 accordance with the provisions of this paragraph.



1546                   (i) The amount of the bond or deposit required by  
1547 paragraph (d) shall be equal to two and seven-tenths percent  
1548 (2.7%) of the organization's taxable wages paid for employment as  
1549 defined in Section 71-5-11, subsection J(4), for the four (4)  
1550 calendar quarters immediately preceding the effective date of the  
1551 election, the renewal date in the case of a bond, or the biennial  
1552 anniversary of the effective date of election in the case of a  
1553 deposit of money or securities, whichever date shall be most  
1554 recent and applicable. If the nonprofit organization did not pay  
1555 wages in each of such four (4) calendar quarters, the amount of  
1556 the bond or deposit shall be as determined by the department.

1557                   (ii) Any bond deposited under paragraph (d) shall  
1558 be in force for a period of not less than two (2) tax years and  
1559 shall be renewed with the approval of the department at such times  
1560 as the department may prescribe, but not less frequently than at  
1561 intervals of two (2) years as long as the organization continues  
1562 to be liable for payments in lieu of contributions. The  
1563 department shall require adjustments to be made in a previously  
1564 filed bond as it deems appropriate. If the bond is to be  
1565 increased, the adjusted bond shall be filed by the organization  
1566 within thirty (30) days of the date notice of the required  
1567 adjustment was \* \* \* delivered to it. Failure by any organization  
1568 covered by such bond to pay the full amount of payments in lieu of  
1569 contributions when due, together with any applicable interest and  
1570 penalties provided in paragraph (b)(v) of this section, shall  
1571 render the surety liable on the bond to the extent of the bond, as  
1572 though the surety was such organization.

1573                   (iii) Any deposit of money or securities in  
1574 accordance with paragraph (d) shall be retained by the department  
1575 in an escrow account until liability under the election is  
1576 terminated, at which time it shall be returned to the  
1577 organization, less any deductions as hereinafter provided. The

1578 department may deduct from the money deposited under paragraph (d)  
1579 by a nonprofit organization, or sell the securities it has so  
1580 deposited, to the extent necessary to satisfy any due and unpaid  
1581 payments in lieu of contributions and any applicable interest and  
1582 penalties provided for in paragraph (b)(v) of this section. The  
1583 department shall require the organization, within thirty (30) days  
1584 following any deduction from a money deposit or sale of deposited  
1585 securities under the provisions hereof, to deposit sufficient  
1586 additional money or securities to make whole the organization's  
1587 deposit at the prior level. Any cash remaining from the sale of  
1588 such securities shall be a part of the organization's escrow  
1589 account. The department may, at any time, review the adequacy of  
1590 the deposit made by any organization. If, as a result of such  
1591 review, it determines that an adjustment is necessary, it shall  
1592 require the organization to make additional deposit within thirty  
1593 (30) days of \* \* \* notice of its determination or shall return to  
1594 it such portion of the deposit as it no longer considers  
1595 necessary, whichever action is appropriate. Disposition of income  
1596 from securities held in escrow shall be governed by the applicable  
1597 provisions of the state law.

1598 (iv) If any nonprofit organization fails to file a  
1599 bond or make a deposit, or to file a bond in an increased amount,  
1600 or to increase or make whole the amount of a previously made  
1601 deposit as provided under this subparagraph, the department may  
1602 terminate such organization's election to make payments in lieu of  
1603 contributions, and such termination shall continue for not less  
1604 than the four (4) consecutive calendar-quarter periods beginning  
1605 with the quarter in which such termination becomes effective;  
1606 however, the department may extend for good cause the applicable  
1607 filing, deposit or adjustment period by not more than thirty (30)  
1608 days.

1609 (v) Group account shall be established according  
1610 to regulations prescribed by the department.

1611 (e) Any employer which elects to make payments in lieu  
1612 of contributions into the Unemployment Compensation Fund as  
1613 provided in this paragraph shall not be liable to make such  
1614 payments with respect to the benefits paid to any individual whose  
1615 base-period wages include wages for previously uncovered services  
1616 as defined in Section 71-5-511(e) to the extent that the  
1617 Unemployment Compensation Fund is reimbursed for such benefits  
1618 pursuant to Section 121 of Public Law 94-566.

1619 **SECTION 8.** Section 71-5-359, Mississippi Code of 1972, is  
1620 amended as follows:

1621 71-5-359. (1) (a) Before January 1, 1978, each state board  
1622 or other instrumentality of this state or one or more other states  
1623 covered under Section 71-5-11, subsection I(3), shall pay  
1624 contributions under the provisions of Sections 71-5-351 through  
1625 71-5-355 for all of the hospitals or institutions of higher  
1626 learning under its jurisdiction unless it elects, in the same  
1627 manner and under the same conditions as provided for nonprofit  
1628 organizations in subsections (a), (b) and (c) of Section 71-5-357,  
1629 to pay to the department for the unemployment fund an amount equal  
1630 to the regular benefits and one-half (1/2) of the extended  
1631 benefits paid that are attributable to service in the employ of  
1632 such hospitals or institutions. When an election is made, the  
1633 amounts required to be paid in lieu of contributions shall be  
1634 billed and payment made as provided in Section 71-5-357 with  
1635 respect to similar payments by nonprofit organizations. A state  
1636 board having jurisdiction over two (2) or more state-owned  
1637 hospitals or state-owned institutions of higher learning shall be  
1638 treated as a single employer for the employment in all of those  
1639 hospitals or institutions of higher learning for purposes of  
1640 computing contribution rates and payment of contributions, or for

1641 purposes of reimbursing the fund, unless it elects, in accordance  
1642 with this section, to have one or more of those hospitals or  
1643 institutions of higher learning treated as a separate employer.

1644           (b) A state board may elect to have one or more  
1645 state-owned hospitals or one or more state-owned institutions of  
1646 higher learning under its jurisdiction treated as a separate  
1647 employer for the purposes of this section, provided it files with  
1648 the department, not later than thirty (30) days prior to the  
1649 beginning of any tax year, a written notice of such election. Any  
1650 such election shall be effective throughout such tax year, and  
1651 shall continue in effect unless the state board files with the  
1652 department a written notice of termination of such election not  
1653 less than thirty (30) days prior to the beginning of the tax year  
1654 for which such termination is to be effective.

1655           (2) (a) From January 1, 1978, through December 31, 1978,  
1656 the Commission of Budget and Accounting shall, in the manner  
1657 provided in subsection (2)(c) of this section, pay, upon warrant  
1658 issued by the State Auditor of Public Accounts, to the department  
1659 for the Unemployment Compensation Fund an amount equal to the  
1660 regular benefits and one-half (1/2) of the extended benefits paid  
1661 that are attributable to service in the employ of a state agency.  
1662 The amount required to be reimbursed by a certain agency shall be  
1663 billed to the Commission of Budget and Accounting and shall be  
1664 paid from the Employment Compensation Revolving Fund pursuant to  
1665 subsection (2)(c) of this section not later than thirty (30) days  
1666 after such bill was sent, unless there has been an application for  
1667 review and redetermination in accordance with Section  
1668 71-5-357(b)(v).

1669           (b) The Department of Finance and Administration shall,  
1670 in the manner provided in subsection (2)(c) of this section, pay,  
1671 upon warrant issued by the State Auditor, or the successor to  
1672 these duties, to the department for the Unemployment Compensation

1673 Fund an amount equal to the regular benefits and the extended  
1674 benefits paid that are attributable to service in the employ of a  
1675 state agency. The amount required to be reimbursed by a certain  
1676 agency shall be billed to the Department of Finance and  
1677 Administration and shall be paid from the Employment Compensation  
1678 Revolving Fund pursuant to subsection (2)(c) of this section not  
1679 later than thirty (30) days after such bill was sent, unless there  
1680 has been an application for review and redetermination in  
1681 accordance with Section 71-5-357(b)(v).

1682 (c) Each agency of state government shall deposit  
1683 monthly for a period of twenty-four (24) months an amount equal to  
1684 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand  
1685 Dollars (\$6,000.00) paid to each employee thereof during the next  
1686 preceding year into the Employment Compensation Revolving Fund  
1687 that is created in the State Treasury. The Department of Finance  
1688 and Administration shall determine the percentage to be applied to  
1689 the amount of covered wages paid in order to maintain a balance in  
1690 the revolving fund of not less than two percent (2%) of the  
1691 covered wages paid during the next preceding year. The State  
1692 Treasurer shall invest all funds in the Employment Compensation  
1693 Revolving Fund and all interest earned shall be credited to the  
1694 Employment Compensation Revolving Fund.

1695 The reimbursement of benefits paid by the Mississippi  
1696 Department of Employment Security shall be paid by the Department  
1697 of Finance and Administration from the Employment Compensation  
1698 Revolving Fund upon warrants issued by the State Auditor of Public  
1699 Accounts, or the successor to these duties; and the auditor shall  
1700 issue his warrants upon requisitions signed by the Department of  
1701 Finance and Administration. However, the Department of Finance and  
1702 Administration may, if it so elects, contract for the performance  
1703 of the duties prescribed by subsection (2)(b) and (c), and other  
1704 duties necessarily related thereto.

1705           (d) From January 1, 1978, through December 31, 1978,  
1706 any political subdivision of this state shall pay to the  
1707 department for the unemployment fund an amount equal to the  
1708 regular benefits and one-half (1/2) of the extended benefits paid  
1709 that are attributable to service in the employ of such political  
1710 subdivision unless it elects to make contributions to the  
1711 unemployment fund as provided in subsection (2)(j) of this  
1712 section. The amount required to be reimbursed shall be billed and  
1713 shall be paid as provided in Section 71-5-357, with respect to  
1714 similar payments for nonprofit organizations.

1715           (e) On and after January 1, 1979, any political  
1716 subdivision of this state shall pay to the department for the  
1717 unemployment fund an amount equal to the regular benefits and the  
1718 extended benefits paid that are attributable to service in the  
1719 employ of such political subdivision unless it elects to make  
1720 contributions to the unemployment fund as provided in subsection  
1721 (2)(j) of this section. The amount required to be reimbursed  
1722 shall be billed and shall be paid as provided in Section 71-5-357,  
1723 with respect to similar payments for nonprofit organizations.

1724           (f) Each political subdivision unless it elects to make  
1725 contributions to the unemployment fund as provided in subsection  
1726 (2)(j) of this section, shall establish a revolving fund and  
1727 deposit therein monthly for a period of twenty-four (24) months an  
1728 amount equal to one-twelfth of one percent (1/12 of 1%) of the  
1729 first Six Thousand Dollars (\$6,000.00) paid to each employee  
1730 thereof during the next preceding year plus an amount each month  
1731 equal to one-third (1/3) of any reimbursement paid to the  
1732 department for the next preceding quarter. After January 1, 1980,  
1733 the balance in the revolving fund shall be maintained at an amount  
1734 not less than two percent (2%) of the covered wages paid during  
1735 the next preceding year. However, the department shall by  
1736 regulation establish a procedure to allow reimbursing political

1737 subdivisions to elect to maintain the balance in the revolving  
1738 fund as required under this paragraph or to annually execute a  
1739 surety bond to be approved by the department in an amount not less  
1740 than two percent (2%) of the covered wages paid during the next  
1741 preceding year.

1742 (g) In the event any political subdivision becomes  
1743 delinquent in payments due under this chapter, upon due notice,  
1744 and upon certification of the delinquency by the department to the  
1745 Department of Finance and Administration, the State Tax  
1746 Commission, the Department of Environmental Quality and the  
1747 Department of Insurance, or any of them, such agencies shall  
1748 direct the issuance of warrants which in the aggregate shall be  
1749 the amount of such delinquency payable to the department and drawn  
1750 upon any funds in the State Treasury which may be available to  
1751 such political subdivision in satisfaction of any such  
1752 delinquency. This remedy shall be in addition to any other  
1753 collection remedies in this chapter or otherwise provided by law.

1754 (h) Payments made by any political subdivision under  
1755 the provisions of this section shall not be deducted or  
1756 deductible, in whole or in part, from the remuneration of  
1757 individuals in the employ of the organization.

1758 (i) Any governmental entity shall not be liable to make  
1759 payments to the unemployment fund with respect to the benefits  
1760 paid to any individual whose base-period wages include wages for  
1761 previously uncovered services as defined in Section 71-5-511,  
1762 subsection (e), to the extent that the Unemployment Compensation  
1763 Fund is reimbursed for such benefits pursuant to Section 121 of  
1764 Public Law 94-566.

1765 (j) Any political subdivision of this state may elect  
1766 to make contributions to the unemployment fund instead of making  
1767 reimbursement for benefits paid as provided in subsection (2)(d),  
1768 (e) and (f) of this section. A political subdivision which makes

1769 this election shall so notify the department, not later than July  
1770 1, 1978; and shall be subject to the provisions of Section  
1771 71-5-351, with regard to the payment of contributions. A  
1772 political subdivision which makes this election shall pay  
1773 contributions equal to two percent (2%) of wages paid by it during  
1774 each calendar quarter it is subject to this chapter. The  
1775 department shall by regulation establish a procedure to allow  
1776 political subdivisions the option periodically to elect either the  
1777 reimbursement or the contribution method of financing unemployment  
1778 compensation coverage.

1779 **SECTION 9.** Section 71-5-365, Mississippi Code of 1972, is  
1780 amended as follows:

1781 71-5-365. If any employer fails to make and file any report  
1782 as and when required by the terms and provisions of this chapter  
1783 or by any rule or regulation of the commission for the purpose of  
1784 determining the amount of contributions due by him under this  
1785 chapter, or if any report which has been filed is deemed by the  
1786 executive director to be incorrect or insufficient, and such  
1787 employer, after having been given \* \* \* notice \* \* \* by the  
1788 executive director to file such report, or a corrected or  
1789 sufficient report, as the case may be, shall fail to file such  
1790 report within fifteen (15) days after the date of \* \* \* such  
1791 notice, the executive director may (a) determine the amount of  
1792 contributions due from such employer on the basis of such  
1793 information as may be readily available to him, which said  
1794 determination shall be prima facie correct, (b) assess such  
1795 employer with the amount of contribution so determined, to which  
1796 amount may be added and assessed by the executive director in his  
1797 discretion, as damages, an amount equal to ten percent (10%) of  
1798 said amount, and (c) immediately give \* \* \* notice \* \* \* to such  
1799 employer of such determination, assessment, and damages, if any,  
1800 added and assessed, demanding payment of same together with



1801 interest, as herein provided, on the amount of contributions from  
1802 the date when same were due and payable. Such determination and  
1803 assessment by the executive director shall be final at the  
1804 expiration of fifteen (15) days from the date \* \* \* of such \* \* \*  
1805 notice thereof demanding payment, unless:

1806       (a) Such employer shall have filed with the department  
1807 a written protest and petition for a hearing, specifying his  
1808 objections thereto. Upon receipt of such petition within the  
1809 fifteen (15) days allowed, the department shall fix the time and  
1810 place for a hearing and shall notify the petitioner thereof. At  
1811 any hearing held before the department as herein provided,  
1812 evidence may be offered to support such determination and  
1813 assessment or to prove that it is incorrect, and the commission  
1814 shall have all the power provided in Sections 71-5-137 and  
1815 71-5-139. Immediately after such hearing a final decision in the  
1816 matter shall be made by the commission, and any contributions or  
1817 deficiencies in contributions found and determined by the  
1818 commission to be due shall be assessed and paid, together with  
1819 interest, within fifteen (15) days after notice of such final  
1820 decision and assessment, and demand for payment thereof by the  
1821 department shall have been sent to such employer.

1822       (b) The department, in its discretion, determines on  
1823 the basis of information submitted by the employer that such  
1824 assessment should be amended and adjusted to reflect the correct  
1825 amount of taxes.

1826       Sixty (60) days after the due date of the contributions,  
1827 together with interest and damages, or upon issuance of a warrant,  
1828 whichever occurs first, the department, in its discretion, may  
1829 assess an additional sum not exceeding one hundred percent (100%)  
1830 of the amount of the unpaid contributions due as damages for  
1831 failure to pay.

1832           **SECTION 10.** Section 71-5-505, Mississippi Code of 1972, is  
1833 amended as follows:

1834           71-5-505. (1) For weeks beginning on or after July 1, 1991,  
1835 each eligible individual who is totally unemployed or part totally  
1836 unemployed in any week shall be paid with respect to such week a  
1837 benefit in an amount equal to his weekly benefit amount less that  
1838 part of his wages, if any, payable to him with respect to such  
1839 week which is in excess of Forty Dollars (\$40.00). Such  
1840 individuals must have been totally unemployed or part totally  
1841 unemployed for a waiting period of one (1) week during which he  
1842 earned less than his weekly benefit amount plus Forty Dollars  
1843 (\$40.00). Such benefit for a benefit year effective on or after  
1844 October 1, 1983, if not a multiple of One Dollar (\$1.00), shall be  
1845 computed to the next lower multiple of One Dollar (\$1.00).  
1846 Provided, however, that remuneration for "inactive duty training"  
1847 or "unit training assembly" payable to such eligible individual  
1848 who is a member of any of the reserve components, or remuneration  
1849 for jury duty pursuant to a lawfully issued summons therefor  
1850 payable to such eligible individual, shall not be considered wages  
1851 which serve to reduce the otherwise payable benefit amount.

1852           In determining whether an eligible individual is unemployed  
1853 during a week, the date of commencing a shift shall determine the  
1854 week for which the earnings are deducted.

1855           (2) However, the one-week waiting period described herein  
1856 shall be waived if the President of the United States declares a  
1857 major disaster in accordance with Section 401 of The Robert T.  
1858 Stafford Disaster Relief and Emergency Assistance Act. The  
1859 department, in its discretion, shall have the authority to  
1860 noncharge an employer account for any benefits paid for  
1861 unemployment due directly to such disaster.

1862           **SECTION 11.** Section 71-5-511, Mississippi Code of 1972, is  
1863 amended as follows:

1864           71-5-511. An unemployed individual shall be eligible to  
1865 receive benefits with respect to any week only if the department  
1866 finds that:

1867           (a) (i) He has registered for work at and thereafter  
1868 has continued to report to the department in accordance with such  
1869 regulations as the department may prescribe; except that the  
1870 department may, by regulation, waive or alter either or both of  
1871 the requirements of this subparagraph as to such types of cases or  
1872 situations with respect to which it finds that compliance with  
1873 such requirements would be oppressive or would be inconsistent  
1874 with the purposes of this chapter; and

1875           (ii) He participates in reemployment services,  
1876 such as job search assistance services, if, in accordance with a  
1877 profiling system established by the department, it has been  
1878 determined that he is likely to exhaust regular benefits and needs  
1879 reemployment services, unless the department determines that:

1880                       1. The individual has completed such  
1881 services; or

1882                       2. There is justifiable cause for the  
1883 claimant's failure to participate in such services.

1884           (b) He has made a claim for benefits in accordance with  
1885 the provisions of Section 71-5-515 and in accordance with such  
1886 regulations as the department may prescribe thereunder.

1887           (c) He is able to work and is available for work.

1888           (d) He has been unemployed for a waiting period of one  
1889 (1) week. No week shall be counted as a week of unemployment for  
1890 the purposes of this subsection:

1891                       (i) Unless it occurs within the benefit year which  
1892 includes the week with respect to which he claims payment of  
1893 benefits;

1894                       (ii) If benefits have been paid with respect  
1895 thereto;

1896 (iii) Unless the individual was eligible for  
1897 benefits with respect thereto, as provided in Sections 71-5-511  
1898 and 71-5-513, except for the requirements of this subsection.

1899 (e) For weeks beginning on or before July 1, 1982, he  
1900 has, during his base period, been paid wages for insured work  
1901 equal to not less than thirty-six (36) times his weekly benefit  
1902 amount; he has been paid wages for insured work during at least  
1903 two (2) quarters of his base period; and he has, during that  
1904 quarter of his base period in which his total wages were highest,  
1905 been paid wages for insured work equal to not less than sixteen  
1906 (16) times the minimum weekly benefit amount. For benefit years  
1907 beginning after July 1, 1982, he has, during his base period, been  
1908 paid wages for insured work equal to not less than forty (40)  
1909 times his weekly benefit amount; he has been paid wages for  
1910 insured work during at least two (2) quarters of his base period,  
1911 and he has, during that quarter of his base period in which his  
1912 total wages were highest, been paid wages for insured work equal  
1913 to not less than twenty-six (26) times the minimum weekly benefit  
1914 amount. For purposes of this subsection, wages shall be counted  
1915 as "wages for insured work" for benefit purposes with respect to  
1916 any benefit year only if such benefit year begins subsequent to  
1917 the date on which the employing unit by which such wages were paid  
1918 has satisfied the conditions of Section 71-5-11, subsection I, or  
1919 Section 71-5-361, subsection (3), with respect to becoming an  
1920 employer.

1921 (f) No individual may receive benefits in a benefit  
1922 year unless, subsequent to the beginning of the next preceding  
1923 benefit year during which he received benefits, he performed  
1924 service in "employment" as defined in Section 71-5-11, subsection  
1925 J, and earned remuneration for such service in an amount equal to  
1926 not less than eight (8) times his weekly benefit amount applicable  
1927 to his next preceding benefit year.

1928           (g) Benefits based on service in employment defined in  
1929 Section 71-5-11, subsection J(3) and J(4), and Section 71-5-361,  
1930 subsection (4) shall be payable in the same amount, on the same  
1931 terms, and subject to the same conditions as compensation payable  
1932 on the basis of other service subject to this chapter, except that  
1933 benefits based on service in an instructional, research or  
1934 principal administrative capacity in an institution of higher  
1935 learning (as defined in Section 71-5-11, subsection O) with  
1936 respect to service performed prior to January 1, 1978, shall not  
1937 be paid to an individual for any week of unemployment which begins  
1938 during the period between two (2) successive academic years, or  
1939 during a similar period between two (2) regular terms, whether or  
1940 not successive, or during a period of paid sabbatical leave  
1941 provided for in the individual's contract, if the individual has a  
1942 contract or contracts to perform services in any such capacity for  
1943 any institution or institutions of higher learning for both such  
1944 academic years or both such terms.

1945           (h) Benefits based on service in employment defined in  
1946 Section 71-5-11, subsection J(3) and J(4), shall be payable in the  
1947 same amount, on the same terms and subject to the same conditions  
1948 as compensation payable on the basis of other service subject to  
1949 this chapter; except that:

1950           (i) With respect to service performed in an  
1951 instructional, research or principal administrative capacity for  
1952 an educational institution, benefits shall not be paid based on  
1953 such services for any week of unemployment commencing during the  
1954 period between two (2) successive academic years, or during a  
1955 similar period between two (2) regular but not successive terms,  
1956 or during a period of paid sabbatical leave provided for in the  
1957 individual's contract, to any individual, if such individual  
1958 performs such services in the first of such academic years or  
1959 terms and if there is a contract or a reasonable assurance that

1960 such individual will perform services in any such capacity for any  
1961 educational institution in the second of such academic years or  
1962 terms, and provided that Section 71-5-511, subsection (g), shall  
1963 apply with respect to such services prior to January 1, 1978. In  
1964 no event shall benefits be paid unless the individual employee was  
1965 terminated by the employer.

1966 (ii) With respect to services performed in any  
1967 other capacity for an educational institution, benefits shall not  
1968 be paid on the basis of such services to any individual for any  
1969 week which commences during a period between two (2) successive  
1970 academic years or terms, if such individual performs such services  
1971 in the first of such academic years or terms and there is a  
1972 reasonable assurance that such individual will perform such  
1973 services in the second of such academic years or terms, except  
1974 that if compensation is denied to any individual under this  
1975 subparagraph and such individual was not offered an opportunity to  
1976 perform such services for the educational institution for the  
1977 second of such academic years or terms, such individual shall be  
1978 entitled to a retroactive payment of compensation for each week  
1979 for which the individual filed a timely claim for compensation and  
1980 for which compensation was denied solely by reason of this clause.  
1981 In no event shall benefits be paid unless the individual employee  
1982 was terminated by the employer.

1983 (iii) With respect to services described in  
1984 subsection (h)(i) and (ii), benefits shall not be payable on the  
1985 basis of services in any such capacities to any individual for any  
1986 week which commences during an established and customary vacation  
1987 period or holiday recess if such individual performs such services  
1988 in the first of such academic years or terms, or in the period  
1989 immediately before such vacation period or holiday recess, and  
1990 there is a reasonable assurance that such individual will perform

1991 such services in the period immediately following such vacation  
1992 period or holiday recess.

1993                   (iv) With respect to any services described in  
1994 subsection (h)(i) and (ii), benefits shall not be payable on the  
1995 basis of services in any such capacities as specified in  
1996 subsection (h)(i), (ii) and (iii) to any individual who performed  
1997 such services in an educational institution while in the employ of  
1998 an educational service agency. For purposes of this subsection,  
1999 the term "educational service agency" means a governmental agency  
2000 or governmental entity which is established and operated  
2001 exclusively for the purpose of providing such services to one or  
2002 more educational institutions.

2003                   (v) With respect to services to which Sections  
2004 71-5-357 and 71-5-359 apply, if such services are provided to or  
2005 on behalf of an educational institution, benefits shall not be  
2006 payable under the same circumstances and subject to the same terms  
2007 and conditions as described in subsection (h)(i), (ii), (iii) and  
2008 (iv).

2009                   (i) Subsequent to December 31, 1977, benefits shall not  
2010 be paid to any individual on the basis of any services  
2011 substantially all of which consist of participating in sports or  
2012 athletic events or training or preparing to so participate, for  
2013 any week which commences during the period between two (2)  
2014 successive sports seasons (or similar periods) if such individual  
2015 performs such services in the first of such seasons (or similar  
2016 periods) and there is a reasonable assurance that such individual  
2017 will perform such services in the later of such seasons (or  
2018 similar periods).

2019                   (j) (i) Subsequent to December 31, 1977, benefits  
2020 shall not be payable on the basis of services performed by an  
2021 alien, unless such alien is an individual who was lawfully  
2022 admitted for permanent residence at the time such services were

2023 performed, was lawfully present for purposes of performing such  
2024 services, or was permanently residing in the United States under  
2025 color of law at the time such services were performed (including  
2026 an alien who was lawfully present in the United States as a result  
2027 of the application of the provisions of Section 203(a)(7) or  
2028 Section 212(d)(5) of the Immigration and Nationality Act).

2029 (ii) Any data or information required of  
2030 individuals applying for benefits to determine whether benefits  
2031 are not payable to them because of their alien status shall be  
2032 uniformly required from all applicants for benefits.

2033 (iii) In the case of an individual whose  
2034 application for benefits would otherwise be approved, no  
2035 determination that benefits to such individual are not payable  
2036 because of his alien status shall be made, except upon a  
2037 preponderance of the evidence.

2038 (k) An individual shall be deemed prima facie  
2039 unavailable for work, and therefore ineligible to receive  
2040 benefits, during any period which, with respect to his employment  
2041 status, is found by the department to be a holiday or vacation  
2042 period.

2043 (l) A temporary employee of a temporary help firm, as  
2044 defined in Section 71-5-11, subsection X, is considered to have  
2045 left the employee's last work voluntarily without good cause  
2046 connected with the work if the temporary employee does not contact  
2047 the temporary help firm for reassignment on completion of an  
2048 assignment. A temporary employee is not considered to have left  
2049 work voluntarily without good cause connected with the work under  
2050 this paragraph unless the temporary employee has been advised in  
2051 writing:

2052 (i) That the temporary employee is obligated to  
2053 contact the temporary help firm on completion of assignments; and



2054                    (ii) That unemployment benefits may be denied if  
2055 the temporary employee fails to do so.

2056            **SECTION 12.** Section 71-5-513, Mississippi Code of 1972, is  
2057 amended as follows:

2058            71-5-513. A. An individual shall be disqualified for  
2059 benefits:

2060                    (1) (a) For the week, or fraction thereof, which  
2061 immediately follows the day on which he left work voluntarily  
2062 without good cause, if so found by the department, and for each  
2063 week thereafter until he has earned remuneration for personal  
2064 services performed for an employer, as in this chapter defined,  
2065 equal to not less than eight (8) times his weekly benefit amount,  
2066 as determined in each case; however, marital, filial and domestic  
2067 circumstances and obligations shall not be deemed good cause  
2068 within the meaning of this subsection. Pregnancy shall not be  
2069 deemed to be a marital, filial or domestic circumstance for the  
2070 purpose of this subsection.

2071                    (b) For the week, or fraction thereof, which  
2072 immediately follows the day on which he was discharged for  
2073 misconduct connected with his work, if so found by the department,  
2074 and for each week thereafter until he has earned remuneration for  
2075 personal services performed for an employer, as in this chapter  
2076 defined, equal to not less than eight (8) times his weekly benefit  
2077 amount, as determined in each case.

2078                    (c) The burden of proof of good cause for leaving  
2079 work shall be on the claimant, and the burden of proof of  
2080 misconduct shall be on the employer.

2081                    (2) For the week, or fraction thereof, with respect to  
2082 which he willfully makes a false statement, a false representation  
2083 of fact, or willfully fails to disclose a material fact for the  
2084 purpose of obtaining or increasing benefits under the provisions  
2085 of this law, if so found by the department, and such individual's

2086 maximum benefit allowance shall be reduced by the amount of  
2087 benefits so paid to him during any such week of disqualification;  
2088 and additional disqualification shall be imposed for a period not  
2089 exceeding fifty-two (52) weeks, the length of such period of  
2090 disqualification and the time when such period begins to be  
2091 determined by the department, in its discretion, according to the  
2092 circumstances in each case.

2093           (3) If the department finds that he has failed, without  
2094 good cause, either to apply for available suitable work when so  
2095 directed by the employment office or the department, to accept  
2096 suitable work when offered him, or to return to his customary  
2097 self-employment (if any) when so directed by the department, such  
2098 disqualification shall continue for the week in which such failure  
2099 occurred and for not more than the twelve (12) weeks which  
2100 immediately follow such week, as determined by the department  
2101 according to the circumstances in each case.

2102           (a) In determining whether or not any work is  
2103 suitable for an individual, the department shall consider among  
2104 other factors the degree of risk involved to his health, safety  
2105 and morals, his physical fitness and prior training, his  
2106 experience and prior earnings, his length of unemployment and  
2107 prospects for securing local work in his customary occupation, and  
2108 the distance of the available work from his residence; however,  
2109 offered employment paying the minimum wage or higher, if such  
2110 minimum or higher wage is that prevailing for his customary  
2111 occupation or similar work in the locality, shall be deemed to be  
2112 suitable employment after benefits have been paid to the  
2113 individual for a period of eight (8) weeks.

2114           (b) Notwithstanding any other provisions of this  
2115 chapter, no work shall be deemed suitable and benefits shall not  
2116 be denied under this chapter to any otherwise eligible individual

2117 for refusing to accept new work under any of the following  
2118 conditions:

2119 (i) If the position offered is vacant due  
2120 directly to a strike, lockout or other labor dispute;