

By: Representative Wooten

To: Workforce Development;  
Appropriations

HOUSE BILL NO. 562

1 AN ACT TO AMEND SECTION 71-5-511, MISSISSIPPI CODE OF 1972,  
2 TO ELIMINATE THE ONE-WEEK WAITING PERIOD REQUIRED FOR ELIGIBILITY  
3 FOR UNEMPLOYMENT COMPENSATION BENEFITS; TO AMEND SECTIONS 71-5-11,  
4 71-5-13, 71-5-355, 71-5-357, 71-5-359, 71-5-361, 71-5-501 AND  
5 71-5-505, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS  
6 OF THIS ACT; AND FOR RELATED PURPOSES.

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

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

10 71-5-511. An unemployed individual shall be eligible to  
11 receive benefits with respect to any week only if the department  
12 finds that:

13 (a) (i) He or she has registered for work at and  
14 thereafter has continued to report to the department in accordance  
15 with such regulations as the department may prescribe; except that  
16 the department may, by regulation, waive or alter either or both  
17 of the requirements of this subparagraph as to such types of cases  
18 or situations with respect to which it finds that compliance  
19 with \* \* \* the requirements would be oppressive or would be  
20 inconsistent with the purposes of this chapter; and



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

27 1. The individual has completed such  
28 services; or

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

31 (b) He or she has made a claim for benefits in  
32 accordance with the provisions of Section 71-5-515 and in  
33 accordance with such regulations as the department may prescribe  
34 thereunder.

35 (c) He or she is able to work, available for work and  
36 actively seeking work.

37 \* \* \*

38 ( \* \* \*d) For weeks beginning on or before July 1,  
39 1982, he or she has, during \* \* \* the base period, been paid wages  
40 for insured work equal to not less than thirty-six (36) times his  
41 or her weekly benefit amount; he or she has been paid wages for  
42 insured work during at least two (2) quarters of \* \* \* the base  
43 period; and he or she has, during that quarter of \* \* \* the base  
44 period in which his or her total wages were highest, been paid  
45 wages for insured work equal to not less than sixteen (16) times



46 the minimum weekly benefit amount. For benefit years beginning  
47 after July 1, 1982, he or she has, during \* \* \* the base period,  
48 been paid wages for insured work equal to not less than forty (40)  
49 times his or her weekly benefit amount; he or she has been paid  
50 wages for insured work during at least two (2) quarters of \* \* \*  
51 the base period, and he or she has, during that quarter of \* \* \*  
52 the base period in which his or her total wages were highest, been  
53 paid wages for insured work equal to not less than twenty-six (26)  
54 times the minimum weekly benefit amount. For purposes of this  
55 subsection, wages shall be counted as "wages for insured work" for  
56 benefit purposes with respect to any benefit year only if \* \* \*  
57 the benefit year begins \* \* \* after the date on which the  
58 employing unit by which \* \* \* the wages were paid has satisfied  
59 the conditions of Section 71-5-11, subsection H, or Section  
60 71-5-361, subsection (3), with respect to becoming an employer.

61 ( \* \* \*e) No individual may receive benefits in a  
62 benefit year unless, \* \* \* after the beginning of the next  
63 preceding benefit year during which he or she received benefits,  
64 he or she performed service in "employment" as defined in Section  
65 71-5-11, subsection I, and earned remuneration for such service in  
66 an amount equal to not less than eight (8) times his or her weekly  
67 benefit amount applicable to his or her next preceding benefit  
68 year.

69 ( \* \* \*f) Benefits based on service in employment  
70 defined in Section 71-5-11, subsection I(3) and I(4), and Section



71 71-5-361, subsection (4) shall be payable in the same amount, on  
72 the same terms, and subject to the same conditions as compensation  
73 payable on the basis of other service subject to this chapter,  
74 except that benefits based on service in an instructional,  
75 research or principal administrative capacity in an institution of  
76 higher learning (as defined in Section 71-5-11, subsection N) with  
77 respect to service performed \* \* \* before January 1, 1978, shall  
78 not be paid to an individual for any week of unemployment \* \* \*  
79 that begins during the period between two (2) successive academic  
80 years, or during a similar period between two (2) regular terms,  
81 whether or not successive, or during a period of paid sabbatical  
82 leave provided for in the individual's contract, if the individual  
83 has a contract or contracts to perform services in any such  
84 capacity for any institution or institutions of higher learning  
85 for both such academic years or both such terms.

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

91 (i) With respect to service performed in an  
92 instructional, research or principal administrative capacity for  
93 an educational institution, benefits shall not be paid based on  
94 such services for any week of unemployment commencing during the  
95 period between two (2) successive academic years, or during a



96 similar period between two (2) regular but not successive terms,  
97 or during a period of paid sabbatical leave provided for in the  
98 individual's contract, to any individual, if \* \* \* the individual  
99 performs \* \* \* the services in the first of such academic years or  
100 terms and if there is a contract or a reasonable assurance  
101 that \* \* \* the individual will perform services in any such  
102 capacity for any educational institution in the second of such  
103 academic years or terms, and provided that subsection ( \* \* \* f) of  
104 this section shall apply with respect to \* \* \* the services \* \* \*  
105 before January 1, 1978. In no event shall benefits be paid unless  
106 the individual employee was terminated by the employer.

107 (ii) With respect to services performed in any  
108 other capacity for an educational institution, benefits shall not  
109 be paid on the basis of such services to any individual for any  
110 week which commences during a period between two (2) successive  
111 academic years or terms, if \* \* \* the individual performs \* \* \*  
112 the services in the first of such academic years or terms and  
113 there is a reasonable assurance that \* \* \* the individual will  
114 perform \* \* \* the services in the second of such academic years or  
115 terms, except that if compensation is denied to any individual  
116 under this subparagraph and \* \* \* the individual was not offered  
117 an opportunity to perform \* \* \* the services for the educational  
118 institution for the second of such academic years or terms, \* \* \*  
119 the individual shall be entitled to a retroactive payment of  
120 compensation for each week for which the individual filed a timely



121 claim for compensation and for which compensation was denied  
122 solely by reason of this clause. In no event shall benefits be  
123 paid unless the individual employee was terminated by the  
124 employer.

125 (iii) With respect to services described in  
126 subsection ( \* \* \*g) (i) and (ii), benefits shall not be payable on  
127 the basis of services in any such capacities to any individual for  
128 any week \* \* \* that commences during an established and customary  
129 vacation period or holiday recess if \* \* \* the individual  
130 performs \* \* \* the services in the first of such academic years or  
131 terms, or in the period immediately before \* \* \* the vacation  
132 period or holiday recess, and there is a reasonable assurance  
133 that \* \* \* the individual will perform \* \* \* the services in the  
134 period immediately following such vacation period or holiday  
135 recess.

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



146 (v) With respect to services to which Sections  
147 71-5-357 and 71-5-359 apply, if \* \* \* the services are provided to  
148 or on behalf of an educational institution, benefits shall not be  
149 payable under the same circumstances and subject to the same terms  
150 and conditions as described in subsection ( \* \* \* g) (i), (ii),  
151 (iii) and (iv).

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

162 ( \* \* \* i) (i) \* \* \* After December 31, 1977, benefits  
163 shall not be payable on the basis of services performed by an  
164 alien, unless \* \* \* the alien is an individual who was lawfully  
165 admitted for permanent residence at the time \* \* \* the services  
166 were performed, was lawfully present for purposes of  
167 performing \* \* \* the services, or was permanently residing in the  
168 United States under color of law at the time \* \* \* the services  
169 were performed (including an alien who was lawfully present in the  
170 United States as a result of the application of the provisions of



171 Section 203(a) (7) or Section 212(d) (5) of the Immigration and  
172 Nationality Act).

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

177 (iii) In the case of an individual whose  
178 application for benefits would otherwise be approved, no  
179 determination that benefits to \* \* \* the individual are not  
180 payable because of his or her alien status shall be made, except  
181 upon a preponderance of the evidence.

182 ( \* \* \* j) An individual shall be deemed prima facie  
183 unavailable for work, and therefore ineligible to receive  
184 benefits, during any period which, with respect to his or her  
185 employment status, is found by the department to be a holiday or  
186 vacation period.

187 ( \* \* \* k) A temporary employee of a temporary help firm  
188 is considered to have left the employee's last work voluntarily  
189 without good cause connected with the work if the temporary  
190 employee does not contact the temporary help firm for reassignment  
191 on completion of an assignment. A temporary employee is not  
192 considered to have left work voluntarily without good cause  
193 connected with the work under this paragraph unless the temporary  
194 employee has been advised in writing:





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

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

199 **SECTION 2.** Section 71-5-11, Mississippi Code of 1972, is  
200 amended as follows:

201 71-5-11. As used in this chapter, unless the context clearly  
202 requires otherwise:

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

206 B. "Benefit year" with respect to any individual means the  
207 period beginning with the first day of the first week with respect  
208 to which he or she first files a valid claim for benefits, and  
209 ending with the day preceding the same day of the same month in  
210 the next calendar year; and, thereafter, the period beginning with  
211 the first day of the first week with respect to which he or she  
212 next files his or her valid claim for benefits, and ending with  
213 the day preceding the same day of the same month in the next  
214 calendar year. Any claim for benefits made in accordance with  
215 Section 71-5-515 shall be deemed to be a "valid claim" for  
216 purposes of this subsection if the individual has been paid the  
217 wages for insured work required under Section 71-5-511( \* \* \*d).

218 C. "Contributions" means the money payments to the State  
219 Unemployment Compensation Fund required by this chapter.



220 D. "Calendar quarter" means the period of three (3)  
221 consecutive calendar months ending on March 31, June 30, September  
222 30, or December 31.

223 E. "Department" or "commission" means the Mississippi  
224 Department of Employment Security, Office of the Governor.

225 F. "Executive director" means the Executive Director of the  
226 Mississippi Department of Employment Security, Office of the  
227 Governor, appointed under Section 71-5-107.

228 G. "Employing unit" means this state or another state or any  
229 instrumentalities or any political subdivisions thereof or any of  
230 their instrumentalities or any instrumentality of more than one  
231 (1) of the foregoing or any instrumentality of any of the  
232 foregoing and one or more other states or political subdivisions,  
233 any Indian tribe as defined in Section 3306(u) of the Federal  
234 Unemployment Tax Act (FUTA), which includes any subdivision,  
235 subsidiary or business enterprise wholly owned by \* \* \* the Indian  
236 tribe, any individual or type of organization, including any  
237 partnership, association, trust, estate, joint-stock company,  
238 insurance company, or corporation, whether domestic or foreign, or  
239 the receiver, trustee in bankruptcy, trustee or successor thereof,  
240 or the legal representative of a deceased person, which has or had  
241 in its employ one or more individuals performing services for it  
242 within this state. All individuals performing services within  
243 this state for any employing unit which maintains two (2) or more  
244 separate establishments within this state shall be deemed to be



245 employed by a single employing unit for all the purposes of this  
246 chapter. Each individual employed to perform or to assist in  
247 performing the work of any agent or employee of an employing unit  
248 shall be deemed to be employed by \* \* \* the employing unit for all  
249 purposes of this chapter, whether such individual was hired or  
250 paid directly by \* \* \* the employing unit or by such agent or  
251 employee, provided the employing unit had actual or constructive  
252 knowledge of the work. All individuals performing services in the  
253 employ of an elected fee-paid county official, other than those  
254 related by blood or marriage within the third degree computed by  
255 the rule of the civil law to such fee-paid county official, shall  
256 be deemed to be employed by \* \* \* the county as the employing unit  
257 for all the purposes of this chapter. For purposes of defining an  
258 "employing unit" which shall pay contributions on remuneration  
259 paid to individuals, if two (2) or more related corporations  
260 concurrently employ the same individual and compensate \* \* \* the  
261 individual through a common paymaster which is one (1) of \* \* \*  
262 the corporations, then each such corporation shall be considered  
263 to have paid as remuneration to \* \* \* the individual only the  
264 amounts actually disbursed by it to \* \* \* the individual and shall  
265 not be considered to have paid as remuneration to \* \* \* the  
266 individual \* \* \* the amounts actually disbursed to \* \* \* the  
267 individual by another of such corporations.

268 H. "Employer" means:

269 (1) Any employing unit which,



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

274 (b) For some portion of a day in each of twenty  
275 (20) different calendar weeks, whether or not \* \* \* the weeks were  
276 consecutive, in either the current or the preceding calendar year  
277 had in employment at least one (1) individual (irrespective of  
278 whether the same individual was in employment in each such day),  
279 except as provided in paragraph (9) of this subsection;

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

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

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

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

290 (5) Any individual or employing unit \* \* \* that  
291 acquired the organization, trade, business, or substantially all  
292 the assets thereof, of another \* \* \* that at the time of \* \* \* the  
293 acquisition was an employer subject to this chapter;



294           (6) Any individual or employing unit \* \* \* that  
295     acquired its organization, trade, business, or substantially all  
296     the assets thereof, from another employing unit, if the employment  
297     record of the acquiring individual or employing unit \* \* \* after  
298     the acquisition, together with the employment record of the  
299     acquired organization, trade, or business \* \* \* before the  
300     acquisition, both within the same calendar year, would be  
301     sufficient to constitute an employing unit as an employer subject  
302     to this chapter under paragraph (1) or (3) of this subsection;

303           (7) Any employing unit \* \* \* that, having become an  
304     employer under paragraph (1), (3), (5) or (6) of this subsection  
305     or under any other provisions of this chapter, has not, under  
306     Section 71-5-361, ceased to be an employer subject to this  
307     chapter;

308           (8) For the effective period of its election pursuant  
309     to Section 71-5-361(3), any other employing unit \* \* \* that has  
310     elected to become subject to this chapter;

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

316           (b) In determining whether or not an employing  
317     unit for which service other than agricultural labor is also  
318     performed is an employer under paragraph (1) or (4)(b) of this



319 subsection, the wages earned or the employment of an employee  
320 performing services in agricultural labor, shall not be taken into  
321 account. If an employing unit is determined an employer of  
322 agricultural labor, \* \* \* the employing unit shall be determined  
323 an employer for purposes of paragraph (1) of this subsection;

324 (10) All entities \* \* \* using the services of any  
325 employee leasing firm shall be considered the employer of the  
326 individuals leased from the employee leasing firm. Temporary help  
327 firms shall be considered the employer of the individuals they  
328 provide to perform services for other individuals or  
329 organizations.

330 I. "Employment" means and includes:

331 (1) Any service performed, which was employment as  
332 defined in this section and, subject to the other provisions of  
333 this subsection, including service in interstate commerce,  
334 performed for wages or under any contract of hire, written or  
335 oral, express or implied.

336 (2) Services performed for remuneration for a  
337 principal:

338 (a) As an agent-driver or commission-driver  
339 engaged in distributing meat products, vegetable products, fruit  
340 products, bakery products, beverages (other than milk), or laundry  
341 or dry-cleaning services;

342 (b) As a traveling or city \* \* \* salesperson,  
343 other than as an agent-driver or commission-driver, engaged upon a



344 full-time basis in the solicitation on behalf of, and the  
345 transmission to, a principal (except for sideline sales activities  
346 on behalf of some other person) of orders from wholesalers,  
347 retailers, contractors, or operator of hotels, restaurants, or  
348 other similar establishments for merchandise for resale or  
349 supplies for use in their business operations.

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

353                           (i) The contract of service contemplates that  
354 substantially all of the services are to be performed personally  
355 by \* \* \* the individual;

356                           (ii) The individual does not have a  
357 substantial investment in facilities used in connection with the  
358 performance of the services (other than in facilities for  
359 transportation); and

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

363           (3) Service performed in the employ of this state or  
364 any of its instrumentalities or any political subdivision thereof  
365 or any of its instrumentalities or any instrumentality of more  
366 than one (1) of the foregoing or any instrumentality of any of the  
367 foregoing and one or more other states or political subdivisions  
368 or any Indian tribe as defined in Section 3306(u) of the Federal



369 Unemployment Tax Act (FUTA), which includes any subdivision,  
370 subsidiary or business enterprise wholly owned by \* \* \* the Indian  
371 tribe; however, \* \* \* the service is excluded from "employment" as  
372 defined in the Federal Unemployment Tax Act by Section 3306(c)(7)  
373 of that act and is not excluded from "employment" under subsection  
374 I(5) of this section.

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

379 (b) The organization had four (4) or more  
380 individuals in employment for some portion of a day in each of  
381 twenty (20) different weeks, whether or not \* \* \* the weeks were  
382 consecutive, within the current or preceding calendar year,  
383 regardless of whether they were employed at the same moment of  
384 time.

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

388 (a) In the employ of:

389 (i) A church or convention or association of  
390 churches; or

391 (ii) An organization \* \* \* that is operated  
392 primarily for religious purposes and \* \* \* that is operated,





393 supervised, controlled, or principally supported by a church or  
394 convention or association of churches; or

395 (b) By a duly ordained, commissioned, or licensed  
396 minister of a church in the exercise of his or her ministry, or by  
397 a member of a religious order in the exercise of duties required  
398 by \* \* \* the order; or

399 (c) In the employ of a governmental entity  
400 referred to in subsection I(3), if \* \* \* the service is performed  
401 by an individual in the exercise of duties:

402 (i) As an elected official;

403 (ii) As a member of a legislative body, or a  
404 member of the judiciary, of a state or political subdivision or a  
405 member of an Indian tribal council;

406 (iii) As a member of the State National Guard  
407 or Air National Guard;

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

411 (v) In a position \* \* \* that, under or  
412 pursuant to the laws of this state or laws of an Indian tribe, is  
413 designated as:

414 1. A major nontenured policy-making or  
415 advisory position, or





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

443 (ii) For some portion of a day in each of  
444 twenty (20) different calendar weeks, whether or not \* \* \* the  
445 weeks were consecutive, in either the current or the preceding  
446 calendar year, employed in agricultural labor ten (10) or more  
447 individuals, regardless of whether they were employed at the same  
448 moment of time.

449 (b) For the purposes of subsection I(6) any  
450 individual who is a member of a crew furnished by a crew leader to  
451 perform service in agricultural labor for any other person shall  
452 be treated as an employee of \* \* \* the crew leader:

453 (i) If \* \* \* the crew leader holds a valid  
454 certificate of registration under the Farm Labor Contractor  
455 Registration Act of 1963; or substantially all the members  
456 of \* \* \* the crew operate or maintain tractors, mechanized  
457 harvesting or crop dusting equipment, or any other mechanized  
458 equipment, which is provided by \* \* \* the crew leader; and

459 (ii) If \* \* \* the individual is not an  
460 employee of such other person within the meaning of subsection  
461 I(1).

462 (c) For the purpose of subsection I(6), in the  
463 case of any individual who is furnished by a crew leader to  
464 perform service in agricultural labor for any other person and who



465 is not treated as an employee of \* \* \* the crew leader under  
466 paragraph (6)(b) of this subsection:

467 (i) Such other person and not the crew leader  
468 shall be treated as the employer of \* \* \* the individual; and

469 (ii) Such other person shall be treated as  
470 having paid cash remuneration to \* \* \* the individual in an amount  
471 equal to the amount of cash remuneration paid to \* \* \* the  
472 individual by the crew leader (either on his or her own behalf or  
473 on behalf of such other person) for the service in agricultural  
474 labor performed for such other person.

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

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

479 (ii) Pays (either on his or her own behalf or  
480 on behalf of such other person) the individuals so furnished by  
481 him or her for the service in agricultural labor performed by  
482 them; and

483 (iii) Has not entered into a written  
484 agreement with such other person under which \* \* \* the individual  
485 is designated as an employee of such other person.

486 (7) The term "employment" shall include domestic  
487 service in a private home, local college club or local chapter of  
488 a college fraternity or sorority performed for an employing  
489 unit \* \* \* that paid cash remuneration of One Thousand Dollars



490 (\$1,000.00) or more in any calendar quarter in the current or the  
491 preceding calendar year to individuals employed in such domestic  
492 service. For the purpose of this subsection, the term  
493 "employment" does not apply to service performed as a "sitter" at  
494 a hospital in the employ of an individual.

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

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

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

500 (i) The base of operations or, if there is no  
501 base of operations, the place from which \* \* \* the service is  
502 directed or controlled is in this state; or

503 (ii) The base of operations or place from  
504 which \* \* \* the service is directed or controlled is not in any  
505 state in which some part of the service is performed, but the  
506 individual's residence is in this state.

507 (9) Services not covered under paragraph (8) of this  
508 subsection and performed entirely without this state, with respect  
509 to no part of which contributions are required and paid under an  
510 unemployment compensation law of any other state or of the federal  
511 government, shall be deemed to be employment subject to this  
512 chapter if the individual performing \* \* \* the services is a  
513 resident of this state and the department approves the election of  
514 the employing unit for whom \* \* \* the services are performed that



515 the entire service of \* \* \* the individual shall be deemed to be  
516 employment subject to this chapter.

517 (10) Service shall be deemed to be localized within a  
518 state if:

519 (a) The service is performed entirely within \* \* \*  
520 the state; or

521 (b) The service is performed both within and  
522 without \* \* \* the state, but the service performed without \* \* \*  
523 the state is incidental to the individual's service within the  
524 state; for example, is temporary or transitory in nature or  
525 consists of isolated transactions.

526 (11) The services of an individual who is a citizen of  
527 the United States, performed outside the United States (except in  
528 Canada), in the employ of an American employer (other than service  
529 which is deemed "employment" under the provisions of paragraph  
530 (8), (9) or (10) of this subsection or the parallel provisions of  
531 another state's law), if:

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

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

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

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



540 (iii) The employer is a partnership or a  
541 trust and the number of the partners or trustees who are residents  
542 of this state is greater than the number who are residents of any  
543 one (1) other state; or

544 (c) None of the criteria of subparagraphs (a) and  
545 (b) of this paragraph are met but the employer has elected  
546 coverage in this state or, the employer having failed to elect  
547 coverage in any state, the individual has filed a claim for  
548 benefits, based on \* \* \* the service, under the law of this state;  
549 or

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

552 (i) An individual who is a resident of the  
553 United States; or

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

556 (iii) A trust if all of the trustees are  
557 residents of the United States; or

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

560 (12) All services performed by an officer or member of  
561 the crew of an American vessel on or in connection with \* \* \* the  
562 vessel, if the operating office from which the operations of \* \* \*  
563 the vessel operating on navigable waters within, or within and  
564 without, the United States are ordinarily and regularly



565 supervised, managed, directed and controlled, is within this  
566 state, notwithstanding the provisions of subsection I(8).

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

574 (14) Services performed by an individual for wages  
575 shall be deemed to be employment subject to this chapter \* \* \*  
576 until it is shown to the satisfaction of the department that \* \* \*  
577 the individual has been and will continue to be free from control  
578 and direction over the performance of \* \* \* the services both  
579 under his or her contract of service and in fact; and the  
580 relationship of employer and employee shall be determined in  
581 accordance with the principles of the common law governing the  
582 relation of master and servant.

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

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

587 (i) On a farm or in a forest in the employ of  
588 any employing unit in connection with cultivating the soil, in  
589 connection with cutting, planting, deadening, marking or otherwise





590 improving timber, or in connection with raising or harvesting any  
591 agricultural or horticultural commodity, including the raising,  
592 shearing, feeding, caring for, training, and management of  
593 livestock, bees, poultry, fur-bearing animals and wildlife;

594 (ii) In the employ of the owner or tenant or  
595 other operator of a farm, in connection with the operation,  
596 management, conservation, improvement or maintenance of \* \* \* the  
597 farm and its tools and equipment, or in salvaging timber or  
598 clearing land of brush and other debris left by a hurricane, if  
599 the major part of \* \* \* the service is performed on a farm;

600 (iii) In connection with the production or  
601 harvesting of naval stores products or any commodity defined in  
602 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),  
603 or in connection with the raising or harvesting of mushrooms, or  
604 in connection with the ginning of cotton, or in connection with  
605 the operation or maintenance of ditches, canals, reservoirs, or  
606 waterways not owned or operated for profit, used exclusively for  
607 supplying and storing water for farming purposes;

608 (iv) (A) In the employ of the operator of a  
609 farm in handling, planting, drying, packing, packaging,  
610 processing, freezing, grading, storing or delivering to storage or  
611 to market or to a carrier for transportation to market, in its  
612 unmanufactured state, any agricultural or horticultural commodity;  
613 but only if \* \* \* the operator produced more than one-half (1/2)



614 of the commodity with respect to which \* \* \* the service is  
615 performed;

616 (B) In the employ of a group of  
617 operators of farms (or a cooperative organization of which \* \* \*  
618 the operators are members) in the performance of service described  
619 in subitem (A), but only if \* \* \* the operators produced more than  
620 one-half (1/2) of the commodity with respect to which \* \* \* the  
621 service is performed;

622 (C) The provisions of subitems (A) and  
623 (B) shall not be deemed to be applicable with respect to service  
624 performed in connection with commercial canning or commercial  
625 freezing or in connection with any agricultural or horticultural  
626 commodity after its delivery to a terminal market for distribution  
627 for consumption;

628 (v) On a farm operated for profit if \* \* \*  
629 the service is not in the course of the employer's trade or  
630 business;

631 (vi) As used in paragraph (15) (a) of this  
632 subsection, the term "farm" includes stock, dairy, poultry, fruit,  
633 fur-bearing animals, and truck farms, plantations, ranches,  
634 nurseries, ranges, greenhouses, or other similar structures used  
635 primarily for the raising of agricultural or horticultural  
636 commodities, and orchards.

637 (b) Domestic service in a private home, local  
638 college club, or local chapter of a college fraternity or



639 sorority, except as provided in subsection I(7) of this section,  
640 or service performed as a "sitter" at a hospital in the employ of  
641 an individual.

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

644 (d) Service performed by an individual in the  
645 employ of his or her son, daughter, or spouse, and service  
646 performed by a child under the age of twenty-one (21) in the  
647 employ of his or her father or mother.

648 (e) Service performed in the employ of the United  
649 States government or of an instrumentality wholly owned by the  
650 United States; except that if the Congress of the United States  
651 shall permit states to require any instrumentalities of the United  
652 States to make payments into an unemployment fund under a state  
653 unemployment compensation act, then to the extent permitted by  
654 Congress and from and after the date as of which \* \* \* the  
655 permission becomes effective, all of the provisions of this  
656 chapter shall be applicable to \* \* \* the instrumentalities and to  
657 services performed by employees for \* \* \* the instrumentalities in  
658 the same manner, to the same extent, and on the same terms as to  
659 all other employers and employing units. If this state should not  
660 be certified under the Federal Unemployment Tax Act, 26 USCS  
661 Section 3304(c), for any year, then the payment required by \* \* \*  
662 the instrumentality with respect to \* \* \* the year shall be deemed  
663 to have been erroneously collected and shall be refunded by the



664 department from the fund in accordance with the provisions of  
665 Section 71-5-383.

666 (f) Service performed in the employ of an  
667 "employer" as defined by the Railroad Unemployment Insurance Act,  
668 45 USCS Section 351(a), or as an "employee representative" as  
669 defined by the Railroad Unemployment Insurance Act, 45 USCS  
670 Section 351(f), and service with respect to which unemployment  
671 compensation is payable under an unemployment compensation system  
672 for maritime employees, or under any other unemployment  
673 compensation system established by an act of Congress; however,  
674 the department is authorized and directed to enter into agreements  
675 with the proper agencies under such act or acts of Congress, which  
676 agreements shall become effective ten (10) days after publication  
677 thereof in the manner provided in Section 71-5-117 for general  
678 rules, to provide reciprocal treatment to individuals who have,  
679 after acquiring potential rights to benefits under this chapter,  
680 acquired rights to unemployment compensation under such act or  
681 acts of Congress or who have, after acquiring potential rights to  
682 unemployment compensation under such act or acts of Congress,  
683 acquired rights to benefits under this chapter.

684 (g) Service performed in any calendar quarter in  
685 the employ of any organization exempt from income tax under the  
686 Internal Revenue Code, 26 USCS Section 501(a) (other than an  
687 organization described in 26 USCS Section 401(a)), or exempt from



688 income tax under 26 USCS Section 521 if the remuneration for \* \* \*  
689 the service is less than Fifty Dollars (\$50.00).

690 (h) Service performed in the employ of a school,  
691 college, or university if \* \* \* the service is performed:

692 (i) By a student who is enrolled and is  
693 regularly attending classes at \* \* \* the school, college or  
694 university, or

695 (ii) By the spouse of such a student if \* \* \*  
696 the spouse is advised, at the time \* \* \* the spouse commences to  
697 perform \* \* \* the service, that

698 (A) The employment of \* \* \* the spouse  
699 to perform \* \* \* the service is provided under a program to  
700 provide financial assistance to \* \* \* the student by \* \* \* the  
701 school, college, or university, and

702 (B) \* \* \* The employment will not be  
703 covered by any program of unemployment insurance.

704 (i) Service performed by an individual under the  
705 age of twenty-two (22) who is enrolled at a nonprofit or public  
706 educational institution \* \* \* that normally maintains a regular  
707 faculty and curriculum and normally has a regularly organized body  
708 of students in attendance at the place where its educational  
709 activities are carried on, as a student in a full-time program  
710 taken for credit at \* \* \* the institution, which combines academic  
711 instruction with work experience, if \* \* \* the service is an  
712 integral part of \* \* \* the program and \* \* \* the institution has



713 so certified to the employer, except that this subparagraph shall  
714 not apply to service performed in a program established for or on  
715 behalf of an employer or group of employers.

716 (j) Service performed in the employ of a hospital,  
717 if \* \* \* the service is performed by a patient of the hospital, as  
718 defined in subsection M of this section.

719 (k) Service performed as a student nurse in the  
720 employ of a hospital or a nurses' training school by an individual  
721 who is enrolled and is regularly attending classes in a nurses'  
722 training school chartered or approved pursuant to state law; and  
723 services performed as an intern in the employ of a hospital by an  
724 individual who has completed a four-year course in a medical  
725 school chartered or approved pursuant to state law.

726 (l) Service performed by an individual as an  
727 insurance agent or as an insurance solicitor, if all such service  
728 performed by \* \* \* the individual is performed for remuneration  
729 solely by way of commission.

730 (m) Service performed by an individual in the  
731 delivery or distribution of newspapers or shopping news, not  
732 including delivery or distribution to any point for subsequent  
733 delivery or distribution, except those employed by political  
734 subdivisions, state and local governments, nonprofit organizations  
735 and Indian tribes, as defined by this chapter, or any other  
736 entities for which coverage is required by federal statute and  
737 regulation.



738 (n) If the services performed during one-half  
739 (1/2) or more of any pay period by an employee for the employing  
740 unit employing him or her constitute employment, all the services  
741 of \* \* \* the employee for \* \* \* the period shall be deemed to be  
742 employment; but if the services performed during more than  
743 one-half (1/2) of any such pay period by an employee for the  
744 employing unit employing him or her do not constitute employment,  
745 then none of the services of \* \* \* the employee for such period  
746 shall be deemed to be employment. As used in this subsection, the  
747 term "pay period" means a period (of not more than thirty-one (31)  
748 consecutive days) for which a payment of remuneration is  
749 ordinarily made to the employee by the employing unit employing  
750 him or her.

751 (o) Service performed by a barber or beautician  
752 whose work station is leased to him or her by the owner of the  
753 shop in which he or she works and who is compensated directly by  
754 the patrons he or she serves and who is free from direction and  
755 control by the lessor.

756 (p) Service performed by a "direct seller" if:

757 (i) \* \* \* The person is engaged in the trade  
758 or business of selling (or soliciting the sale of) consumer  
759 products to any buyer on a buy-sell basis, a deposit-commission  
760 basis, or any similar basis \* \* \* that the department prescribes  
761 by regulations, for resale (by the buyer or any other person) in  
762 the home or otherwise than in a permanent retail establishment;



763 or \* \* \* the person is engaged in the trade or business of selling  
764 (or soliciting the sale of) consumer products in the home or  
765 otherwise than in a permanent retail establishment;

766 (ii) Substantially all the remuneration  
767 (whether or not paid in cash) for the performance of the services  
768 described in item (i) of this subparagraph is directly related to  
769 sales or other output (including the performance of services)  
770 rather than to the number of hours worked; and

771 (iii) The services performed by the person  
772 are performed pursuant to a written contract between \* \* \* the  
773 person and the person for whom the services are performed  
774 and \* \* \* the contract provides that the person will not be  
775 treated as an employee with respect to \* \* \* the services for  
776 federal tax purposes.

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

780 K. "Public employment service" means the operation of a  
781 program that offers free placement and referral services to  
782 applicants and employers, including job development.

783 L. "Fund" means the Unemployment Compensation Fund  
784 established by this chapter, to which all contributions required  
785 and from which all benefits provided under this chapter shall be  
786 paid.





787 M. "Hospital" means an institution which has been licensed,  
788 certified, or approved by the State Department of Health as a  
789 hospital.

790 N. "Institution of higher learning," for the purposes of  
791 this section, means an educational institution which:

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

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

797 (3) Provides an educational program for which it awards  
798 a bachelor's or higher degree, or provides a program \* \* \* that is  
799 acceptable for full credit toward such a degree, a program of  
800 postgraduate or postdoctoral studies, or a program of training to  
801 prepare students for gainful employment in a recognized  
802 occupation;

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

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

807 O. "Re-employment assistance" means money payments payable  
808 to an individual as provided in this chapter and in accordance  
809 with Section 3304(a)(4) and 3306(h) of the Federal Unemployment  
810 Tax Act and Section 303(a)(5) of the Social Security Act, with  
811 respect to his or her unemployment through no fault of his or her



812 own. Wherever the terms "benefits" or "unemployment benefits"  
813 appear in this chapter, they shall mean re-employment assistance.

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

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

820 (3) The provisions of paragraphs (1) and (2) of  
821 subsection P, as including the Virgin Islands, shall become  
822 effective on the day after the day on which the United States  
823 Secretary of Labor approves for the first time under Section  
824 3304(a) of the Internal Revenue Code of 1954 an unemployment  
825 compensation law submitted to the secretary by the Virgin Islands  
826 for \* \* \* the approval.

827 Q. "Unemployment."

828 (1) An individual shall be deemed "unemployed" in any  
829 week during which he or she performs no services and with respect  
830 to which no wages are payable to him or her, or in any week of  
831 less than full-time work if the wages payable to him or her with  
832 respect to \* \* \* the week are less than his or her weekly benefit  
833 amount as computed and adjusted in Section 71-5-505. The  
834 department shall prescribe regulations applicable to unemployed  
835 individuals, making such distinctions in the procedure as to total  
836 unemployment, part-total unemployment, partial unemployment of



837 individuals attached to their regular jobs, and other forms of  
838 short-time work, as the department deems necessary.

839 (2) An individual's week of total unemployment shall be  
840 deemed to commence only after his or her registration at an  
841 employment office, except as the department may by regulation  
842 otherwise prescribe.

843 R. (1) "Wages" means all remuneration for personal  
844 services, including commissions and bonuses and the cash value of  
845 all remuneration in any medium other than cash, except that  
846 "wages," for purposes of determining employer's coverage and  
847 payment of contributions for agricultural and domestic service  
848 means cash remuneration only. The reasonable cash value of  
849 remuneration in any medium other than cash shall be estimated and  
850 determined in accordance with rules prescribed by the department;  
851 however, that the term "wages" shall not include:

852 (a) The amount of any payment made to, or on  
853 behalf of, an employee under a plan or system established by an  
854 employer \* \* \* that makes provision for his or her employees  
855 generally or for a class or classes of his or her employees  
856 (including any amount paid by an employer for insurance or  
857 annuities, or into a fund, to provide for any such payment), on  
858 account of:

859 (i) Retirement, or

860 (ii) Sickness or accident disability, or



861 (iii) Medical or hospitalization expenses in  
862 connection with sickness or actual disability, or

863 (iv) Death, provided the employee:

864 (A) Has not the option to receive,  
865 instead of provision for \* \* \* the death benefit, any part  
866 of \* \* \* the payment or, if \* \* \* the death benefit is insured,  
867 any part of the premiums (or contributions to premiums) paid by  
868 his or her employer, and

869 (B) Has not the right, under the  
870 provisions of the plan or system or policy of insurance providing  
871 for \* \* \* the death benefit, to assign \* \* \* the benefit or to  
872 receive a cash consideration in lieu of \* \* \* the benefit, either  
873 upon his or her withdrawal from the plan or system providing  
874 for \* \* \* the benefit or upon termination of \* \* \* the plan or  
875 system or policy of insurance or of his or her employment  
876 with \* \* \* the employer;

877 (b) Dismissal payments \* \* \* that the employer is  
878 not legally required to make;

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

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



885 (i) Qualifies under Section 125 of the  
886 Internal Revenue Code;  
887 (ii) Covers only employees;  
888 (iii) Covers only noncash benefits;  
889 (iv) Does not include deferred compensation  
890 plans.

891 (2) [Not enacted].

892 S. "Week" means calendar week or such period of seven (7)  
893 consecutive days as the department may by regulation prescribe.  
894 The department may by regulation prescribe that a week shall be  
895 deemed to be in, within, or during any benefit year \* \* \* that  
896 includes any part of such week.

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

898 U. The term "includes" and "including," when used in a  
899 definition contained in this chapter, shall not be deemed to  
900 exclude other things otherwise within the meaning of the term  
901 defined.

902 V. "Employee leasing arrangement" means any agreement  
903 between an employee leasing firm and a client, whereby specified  
904 client responsibilities such as payment of wages, reporting of  
905 wages for unemployment insurance purposes, payment of unemployment  
906 insurance contributions and other such administrative duties are  
907 to be performed by an employee leasing firm, on an ongoing basis.

908 W. "Employee leasing firm" means any entity \* \* \* that  
909 provides specified duties for a client company such as payment of



910 wages, reporting of wages for unemployment insurance purposes,  
911 payment of unemployment insurance contributions and other  
912 administrative duties, in connection with the client's employees,  
913 that are directed and controlled by the client and that are  
914 providing ongoing services for the client.

915 X. (1) "Temporary help firm" means an entity \* \* \* that  
916 hires its own employees and provides those employees to other  
917 individuals or organizations to perform some service, to support  
918 or supplement the existing workforce in special situations such as  
919 employee absences, temporary skill shortages, seasonal workloads  
920 and special assignments and projects, with the expectation that  
921 the worker's position will be terminated upon the completion of  
922 the specified task or function.

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

925 Y. For the purposes of this chapter, the term "notice" shall  
926 include any official communication, statement or other  
927 correspondence required under the administration of this chapter,  
928 and sent by the department through the United States Postal  
929 Service or electronic or digital transfer, via modem or the  
930 Internet.

931 **SECTION 3.** Section 71-5-13, Mississippi Code of 1972, is  
932 amended as follows:

933 71-5-13. (1) The department is hereby authorized to enter  
934 into arrangements with the appropriate agencies of other states or



935 the federal government, whereby individuals performing services in  
936 this and other states for a single employing unit under  
937 circumstances not specifically provided for in Section 71-5-11,  
938 subsection I, or under similar provisions in the unemployment  
939 compensation laws of such other states, shall be deemed to be  
940 engaged in employment performed entirely within this state or  
941 within one (1) of \* \* \* the other states and whereby potential  
942 rights to benefits accumulated under the unemployment compensation  
943 laws of one or more states or under such a law of the federal  
944 government, or both, may constitute the basis for the payment of  
945 benefits through a single appropriate agency under terms \* \* \*  
946 that the department finds will be fair and reasonable as to all  
947 affected interests and will not result in any substantial loss to  
948 the fund.

949 (2) The department is also authorized to enter into  
950 arrangements with the appropriate agencies of other states or of  
951 the federal government:

952 (a) Whereby wages or services upon the basis of which  
953 an individual may become entitled to benefits under the  
954 unemployment compensation law of another state or of the federal  
955 government shall be deemed to be wages for employment by employers  
956 for the purposes of Sections 71-5-501 through 71-5-507 and Section  
957 71-5-511( \* \* \* d), provided \* \* \* the other state agency or agency  
958 of the federal government has agreed to reimburse the fund  
959 for \* \* \* the portion of benefits paid under this chapter upon the



960 basis of \* \* \* the wages or services as the department finds will  
961 be fair and reasonable as to all affected interests; and

962 (b) Whereby the department will reimburse other state  
963 or federal agencies charged with the administration of  
964 unemployment compensation laws with \* \* \* the reasonable portion  
965 of benefits paid under the law of any such other states or of the  
966 federal government, upon the basis of employment or wages for  
967 employment by employers, as the department finds will be fair and  
968 reasonable as to all affected interests. Reimbursements so  
969 payable shall be deemed to be benefits for the purposes of  
970 Sections 71-5-451 through 71-5-459. The department is hereby  
971 authorized to make to other state or federal agencies, and receive  
972 from such other state or federal agencies, reimbursements from or  
973 to the fund, in accordance with arrangements pursuant to this  
974 section.

975 (3) The department is also authorized, in its discretion, to  
976 enter into or cooperate in arrangements with any federal agency  
977 whereby the facilities and services of the personnel of the  
978 department may be utilized for the taking of claims and the  
979 payment of unemployment compensation or allowances under any  
980 federal law enacted for the benefit of discharged members of the  
981 Armed Forces.

982 (4) The department shall participate in any arrangements for  
983 the payment of compensation on the basis of combining an  
984 individual's wages and employment covered under this chapter with





985 his or her wages and employment covered under the unemployment  
986 compensation laws of other states \* \* \* that are approved by the  
987 United States Secretary of Labor in consultation with the state  
988 unemployment compensation agencies as reasonably calculated to  
989 assure the prompt and full payment of compensation in such  
990 situations and which include provisions for:

991 (a) Applying the base period of a single state law to a  
992 claim involving the combining of an individual's wages and  
993 employment covered under two (2) or more state unemployment  
994 compensation laws; and

995 (b) Avoiding the duplicate use of wages and employment  
996 by reason of such combining.

997 **SECTION 4.** Section 71-5-355, Mississippi Code of 1972, is  
998 amended as follows:

999 71-5-355. (1) As used in this section, the following words  
1000 and phrases shall have the following meanings, unless the context  
1001 clearly requires otherwise:

1002 (a) "Tax year" means any period beginning on January 1  
1003 and ending on December 31 of a year.

1004 (b) "Computation date" means June 30 of any calendar  
1005 year immediately preceding the tax year during which the  
1006 particular contribution rates are effective.

1007 (c) "Effective date" means January 1 of the tax year.

1008 (d) Except as hereinafter provided, "payroll" means the  
1009 total of all wages paid for employment by an employer as defined



1010 in Section 71-5-11, subsection H, plus the total of all  
1011 remuneration paid by such employer excluded from the definition of  
1012 wages by Section 71-5-351. For the computation of modified rates,  
1013 "payroll" means the total of all wages paid for employment by an  
1014 employer as defined in Section 71-5-11, subsection H.

1015 (e) For the computation of modified rates, "eligible  
1016 employer" means an employer whose experience-rating record has  
1017 been chargeable with benefits throughout the thirty-six (36)  
1018 consecutive calendar-month period ending on the computation date,  
1019 except that any employer who has not been subject to the  
1020 Mississippi Employment Security Law for a period of time  
1021 sufficient to meet the thirty-six (36) consecutive calendar-month  
1022 requirement shall be an eligible employer if his or her  
1023 experience-rating record has been chargeable throughout not less  
1024 than the twelve (12) consecutive calendar-month period ending on  
1025 the computation date. No employer shall be considered eligible  
1026 for a contribution rate less than five and four-tenths percent  
1027 (5.4%) with respect to any tax year, who has failed to file any  
1028 two (2) quarterly reports within the qualifying period by  
1029 September 30 following the computation date. No employer or  
1030 employing unit shall be eligible for a contribution rate of less  
1031 than five and four-tenths percent (5.4%) for the tax year in which  
1032 the employing unit is found by the department to be in violation  
1033 of Section 71-5-19(2) or (3) and for the next two (2) succeeding  
1034 tax years. No representative of such employing unit who was a



1035 party to a violation as described in Section 71-5-19(2) or (3), if  
1036 such representative was or is an employing unit in this state,  
1037 shall be eligible for a contribution rate of less than five and  
1038 four-tenths percent (5.4%) for the tax year in which \* \* \* the  
1039 violation was detected by the department and for the next two (2)  
1040 succeeding tax years.

1041 (f) With respect to any tax year, "reserve ratio" means  
1042 the ratio \* \* \* that the total amount available for the payment of  
1043 benefits in the Unemployment Compensation Fund, excluding any  
1044 amount \* \* \* that has been credited to the account of this state  
1045 under Section 903 of the Social Security Act, as amended,  
1046 and \* \* \* that has been appropriated for the expenses of  
1047 administration pursuant to Section 71-5-457 whether or not  
1048 withdrawn from \* \* \* the account, on October 31 (close of  
1049 business) of each calendar year bears to the aggregate of the  
1050 taxable payrolls of all employers for the twelve (12) calendar  
1051 months ending on June 30 next preceding.

1052 (g) "Modified rates" means the rates of employer  
1053 unemployment insurance contributions determined under the  
1054 provisions of this chapter and the rates of newly subject  
1055 employers, as provided in Section 71-5-353.

1056 (h) For the computation of modified rates, "qualifying  
1057 period" means a period of not less than the thirty-six (36)  
1058 consecutive calendar months ending on the computation date  
1059 throughout which an employer's experience-rating record has been



1060 chargeable with benefits; except that with respect to any eligible  
1061 employer who has not been subject to this article for a period of  
1062 time sufficient to meet the thirty-six (36) consecutive  
1063 calendar-month requirement, "qualifying period" means the period  
1064 ending on the computation date throughout which his or her  
1065 experience-rating record has been chargeable with benefits, but in  
1066 no event less than the twelve (12) consecutive calendar-month  
1067 period ending on the computation date throughout which his or her  
1068 experience-rating record has been so chargeable.

1069 (i) The "exposure criterion" (EC) is defined as the  
1070 cash balance of the Unemployment Compensation Fund \* \* \* that is  
1071 available for the payment of benefits as of November 16 of each  
1072 calendar year or the next working day if November 16 falls on a  
1073 holiday or a weekend, divided by the total wages, exclusive of  
1074 wages paid by all state agencies, all political subdivisions,  
1075 reimbursable nonprofit corporations, and tax-exempt public service  
1076 employment, for the twelve-month period ending June 30 immediately  
1077 preceding such date. The EC shall be computed to four (4) decimal  
1078 places and rounded up if any fraction remains.

1079 (j) The "cost rate criterion" (CRC) is defined as  
1080 follows: Beginning with January 1974, the benefits paid for the  
1081 twelve-month period ending December 1974 are summed and divided by  
1082 the total wages for the twelve-month period ending on June 30,  
1083 1975. Similar ratios are computed by subtracting the earliest  
1084 month's benefit payments and adding the benefits of the next month



1085 in the sequence and dividing each sum of twelve (12) months'  
1086 benefits by the total wages for the twelve-month period ending on  
1087 the June 30 which is nearest to the final month of the period used  
1088 to compute the numerator. If December is the final month of the  
1089 period used to compute the numerator, then the twelve-month period  
1090 ending the following June 30 will be used for the denominator.  
1091 Benefits and total wages used in the computation of the cost rate  
1092 criterion shall exclude all benefits and total wages applicable to  
1093 state agencies, political subdivisions, reimbursable nonprofit  
1094 corporations, and tax-exempt PSE employment.

1095 The CRC shall be computed as the average for the highest  
1096 monthly value of the cost rate criterion computations during each  
1097 of the economic cycles since the calendar year 1974 as defined by  
1098 the National Bureau of Economic Research. The CRC shall be  
1099 computed to four (4) decimal places and any remainder shall be  
1100 rounded up.

1101 The CRC shall be adjusted only through annual computations  
1102 and additions of future economic cycles.

1103 (k) "Size of fund index" (SOFI) is defined as the ratio  
1104 of the exposure criterion (EC) to the cost rate criterion (CRC).  
1105 The target size of fund index will be fixed at 1.0. If the  
1106 insured unemployment rate (IUR) exceeds a four and five-tenths  
1107 percent (4.5%) average for the most recent completed July to June  
1108 period, the target SOFI will be .8 and will remain at that level  
1109 until the computed SOFI (the average exposure criterion of the



1110 current year and the preceding year divided by the average cost  
1111 rate criterion) equals 1.0 or the average IUR falls to four and  
1112 five-tenths percent (4.5%) or less for any period July to June.  
1113 However, if the IUR falls below two and five-tenths percent (2.5%)  
1114 for any period July to June the target SOFI shall be 1.2 until  
1115 such time as the computed SOFI is equal to or greater than 1.0 or  
1116 the IUR is equal to or greater than two and five-tenths percent  
1117 (2.5%), at which point the target SOFI shall return to 1.0.

1118 (1) No employer's unemployment contribution general  
1119 experience rate plus individual unemployment experience rate shall  
1120 exceed five and four-tenths percent (5.4%). Accrual rules shall  
1121 apply for purposes of computing contribution rates including  
1122 associated functions.

1123 (m) The term "general experience rate" has the same  
1124 meaning as the minimum tax rate.

1125 (2) Modified rates:

1126 (a) For any tax year, when the reserve ratio on the  
1127 preceding November 16, in the case of any tax year, equals or  
1128 exceeds three percent (3%), the modified rates, as hereinafter  
1129 prescribed, shall be in effect. In computation of this reserve  
1130 ratio, any remainder shall be rounded down.

1131 (b) Modified rates shall be determined for the tax year  
1132 for each eligible employer on the basis of his experience-rating  
1133 record in the following manner:



1134 (i) The department shall maintain an  
1135 experience-rating record for each employer. Nothing in this  
1136 chapter shall be construed to grant any employer or individuals  
1137 performing services for him any prior claim or rights to the  
1138 amounts paid by the employer into the fund.

1139 (ii) Benefits paid to an eligible individual shall  
1140 be charged against the experience-rating record of his base period  
1141 employers in the proportion to which the wages paid by each base  
1142 period employer bears to the total wages paid to the individual by  
1143 all the base period employers, provided that benefits shall not be  
1144 charged to an employer's experience-rating record if the  
1145 department finds that the individual:

1146 1. Voluntarily left the employ of such  
1147 employer without good cause attributable to the employer or to  
1148 accept other work;

1149 2. Was discharged by such employer for  
1150 misconduct connected with his work;

1151 3. Refused an offer of suitable work by such  
1152 employer without good cause, and the department further finds that  
1153 such benefits are based on wages for employment for such employer  
1154 prior to such voluntary leaving, discharge or refusal of suitable  
1155 work, as the case may be;

1156 4. Had base period wages which included wages  
1157 for previously uncovered services as defined in Section  
1158 71-5-511( \* \* \*d) to the extent that the Unemployment Compensation



1159 Fund is reimbursed for such benefits pursuant to Section 121 of  
1160 Public Law 94-566;

1161                   5. Extended benefits paid under the  
1162 provisions of Section 71-5-541 which are not reimbursable from  
1163 federal funds shall be charged to the experience-rating record of  
1164 base period employers;

1165                   6. Is still working for such employer on a  
1166 regular part-time basis under the same employment conditions as  
1167 hired. Provided, however, that benefits shall be charged against  
1168 an employer if an eligible individual is paid benefits who is  
1169 still working for such employer on a part-time "as-needed" basis;

1170                   7. Was hired to replace a United States  
1171 serviceman or servicewoman called into active duty and was laid  
1172 off upon the return to work by that serviceman or servicewoman,  
1173 unless such employer is a state agency or other political  
1174 subdivision or instrumentality of the state;

1175                   8. Was paid benefits during any week while in  
1176 training with the approval of the department, under the provisions  
1177 of Section 71-5-513B, or for any week while in training approved  
1178 under Section 236(a) (1) of the Trade Act of 1974, under the  
1179 provisions of Section 71-5-513C; or

1180       \* \* \*

1181                   \* \* \*9. Was paid benefits as a result of a  
1182 fraudulent claim, provided notification was made to the  
1183 Mississippi Department of Employment Security in writing or by





1184 e-mail by the employer, within ten (10) days of the mailing of the  
1185 notice of claim filed to the employer's last-known address.

1186 (iii) Notwithstanding any other provision  
1187 contained herein, an employer shall not be noncharged when the  
1188 department finds that the employer or the employer's agent of  
1189 record was at fault for failing to respond timely or adequately to  
1190 the request of the department for information relating to an  
1191 unemployment claim that was subsequently determined to be  
1192 improperly paid, unless the employer or the employer's agent of  
1193 record shows good cause for having failed to respond timely or  
1194 adequately to the request of the department for information. For  
1195 purposes of this subparagraph "good cause" means an event that  
1196 prevents the employer or employer's agent of record from timely  
1197 responding, and includes a natural disaster, emergency or similar  
1198 event, or an illness on the part of the employer, the employer's  
1199 agent of record, or their staff charged with responding to such  
1200 inquiries when there is no other individual who has the knowledge  
1201 or ability to respond. Any agency error that resulted in a delay  
1202 in, or the failure to deliver notice to, the employer or the  
1203 employer's agent of record shall also be considered good cause for  
1204 purposes of this subparagraph.

1205 (iv) The department shall compute a benefit ratio  
1206 for each eligible employer, which shall be the quotient obtained  
1207 by dividing the total benefits charged to his experience-rating  
1208 record during the period his experience-rating record has been



1209 chargeable, but not less than the twelve (12) consecutive  
1210 calendar-month period nor more than the thirty-six (36)  
1211 consecutive calendar-month period ending on the computation date,  
1212 by his total taxable payroll for the same period on which all  
1213 unemployment insurance contributions due have been paid on or  
1214 before the September 30 immediately following the computation  
1215 date. Such benefit ratio shall be computed to the tenth of a  
1216 percent (.1%), rounding any remainder to the next higher tenth.

1217 (v) 1. The unemployment insurance contribution  
1218 rate for each eligible employer shall be the sum of two (2) rates:  
1219 his individual experience rate in the range from zero percent (0%)  
1220 to five and four-tenths percent (5.4%), plus a general experience  
1221 rate. In no event shall the resulting unemployment insurance rate  
1222 be in excess of five and four-tenths percent (5.4%), however, it  
1223 is the intent of this section to provide the ability for employers  
1224 to have a tax rate, the general experience rate plus the  
1225 individual experience rate, of up to five and four-tenths percent  
1226 (5.4%).

1227 2. The employer's individual experience rate  
1228 shall be equal to his benefit ratio as computed under subsection  
1229 (2) (b) (iv) above.

1230 3. The general experience rate shall be  
1231 determined in the following manner: The department shall  
1232 determine annually, for the thirty-six (36) consecutive  
1233 calendar-month period ending on the computation date, the amount



1234 of benefits which were not charged to the record of any employer  
1235 and of benefits which were ineffectively charged to the employer's  
1236 experience-rating record. For the purposes of this item 3, the  
1237 term "ineffectively charged benefits" shall include:

1238           a. The total of the amounts of benefits  
1239 charged to the experience-rating records of all eligible employers  
1240 which caused their benefit ratios to exceed five and four-tenths  
1241 percent (5.4%);

1242           b. The total of the amounts of benefits  
1243 charged to the experience-rating records of all ineligible  
1244 employers which would cause their benefit ratios to exceed five  
1245 and four-tenths percent (5.4%) if they were eligible employers;  
1246 and

1247           c. The total of the amounts of benefits  
1248 charged or chargeable to the experience-rating record of any  
1249 employer who has discontinued his business or whose coverage has  
1250 been terminated within such period; provided, that solely for the  
1251 purposes of determining the amounts of ineffectively charged  
1252 benefits as herein defined, a "benefit ratio" shall be computed  
1253 for each ineligible employer, which shall be the quotient obtained  
1254 by dividing the total benefits charged to his experience-rating  
1255 record throughout the period ending on the computation date,  
1256 during which his experience-rating record has been chargeable with  
1257 benefits, by his total taxable payroll for the same period on  
1258 which all unemployment insurance contributions due have been paid



1259 on or before the September 30 immediately following the  
1260 computation date; and provided further, that such benefit ratio  
1261 shall be computed to the tenth of one percent (.1%) and any  
1262 remainder shall be rounded to the next higher tenth.

1263 The ratio of the sum of these amounts (subsection  
1264 (2)(b)(v)3a, b and c) to the taxable wages paid during the same  
1265 period divided by all eligible employers whose benefit ratio did  
1266 not exceed five and four-tenths percent (5.4%), computed to the  
1267 next higher tenth of one percent (.1%), shall be the general  
1268 experience rate; however, the general experience rate for rate  
1269 year 2014 shall be two tenths of one percent (.2%) and to that  
1270 will be added the employer's individual experience rate for the  
1271 total unemployment insurance rate.

1272 4. a. Except as otherwise provided in this  
1273 item 4, the general experience rate shall be adjusted by use of  
1274 the size of fund index factor. This factor may be positive or  
1275 negative, and shall be determined as follows: From the target  
1276 SOFI, as defined in subsection (1)(k) of this section, subtract  
1277 the simple average of the current and preceding years' exposure  
1278 criteria divided by the cost rate criterion, as defined in  
1279 subsection (1)(j) of this section. The result is then multiplied  
1280 by the product of the CRC, as defined in subsection (1)(j) of this  
1281 section, and total wages for the twelve-month period ending June  
1282 30 divided by the taxable wages for the twelve-month period ending  
1283 June 30. This is the percentage positive or negative added to the



1284 general experience rate. The sum of the general experience rate  
1285 and the trust fund adjustment factor shall be multiplied by fifty  
1286 percent (50%) and this product shall be computed to one (1)  
1287 decimal place, and rounded to the next higher tenth.

1288                   b. Notwithstanding the minimum rate  
1289 provisions as set forth in subsection (1)(1) of this section, the  
1290 general experience rate of all employers shall be reduced by seven  
1291 one hundredths of one percent (.07%) for calendar year 2013 only.

1292                   5. The general experience rate shall be zero  
1293 percent (0%) unless the general experience ratio for any tax year  
1294 as computed and adjusted on the basis of the trust fund adjustment  
1295 factor and reduced by fifty percent (50%) is an amount equal to or  
1296 greater than two-tenths of one percent (.2%), then the general  
1297 experience rate shall be the computed general experience ratio and  
1298 adjusted on the basis of the trust fund adjustment factor and  
1299 reduced by fifty percent (50%); however, in no case shall the sum  
1300 of the general experience plus the individual experience  
1301 unemployment insurance rate exceed five and four-tenths percent  
1302 (5.4%). For rate years subsequent to 2014, Mississippi Workforce  
1303 Enhancement Training contribution rate, and/or State Workforce  
1304 Investment contribution rate, and/or Mississippi Works  
1305 contribution rate, when in effect, shall be added to the  
1306 unemployment contribution rate, regardless of whether the addition  
1307 of this contribution rate causes the total contribution rate for  
1308 the employer to exceed five and four-tenths percent (5.4%).



1309                   6. The department shall include in its annual  
1310 rate notice to employers a brief explanation of the elements of  
1311 the general experience rate, and shall include in its regular  
1312 publications an annual analysis of benefits not charged to the  
1313 record of any employer, and of the benefit experience of employers  
1314 by industry group whose benefit ratio exceeds four percent (4%),  
1315 and of any other factors which may affect the size of the general  
1316 experience rate.

1317                   (vi) When any employing unit in any manner  
1318 succeeds to or acquires the organization, trade, business or  
1319 substantially all the assets thereof of an employer, excepting any  
1320 assets retained by such employer incident to the liquidation of  
1321 his obligations, whether or not such acquiring employing unit was  
1322 an employer within the meaning of Section 71-5-11, subsection H,  
1323 prior to such acquisition, and continues such organization, trade  
1324 or business, the experience-rating and payroll records of the  
1325 predecessor employer shall be transferred as of the date of  
1326 acquisition to the successor employer for the purpose of rate  
1327 determination.

1328                   (vii) When any employing unit succeeds to or  
1329 acquires a distinct and severable portion of an organization,  
1330 trade or business, the experience-rating and payroll records of  
1331 such portion, if separately identifiable, shall be transferred to  
1332 the successor upon:



- 1333                   1. The mutual consent of the predecessor and  
1334 the successor;
- 1335                   2. Approval of the department;
- 1336                   3. Continued operation of the transferred  
1337 portion by the successor after transfer; and
- 1338                   4. The execution and the filing with the  
1339 department by the predecessor employer of a waiver relinquishing  
1340 all rights to have the experience-rating and payroll records of  
1341 the transferred portion used for the purpose of determining  
1342 modified rates of contribution for such predecessor.

1343                   (viii) If the successor was an employer subject to  
1344 this chapter prior to the date of acquisition, it shall continue  
1345 to pay unemployment insurance contributions at the rate applicable  
1346 to it from the date the acquisition occurred until the end of the  
1347 then current tax year. If the successor was not an employer prior  
1348 to the date of acquisition, it shall pay unemployment insurance  
1349 contributions at the rate applicable to the predecessor or, if  
1350 more than one (1) predecessor and the same rate is applicable to  
1351 both, the rate applicable to the predecessor or predecessors, from  
1352 the date the acquisition occurred until the end of the then  
1353 current tax year. If the successor was not an employer prior to  
1354 the date the acquisition occurred and simultaneously acquires the  
1355 businesses of two (2) or more employers to whom different rates of  
1356 unemployment insurance contributions are applicable, it shall pay  
1357 unemployment insurance contributions from the date of the



1358 acquisition until the end of the current tax year at a rate  
1359 computed on the basis of the combined experience-rating and  
1360 payroll records of the predecessors as of the computation date for  
1361 such tax year. In all cases the rate of unemployment insurance  
1362 contributions applicable to such successor for each succeeding tax  
1363 year shall be computed on the basis of the combined  
1364 experience-rating and payroll records of the successor and the  
1365 predecessor or predecessors.

1366 (ix) The department shall notify each employer  
1367 quarterly of the benefits paid and charged to his  
1368 experience-rating record; and such notification, in the absence of  
1369 an application for redetermination filed within thirty (30) days  
1370 after the date of such notice, shall be final, conclusive and  
1371 binding upon the employer for all purposes. A redetermination,  
1372 made after notice and opportunity for a fair hearing, by a hearing  
1373 officer designated by the department who shall consider and decide  
1374 these and related applications and protests; and the finding of  
1375 fact in connection therewith may be introduced into any subsequent  
1376 administrative or judicial proceedings involving the determination  
1377 of the rate of unemployment insurance contributions of any  
1378 employer for any tax year, and shall be entitled to the same  
1379 finality as is provided in this subsection with respect to the  
1380 findings of fact in proceedings to redetermine the contribution  
1381 rate of an employer.





1382                   (x) The department shall notify each employer of  
1383 his rate of contribution as determined for any tax year as soon as  
1384 reasonably possible after September 1 of the preceding year. Such  
1385 determination shall be final, conclusive and binding upon such  
1386 employer unless, within thirty (30) days after the date of such  
1387 notice to his last-known address, the employer files with the  
1388 department an application for review and redetermination of his  
1389 contribution rate, setting forth his reasons therefor. If the  
1390 department grants such review, the employer shall be promptly  
1391 notified thereof and shall be afforded an opportunity for a fair  
1392 hearing by a hearing officer designated by the department who  
1393 shall consider and decide these and related applications and  
1394 protests; but no employer shall be allowed, in any proceeding  
1395 involving his rate of unemployment insurance contributions or  
1396 contribution liability, to contest the chargeability to his  
1397 account of any benefits paid in accordance with a determination,  
1398 redetermination or decision pursuant to Sections 71-5-515 through  
1399 71-5-533 except upon the ground that the services on the basis of  
1400 which such benefits were found to be chargeable did not constitute  
1401 services performed in employment for him, and then only in the  
1402 event that he was not a party to such determination,  
1403 redetermination, decision or to any other proceedings provided in  
1404 this chapter in which the character of such services was  
1405 determined. The employer shall be promptly notified of the denial  
1406 of this application or of the redetermination, both of which shall



1407 become final unless, within ten (10) days after the date of notice  
1408 thereof, there shall be an appeal to the department itself. Any  
1409 such appeal shall be on the record before said designated hearing  
1410 officer, and the decision of said department shall become final  
1411 unless, within thirty (30) days after the date of notice thereof  
1412 to the employer's last-known address, there shall be an appeal to  
1413 the Circuit Court of the First Judicial District of Hinds County,  
1414 Mississippi, in accordance with the provisions of law with respect  
1415 to review of civil causes by certiorari.

1416 (3) Notwithstanding any other provision of law, the  
1417 following shall apply regarding assignment of rates and transfers  
1418 of experience:

1419 (a) (i) If an employer transfers its trade or  
1420 business, or a portion thereof, to another employer and, at the  
1421 time of the transfer, there is substantially common ownership,  
1422 management or control of the two (2) employers, then the  
1423 unemployment experience attributable to the transferred trade or  
1424 business shall be transferred to the employer to whom such  
1425 business is so transferred. The rates of both employers shall be  
1426 recalculated and made effective on January 1 of the year following  
1427 the year the transfer occurred.

1428 (ii) If, following a transfer of experience under  
1429 subparagraph (i) of this paragraph (a), the department determines  
1430 that a substantial purpose of the transfer of trade or business  
1431 was to obtain a reduced liability of unemployment insurance



1432 contributions, then the experience-rating accounts of the  
1433 employers involved shall be combined into a single account and a  
1434 single rate assigned to such account.

1435           (b) Whenever a person who is not an employer or an  
1436 employing unit under this chapter at the time it acquires the  
1437 trade or business of an employer, the unemployment experience of  
1438 the acquired business shall not be transferred to such person if  
1439 the department finds that such person acquired the business solely  
1440 or primarily for the purpose of obtaining a lower rate of  
1441 unemployment insurance contributions. Instead, such person shall  
1442 be assigned the new employer rate under Section 71-5-353. In  
1443 determining whether the business was acquired solely or primarily  
1444 for the purpose of obtaining a lower rate of unemployment  
1445 insurance contributions, the department shall use objective  
1446 factors which may include the cost of acquiring the business,  
1447 whether the person continued the business enterprise of the  
1448 acquired business, how long such business enterprise was  
1449 continued, or whether a substantial number of new employees were  
1450 hired for performance of duties unrelated to the business activity  
1451 conducted prior to acquisition.

1452           (c) (i) If a person knowingly violates or attempts to  
1453 violate paragraph (a) or (b) of this subsection or any other  
1454 provision of this chapter related to determining the assignment of  
1455 a contribution rate, or if a person knowingly advises another



1456 person in a way that results in a violation of such provision, the  
1457 person shall be subject to the following penalties:

1458           1. If the person is an employer, then such  
1459 employer shall be assigned the highest rate assignable under this  
1460 chapter for the rate year during which such violation or attempted  
1461 violation occurred and the three (3) rate years immediately  
1462 following this rate year. However, if the person's business is  
1463 already at such highest rate for any year, or if the amount of  
1464 increase in the person's rate would be less than two percent (2%)  
1465 for such year, then a penalty rate of unemployment insurance  
1466 contributions of two percent (2%) of taxable wages shall be  
1467 imposed for such year. The penalty rate will apply to the  
1468 successor business as well as the related entity from which the  
1469 employees were transferred in an effort to obtain a lower rate of  
1470 unemployment insurance contributions.

1471           2. If the person is not an employer, such  
1472 person shall be subject to a civil money penalty of not more than  
1473 Five Thousand Dollars (\$5,000.00). Each such transaction for  
1474 which advice was given and each occurrence or reoccurrence after  
1475 notification being given by the department shall be a separate  
1476 offense and punishable by a separate penalty. Any such fine shall  
1477 be deposited in the penalty and interest account established under  
1478 Section 71-5-114.

1479           (ii) For purposes of this paragraph (c), the term  
1480 "knowingly" means having actual knowledge of or acting with



1481 deliberate ignorance or reckless disregard for the prohibition  
1482 involved.

1483 (iii) For purposes of this paragraph (c), the term  
1484 "violates or attempts to violate" includes, but is not limited to,  
1485 intent to evade, misrepresentation or willful nondisclosure.

1486 (iv) In addition to the penalty imposed by  
1487 subparagraph (i) of this paragraph (c), any violation of this  
1488 subsection may be punishable by a fine of not more than Ten  
1489 Thousand Dollars (\$10,000.00) or by imprisonment for not more than  
1490 five (5) years, or by both such fine and imprisonment. This  
1491 subsection shall prohibit prosecution under any other criminal  
1492 statute of this state.

1493 (d) The department shall establish procedures to  
1494 identify the transfer or acquisition of a business for purposes of  
1495 this subsection.

1496 (e) For purposes of this subsection:

1497 (i) "Person" has the meaning given such term by  
1498 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

1499 (ii) "Employing unit" has the meaning as set forth  
1500 in Section 71-5-11.

1501 (f) This subsection shall be interpreted and applied in  
1502 such a manner as to meet the minimum requirements contained in any  
1503 guidance or regulations issued by the United States Department of  
1504 Labor.



1505           **SECTION 5.** Section 71-5-357, Mississippi Code of 1972, is  
1506 amended as follows:

1507           71-5-357. Benefits paid to employees of nonprofit  
1508 organizations shall be financed in accordance with the provisions  
1509 of this section. For the purpose of this section, a nonprofit  
1510 organization is an organization (or group of organizations)  
1511 described in Section 501(c)(3) of the Internal Revenue Code of  
1512 1954 \* \* \* that is exempt from income tax under Section 501(a) of  
1513 such code (26 USCS Section 501).

1514           (a) Any nonprofit organization which, under Section  
1515 71-5-11, subsection H(3), is or becomes subject to this chapter  
1516 shall pay contributions under the provisions of Sections 71-5-351  
1517 through 71-5-355 unless it elects, in accordance with this  
1518 paragraph, to pay to the department for the unemployment fund an  
1519 amount equal to the amount of regular benefits and one-half (1/2)  
1520 of the extended benefits paid, that is attributable to service in  
1521 the employ of such nonprofit organization, to individuals for  
1522 weeks of unemployment \* \* \* that begin during the effective period  
1523 of such election.

1524           (i) Any nonprofit organization which becomes  
1525 subject to this chapter may elect to become liable for payments in  
1526 lieu of contributions for a period of not less than twelve (12)  
1527 months, beginning with the date on which such subjectivity begins,  
1528 by filing a written notice of its election with the department not



1529 later than thirty (30) days immediately following the date of the  
1530 determination of such subjectivity.

1531 (ii) Any nonprofit organization which makes an  
1532 election in accordance with subparagraph (i) of this paragraph  
1533 will continue to be liable for payments in lieu of contributions  
1534 unless it files with the department a written termination notice  
1535 not later than thirty (30) days \* \* \* before the beginning of the  
1536 tax year for which such termination shall first be effective.

1537 (iii) Any nonprofit organization \* \* \* that has  
1538 been paying contributions under this chapter may change to a  
1539 reimbursable basis by filing with the department, not later than  
1540 thirty (30) days \* \* \* before the beginning of any tax year, a  
1541 written notice of election to become liable for payments in lieu  
1542 of contributions. Such election shall not be terminable by the  
1543 organization for that and the next tax year.

1544 (iv) The department may for good cause extend the  
1545 period within which a notice of election or a notice of  
1546 termination must be filed, and may permit an election to be  
1547 retroactive.

1548 (v) The department, in accordance with such  
1549 regulations as it may prescribe, shall notify each nonprofit  
1550 organization of any determination which it may make of its status  
1551 as an employer, of the effective date of any election which it  
1552 makes and of any termination of such election. \* \* \* The  
1553 determinations shall be subject to reconsideration, appeal and



1554 review in accordance with the provisions of Sections 71-5-351  
1555 through 71-5-355.

1556 (b) Payments in lieu of contributions shall be made in  
1557 accordance with the provisions of subparagraph (i) of this  
1558 paragraph.

1559 (i) At the end of each calendar quarter, or at the  
1560 end of any other period as determined by the department, the  
1561 department shall bill each nonprofit organization (or group of  
1562 such organizations) which has elected to make payments in lieu of  
1563 contributions, for an amount equal to the full amount of regular  
1564 benefits plus one-half (1/2) of the amount of extended benefits  
1565 paid during such quarter or other prescribed period that is  
1566 attributable to service in the employ of such organization.

1567 (ii) Payment of any bill rendered under  
1568 subparagraph (i) of this paragraph shall be made not later than  
1569 forty-five (45) days after such bill was delivered to the  
1570 nonprofit organization, unless there has been an application for  
1571 review and redetermination in accordance with subparagraph (v) of  
1572 this paragraph.

1573 1. All of the enforcement procedures for the  
1574 collection of delinquent contributions contained in Sections  
1575 71-5-363 through 71-5-383 shall be applicable in all respects for  
1576 the collection of delinquent payments due by nonprofit  
1577 organizations who have elected to become liable for payments in  
1578 lieu of contributions.





1579                                   2. If any nonprofit organization is  
1580 delinquent in making payments in lieu of contributions, the  
1581 department may terminate \* \* \* the organization's election to make  
1582 payments in lieu of contributions as of the beginning of the next  
1583 tax year, and such termination shall be effective for the balance  
1584 of \* \* \* the tax year.

1585                                   (iii) Payments made by any nonprofit organization  
1586 under the provisions of this paragraph shall not be deducted or  
1587 deductible, in whole or in part, from the remuneration of  
1588 individuals in the employ of the organization.

1589                                   (iv) Payments due by employers who elect to  
1590 reimburse the fund in lieu of contributions as provided in this  
1591 paragraph may not be noncharged under any condition. The  
1592 reimbursement must be on a dollar-for-dollar basis (One Dollar  
1593 (\$1.00) reimbursement for each dollar paid in benefits) in every  
1594 case, so that the trust fund shall be reimbursed in full, such  
1595 reimbursement to include, but not be limited to, benefits or  
1596 payments erroneously or incorrectly paid, or paid as a result of a  
1597 determination of eligibility \* \* \* that is subsequently reversed,  
1598 or paid as a result of claimant fraud. However, political  
1599 subdivisions who are reimbursing employers may elect to pay to the  
1600 fund an amount equal to five-tenths percent (.5%) through December  
1601 31, 2010, and shall pay twenty-five one-hundredths percent (.25%)  
1602 thereafter of the taxable wages paid during the calendar year with  
1603 respect to employment, and those employers who so elect shall be



1604 relieved of liability for reimbursement of benefits paid under the  
1605 same conditions that benefits are not charged to the  
1606 experience-rating record of a contributing employer as provided in  
1607 Section 71-5-355(2) (b) (ii) other than Clause 5 thereof. Benefits  
1608 paid in such circumstances for which reimbursing employers are  
1609 relieved of liability for reimbursement shall not be considered  
1610 attributable to service in the employment of such reimbursing  
1611 employer.

1612 (v) The amount due specified in any bill from the  
1613 department shall be conclusive on the organization unless, not  
1614 later than fifteen (15) days after the bill was delivered to it,  
1615 the organization files an application for redetermination by the  
1616 department, setting forth the grounds for \* \* \* the application or  
1617 appeal. The department shall promptly review and reconsider the  
1618 amount due specified in the bill and shall thereafter issue a  
1619 redetermination in any case in which \* \* \* the application for  
1620 redetermination has been filed. Any such redetermination shall be  
1621 conclusive on the organization unless, not later than fifteen (15)  
1622 days after the redetermination was delivered to it, the  
1623 organization files an appeal to the Circuit Court of the First  
1624 Judicial District of Hinds County, Mississippi, in accordance with  
1625 the provisions of law with respect to review of civil causes by  
1626 certiorari.

1627 (vi) Past-due payments of amounts in lieu of  
1628 contributions shall be subject to the same interest and penalties



1629 that, pursuant to Section 71-5-363, apply to past-due  
1630 contributions.

1631 (c) Each employer that is liable for payments in lieu  
1632 of contributions shall pay to the department for the fund the  
1633 amount of regular benefits plus the amount of one-half (1/2) of  
1634 extended benefits paid are attributable to service in the employ  
1635 of such employer. If benefits paid to an individual are based on  
1636 wages paid by more than one (1) employer and one or more of such  
1637 employers are liable for payments in lieu of contributions, the  
1638 amount payable to the fund by each employer that is liable for  
1639 such payments shall be determined in accordance with the  
1640 provisions of subparagraph (i) or subparagraph (ii) of this  
1641 paragraph.

1642 (i) If benefits paid to an individual are based on  
1643 wages paid by one or more employers that are liable for payment in  
1644 lieu of contributions and on wages paid by one or more employers  
1645 who are liable for contributions, the amount of benefits payable  
1646 by each employer that is liable for payments in lieu of  
1647 contributions shall be an amount which bears the same ratio to the  
1648 total benefits paid to the individual as the total base period  
1649 wages paid to the individual by such employer bear to the total  
1650 base period wages paid to the individual by all of his or her base  
1651 period employers.

1652 (ii) If benefits paid to an individual are based  
1653 on wages paid by two (2) or more employers that are liable for



1654 payments in lieu of contributions, the amount of benefits payable  
1655 by each such employer shall be an amount which bears the same  
1656 ratio to the total benefits paid to the individual as the total  
1657 base period wages paid to the individual by such employer bear to  
1658 the total base period wages paid to the individual by all of his  
1659 or her base period employers.

1660 (d) In the discretion of the department, any nonprofit  
1661 organization that elects to become liable for payments in lieu of  
1662 contributions shall be required to execute and file with the  
1663 department a surety bond approved by the department, or it may  
1664 elect instead to deposit with the department money or securities.  
1665 The amount of such bond or deposit shall be determined in  
1666 accordance with the provisions of this paragraph.

1667 (i) The amount of the bond or deposit required by  
1668 paragraph (d) shall be equal to two and seven-tenths percent  
1669 (2.7%) thereafter to December 31, 2010, and one and thirty-five  
1670 one-hundredths percent (1.35%) thereafter, of the organization's  
1671 taxable wages paid for employment as defined in Section 71-5-11,  
1672 subsection I(4), for the four (4) calendar quarters immediately  
1673 preceding the effective date of the election, the renewal date in  
1674 the case of a bond, or the biennial anniversary of the effective  
1675 date of election in the case of a deposit of money or securities,  
1676 whichever date shall be most recent and applicable. If the  
1677 nonprofit organization did not pay wages in each of such four (4)



1678 calendar quarters, the amount of the bond or deposit shall be as  
1679 determined by the department.

1680 (ii) Any bond deposited under paragraph (d) shall  
1681 be in force for a period of not less than two (2) tax years and  
1682 shall be renewed with the approval of the department at such times  
1683 as the department may prescribe, but not less frequently than at  
1684 intervals of two (2) years as long as the organization continues  
1685 to be liable for payments in lieu of contributions. The  
1686 department shall require adjustments to be made in a previously  
1687 filed bond as it deems appropriate. If the bond is to be  
1688 increased, the adjusted bond shall be filed by the organization  
1689 within thirty (30) days of the date notice of the required  
1690 adjustment was delivered to it. Failure by any organization  
1691 covered by such bond to pay the full amount of payments in lieu of  
1692 contributions when due, together with any applicable interest and  
1693 penalties provided in paragraph (b)(v) of this section, shall  
1694 render the surety liable on the bond to the extent of the bond, as  
1695 though the surety was such organization.

1696 (iii) Any deposit of money or securities in  
1697 accordance with paragraph (d) shall be retained by the department  
1698 in an escrow account until liability under the election is  
1699 terminated, at which time it shall be returned to the  
1700 organization, less any deductions as hereinafter provided. The  
1701 department may deduct from the money deposited under paragraph (d)  
1702 by a nonprofit organization, or sell the securities it has so



1703 deposited, to the extent necessary to satisfy any due and unpaid  
1704 payments in lieu of contributions and any applicable interest and  
1705 penalties provided for in paragraph (b) (v) of this section. The  
1706 department shall require the organization, within thirty (30) days  
1707 following any deduction from a money deposit or sale of deposited  
1708 securities under the provisions hereof, to deposit sufficient  
1709 additional money or securities to make whole the organization's  
1710 deposit at the prior level. Any cash remaining from the sale of  
1711 such securities shall be a part of the organization's escrow  
1712 account. The department may, at any time, review the adequacy of  
1713 the deposit made by any organization. If, as a result of such  
1714 review, it determines that an adjustment is necessary, it shall  
1715 require the organization to make additional deposit within thirty  
1716 (30) days of notice of its determination or shall return to it  
1717 such portion of the deposit as it no longer considers necessary,  
1718 whichever action is appropriate. Disposition of income from  
1719 securities held in escrow shall be governed by the applicable  
1720 provisions of the state law.

1721 (iv) If any nonprofit organization fails to file a  
1722 bond or make a deposit, or to file a bond in an increased amount,  
1723 or to increase or make whole the amount of a previously made  
1724 deposit as provided under this subparagraph, the department may  
1725 terminate such organization's election to make payments in lieu of  
1726 contributions, and such termination shall continue for not less  
1727 than the four (4) consecutive calendar-quarter periods beginning



1728 with the quarter in which such termination becomes effective;  
1729 however, the department may extend for good cause the applicable  
1730 filing, deposit or adjustment period by not more than thirty (30)  
1731 days.

1732 (v) Group account shall be established according  
1733 to regulations prescribed by the department.

1734 (e) Any employer which elects to make payments in lieu  
1735 of contributions into the Unemployment Compensation Fund as  
1736 provided in this paragraph shall not be liable to make such  
1737 payments with respect to the benefits paid to any individual whose  
1738 base period wages include wages for previously uncovered services  
1739 as defined in Section 71-5-511( \* \* \*d) to the extent that the  
1740 Unemployment Compensation Fund is reimbursed for such benefits  
1741 pursuant to Section 121 of Public Law 94-566.

1742 **SECTION 6.** Section 71-5-359, Mississippi Code of 1972, is  
1743 amended as follows:

1744 71-5-359. (1) The Department of Finance and Administration  
1745 shall, in the manner provided in subsection (3) of this section,  
1746 pay, upon notice issued by the department, to the department for  
1747 the Unemployment Compensation Fund an amount equal to the regular  
1748 benefits and one-half (1/2) of the extended benefits paid that are  
1749 attributable to service in the employ of a state agency. The  
1750 amount required to be reimbursed by a certain agency shall be  
1751 billed to the Department of Finance and Administration and shall  
1752 be paid from the Employment Compensation Revolving Fund pursuant



1753 to subsection (3) of this section not later than thirty (30) days  
1754 after such bill was sent, unless there has been an application for  
1755 review and redetermination in accordance with Section  
1756 71-5-357(b) (v) .

1757 (2) The Department of Finance and Administration shall, in  
1758 the manner provided in subsection (3) of this section, pay, upon a  
1759 notice issued by the department, to the department for the  
1760 Unemployment Compensation Fund an amount equal to the regular  
1761 benefits and the extended benefits paid that are attributable to  
1762 service in the employ of a state agency. The amount required to  
1763 be reimbursed by a certain agency shall be billed to the  
1764 Department of Finance and Administration and shall be paid from  
1765 the Employment Compensation Revolving Fund pursuant to subsection  
1766 (3) of this section not later than thirty (30) days after such  
1767 bill was sent, unless there has been an application for review and  
1768 redetermination in accordance with Section 71-5-357(b) (v) .

1769 (3) Each agency of state government shall deposit monthly  
1770 for a period of twenty-four (24) months an amount equal to  
1771 one-twelfth of one percent (1/12 of 1%) of the first Six Thousand  
1772 Dollars (\$6,000.00) paid to each employee thereof during the next  
1773 preceding year into the Employment Compensation Revolving Fund  
1774 that is created in the State Treasury. The Department of Finance  
1775 and Administration shall determine the percentage to be applied to  
1776 the amount of covered wages paid in order to maintain a balance in  
1777 the revolving fund of not less than the amount determined by an





1778 actuary through an annual actuarial evaluation. The State  
1779 Treasurer shall invest all funds in the Employment Compensation  
1780 Revolving Fund and all interest earned shall be credited to the  
1781 Employment Compensation Revolving Fund.

1782 The reimbursement of benefits paid by the Mississippi  
1783 Department of Employment Security shall be paid by the Department  
1784 of Finance and Administration from the Employment Compensation  
1785 Revolving Fund upon notice from the department; and the Department  
1786 of Finance and Administration shall issue warrants or may contract  
1787 for the performance of the duties prescribed by subsections (2)  
1788 and (3) of this section, and other duties necessarily related  
1789 thereto.

1790 (4) Any political subdivision of this state shall pay to the  
1791 department for the unemployment compensation fund an amount equal  
1792 to the regular benefits and the extended benefits paid that are  
1793 attributable to service in the employ of such political  
1794 subdivision unless it elects to make contributions to the  
1795 unemployment fund as provided in subsection (9) of this section.  
1796 The amount required to be reimbursed shall be billed and shall be  
1797 paid as provided in Section 71-5-357, with respect to similar  
1798 payments for nonprofit organizations.

1799 (5) Each political subdivision, unless it elects to make  
1800 contributions to the unemployment compensation fund as provided in  
1801 subsection (9) of this section, shall establish a revolving fund  
1802 and deposit an amount equal to two percent (2%) of the first Six



1803 Thousand Dollars (\$6,000.00) paid to each employee thereof during  
1804 the next preceding year. However, the department shall by  
1805 regulation establish a procedure to allow reimbursing political  
1806 subdivisions to elect to maintain the balance in the revolving  
1807 fund as required under this paragraph or to annually execute a  
1808 surety bond to be approved by the department in an amount not less  
1809 than two percent (2%) of the covered wages paid during the next  
1810 preceding year.

1811 (6) In the event any political subdivision becomes  
1812 delinquent in payments due under this chapter, upon due notice,  
1813 and upon certification of the delinquency by the department to the  
1814 Department of Finance and Administration, the Department of  
1815 Revenue, the Department of Environmental Quality and the  
1816 Department of Insurance, or any of them, or any other agencies of  
1817 the State of Mississippi that may be indebted to such delinquent  
1818 political subdivision, such agencies shall direct the issuance of  
1819 warrants \* \* \* that in the aggregate shall be the amount of such  
1820 delinquency payable to the department and drawn upon any funds in  
1821 the State Treasury which may be available to such political  
1822 subdivision in satisfaction of any such delinquency. This remedy  
1823 shall be in addition to any other collection remedies in this  
1824 chapter or otherwise provided by law.

1825 (7) Payments made by any political subdivision under the  
1826 provisions of this section shall not be deducted or deductible, in



1827 whole or in part, from the remuneration of individuals in the  
1828 employ of the organization.

1829 (8) Any governmental entity shall not be liable to make  
1830 payments to the unemployment fund with respect to the benefits  
1831 paid to any individual whose base period wages include wages for  
1832 previously uncovered services as defined in Section 71-5-511(d),  
1833 \* \* \* to the extent that the Unemployment Compensation Fund is  
1834 reimbursed for such benefits pursuant to Section 121 of Public Law  
1835 94-566.

1836 (9) Any political subdivision of this state may elect to  
1837 make contributions to the unemployment fund instead of making  
1838 reimbursement for benefits paid as provided in subsections (4) and  
1839 (5) of this section. A political subdivision \* \* \* that makes  
1840 this election shall so notify the department, not later than three  
1841 (3) months after it is officially organized or is otherwise  
1842 established, and shall be subject to the provisions of Section  
1843 71-5-351, with regard to the payment of contributions. A  
1844 political subdivision which makes this election shall pay  
1845 contributions equal to two percent (2%) of taxable wages through  
1846 calendar year 2010, and one percent (1%) of taxable wages  
1847 thereafter paid by it during each calendar quarter it is subject  
1848 to this chapter. The department shall by regulation establish a  
1849 procedure to allow political subdivisions the option periodically  
1850 to elect either the reimbursement or the contribution method of  
1851 financing unemployment compensation coverage.



1852           **SECTION 7.** Section 71-5-361, Mississippi Code of 1972, is  
1853 amended as follows:

1854           71-5-361. (1) Except as provided in subsection (3) of this  
1855 section, any employing unit which is or becomes an employer  
1856 subject to this chapter within any calendar year shall be deemed  
1857 to be an employer during the whole of such calendar year.

1858           (2) Except as otherwise provided in subsection (3) of this  
1859 section:

1860                   (a) An employing unit (other than a state hospital,  
1861 state institution of higher learning, state or state agency or  
1862 other political subdivision or instrumentality) except as provided  
1863 in subsections (b) and (c) of this subsection, shall cease to be  
1864 an employer subject to this chapter only as of the first day of  
1865 January of any calendar year, only if it files with the department  
1866 on or before the thirty-first day of May of such year a written  
1867 application for termination of coverage, and the department finds  
1868 that during the preceding calendar year the employing unit did not  
1869 pay wages of One Thousand Five Hundred Dollars (\$1,500.00) or more  
1870 in any calendar quarter and that there were no twenty (20) days,  
1871 each day being in a different week within the preceding calendar  
1872 year, within which such employing unit employed one or more  
1873 individuals in employment subject to this chapter, or four (4) or  
1874 more in the case of nonprofit organizations, except if the  
1875 department finds that throughout a calendar year an employer has



1876 had no employment, it shall cease to be an employer subject to  
1877 this chapter.

1878           (b) An agricultural employer as defined under Section  
1879 71-5-11, subsection H(4) (a) shall cease to be an agricultural  
1880 employer subject to this chapter only as of the first day of  
1881 January of any calendar year, only if it files with the department  
1882 on or before the thirty-first day of May of such year a written  
1883 application for termination of coverage, and the department finds  
1884 that during the preceding calendar year the employing unit did not  
1885 pay for agricultural employment wages as defined in Section  
1886 71-5-11, subsection I(6) of Twenty Thousand Dollars (\$20,000.00)  
1887 in any calendar quarter of the preceding calendar year and that  
1888 there were no twenty (20) days, each day being in a different  
1889 week, within such calendar year, within which such employing unit  
1890 employed ten (10) or more individuals in employment subject to  
1891 this chapter, except if the department finds that throughout a  
1892 calendar year an employer has had no employment, it shall cease to  
1893 be an employer subject to this chapter.

1894           (c) A domestic employer, as defined in Section 71-5-11,  
1895 subsection H(4) (b), shall cease to be an employer subject to this  
1896 chapter only as of the first day of January of any calendar year,  
1897 only if it files with the department on or before the thirty-first  
1898 day of May of such year a written application for termination of  
1899 coverage, and the department finds that during the preceding  
1900 calendar year the employing unit did not pay wages for domestic



1901 employment of One Thousand Dollars (\$1,000.00) or more in any  
1902 calendar quarter of the preceding calendar year, except if the  
1903 department finds that throughout a calendar year an employer has  
1904 had no employment, it shall cease to be an employer subject to  
1905 this chapter.

1906 (d) For the purpose of this subsection, the two (2) or  
1907 more employing units mentioned in Section 71-5-11, subsection H(5)  
1908 or (6), shall be treated as a single employing unit. The  
1909 department may, of its own motion, cancel and terminate the effect  
1910 of registrations for purposes of its accounting records in cases  
1911 where it has found that employing units, duly registered as  
1912 covered employers under the chapter, have died, ceased business or  
1913 removed from the state without applying for termination of  
1914 coverage, provided that the rights of claimants for benefits shall  
1915 not be affected thereby.

1916 (3) (a) An employing unit, not otherwise subject to this  
1917 chapter, which files with the department its written election to  
1918 become an employer subject thereto for not less than two (2)  
1919 calendar years shall, with the written approval of such election  
1920 by the department or the executive director, become an employer  
1921 subject hereto to the same extent as all other employers as of the  
1922 date stated in such approval, and shall cease to be subject hereto  
1923 as of January 1 of any calendar year subsequent to such two (2)  
1924 calendar years only if it files with the department, on or before



1925 the thirty-first day of May of such year, a written application  
1926 for termination of coverage thereunder.

1927 (b) Any employing unit, for which services that do not  
1928 constitute employment as defined in this chapter are performed,  
1929 may file with the department a written election that all such  
1930 services performed by individuals in its employ in one or more  
1931 distinct establishments or places of business shall be deemed to  
1932 constitute employment by an employer for all purposes of this  
1933 chapter for not less than two (2) calendar years. Upon written  
1934 approval of such election by the department, such services shall  
1935 be deemed to constitute employment subject to this chapter from  
1936 and after the date stated in such approval. Such services shall  
1937 cease to be deemed employment subject hereto as of January 1 of  
1938 any calendar year subsequent to such two (2) calendar years only  
1939 if, \* \* \* before the thirty-first day of May of such year, such  
1940 employing unit has filed with the department a written notice to  
1941 that effect.

1942 (4) (a) \* \* \* Before January 1, 1978, any political  
1943 subdivision of this state may elect to cover under this chapter,  
1944 for a period of not less than two (2) calendar years, services  
1945 performed by employees in all of the hospitals and institutions of  
1946 higher learning, as defined in Section 71-5-11, subsection M or N,  
1947 operated by such political subdivision. Election is to be made by  
1948 filing with the department a notice of such election at least  
1949 thirty (30) days \* \* \* before the effective date of such election.



1950 The election may exclude any services described in Section  
1951 71-5-11, subsection I(5). Any political subdivision electing  
1952 coverage under this subsection shall make payments in lieu of  
1953 contributions with respect to benefits attributable to such  
1954 employment as provided with respect to nonprofit organizations in  
1955 subsections (b) and (c) of Section 71-5-357.

1956 (b) \* \* \* Before January 1, 1978, the provisions in  
1957 Section 71-5-511(f), \* \* \* with respect to benefit rights based on  
1958 service for state and nonprofit institutions of higher learning  
1959 shall be applicable also to service covered by an election under  
1960 this section.

1961 (c) \* \* \* Before January 1, 1978, the amounts required  
1962 to be paid in lieu of contributions by any political subdivision  
1963 under this section shall be billed and payment made as provided in  
1964 subsections (b) and (c) of Section 71-5-357.

1965 (d) \* \* \* Before January 1, 1978, an election under  
1966 this section, after having been in effect for not less than two  
1967 (2) calendar years, may be terminated by filing with the  
1968 department written notice not later than thirty (30) days  
1969 preceding the last day of the calendar year in which the  
1970 termination is to be effective. Such termination becomes  
1971 effective as of the first day of the next ensuing calendar year  
1972 with respect to services performed on and after that date.

1973 **SECTION 8.** Section 71-5-501, Mississippi Code of 1972, is  
1974 amended as follows:





1975           71-5-501. Wages earned for services defined in Section  
1976 71-5-11(I) (15) (g), irrespective of when performed, shall not be  
1977 included for purposes of determining eligibility under Section  
1978 71-5-511( \* \* \*d) or weekly benefit amount under Section 71-5-503  
1979 nor shall any benefits with respect to unemployment be payable  
1980 under Section 71-5-505 on the basis of such wages. All benefits  
1981 shall be paid through employment offices or such other agency or  
1982 agencies as the department may, by regulation, designate, in  
1983 accordance with such regulations as the department may prescribe.  
1984 The department may, by regulation, prescribe that benefits due and  
1985 payable to claimants who die \* \* \* before the receipt or cashing  
1986 of benefits checks may be paid to the legal representative,  
1987 dependents, or next of kin, of the deceased as may be found by it  
1988 to be equitably entitled thereto, and every such payment shall be  
1989 deemed a valid payment to the same extent as if made to the legal  
1990 representative of the decedent.

1991           **SECTION 9.** Section 71-5-505, Mississippi Code of 1972, is  
1992 amended as follows:

1993           71-5-505. \* \* \* For weeks beginning on or after July 1,  
1994 1991, each eligible individual who is totally unemployed or part  
1995 totally unemployed in any week shall be paid with respect to such  
1996 week a benefit in an amount equal to his or her weekly benefit  
1997 amount less that part of his or her wages, if any, payable to him  
1998 with respect to such week which is in excess of Forty Dollars  
1999 (\$40.00). \* \* \* The benefit for a benefit year effective on or



2000 after October 1, 1983, if not a multiple of One Dollar (\$1.00),  
2001 shall be computed to the next lower multiple of One Dollar  
2002 (\$1.00). Provided, however, that remuneration for "inactive duty  
2003 training" or "unit training assembly" payable to \* \* \* the  
2004 eligible individual who is a member of any of the reserve  
2005 components, or remuneration for jury duty pursuant to a lawfully  
2006 issued summons therefor payable to \* \* \* the eligible individual,  
2007 shall not be considered wages \* \* \* that serve to reduce the  
2008 otherwise payable benefit amount.

2009 In determining whether an eligible individual is unemployed  
2010 during a week, the date of commencing a shift shall determine the  
2011 week for which the earnings are deducted.

2012 \* \* \*

2013 **SECTION 10.** This act shall take effect and be in force from  
2014 and after July 1, 2018.

