

**Pending
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 536

BY: Committee

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

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

27 71-5-11. As used in this chapter, unless the context clearly
28 requires otherwise:

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

32 B. "Benefit year" with respect to any individual means the
33 period beginning with the first day of the first week with respect
34 to which he or she first files a valid claim for benefits, and



35 ending with the day preceding the same day of the same month in
36 the next calendar year; and, thereafter, the period beginning with
37 the first day of the first week with respect to which he or she
38 next files his or her valid claim for benefits, and ending with
39 the day preceding the same day of the same month in the next
40 calendar year. Any claim for benefits made in accordance with
41 Section 71-5-515 shall be deemed to be a "valid claim" for
42 purposes of this subsection if the individual has been paid the
43 wages for insured work required under Section 71-5-511(e).

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

46 D. "Calendar quarter" means the period of three (3)
47 consecutive calendar months ending on March 31, June 30, September
48 30, or December 31.

49 E. "Department" or "commission" means the Mississippi
50 Department of Employment Security, Office of the Governor.

51 F. "Executive director" means the Executive Director of the
52 Mississippi Department of Employment Security, Office of the
53 Governor, appointed under Section 71-5-107.

54 G. "Employing unit" means this state or another state or any
55 instrumentalities or any political subdivisions thereof or any of
56 their instrumentalities or any instrumentality of more than one
57 (1) of the foregoing or any instrumentality of any of the
58 foregoing and one or more other states or political subdivisions,
59 any Indian tribe as defined in Section 3306(u) of the Federal



60 Unemployment Tax Act (FUTA), which includes any subdivision,
61 subsidiary or business enterprise wholly owned by such Indian
62 tribe, any individual or type of organization, including any
63 partnership, association, trust, estate, joint-stock company,
64 insurance company, or corporation, whether domestic or foreign, or
65 the receiver, trustee in bankruptcy, trustee or successor thereof,
66 or the legal representative of a deceased person, which has or had
67 in its employ one or more individuals performing services for it
68 within this state. All individuals performing services within
69 this state for any employing unit which maintains two (2) or more
70 separate establishments within this state shall be deemed to be
71 employed by a single employing unit for all the purposes of this
72 chapter. Each individual employed to perform or to assist in
73 performing the work of any agent or employee of an employing unit
74 shall be deemed to be employed by such employing unit for all
75 purposes of this chapter, whether such individual was hired or
76 paid directly by such employing unit or by such agent or employee,
77 provided the employing unit had actual or constructive knowledge
78 of the work. All individuals performing services in the employ of
79 an elected fee-paid county official, other than those related by
80 blood or marriage within the third degree computed by the rule of
81 the civil law to such fee-paid county official, shall be deemed to
82 be employed by such county as the employing unit for all the
83 purposes of this chapter. For purposes of defining an "employing
84 unit" which shall pay contributions on remuneration paid to



85 individuals, if two (2) or more related corporations concurrently
86 employ the same individual and compensate such individual through
87 a common paymaster which is one (1) of such corporations, then
88 each such corporation shall be considered to have paid as
89 remuneration to such individual only the amounts actually
90 disbursed by it to such individual and shall not be considered to
91 have paid as remuneration to such individual such amounts actually
92 disbursed to such individual by another of such corporations.

93 H. "Employer" means:

94 (1) Any employing unit which,

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

99 (b) For some portion of a day in each of twenty
100 (20) different calendar weeks, whether or not such weeks were
101 consecutive, in either the current or the preceding calendar year
102 had in employment at least one (1) individual (irrespective of
103 whether the same individual was in employment in each such day),
104 except as provided in paragraph (9) of this subsection;

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

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



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

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

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

119 (6) Any individual or employing unit which acquired its
120 organization, trade, business, or substantially all the assets
121 thereof, from another employing unit, if the employment record of
122 the acquiring individual or employing unit subsequent to such
123 acquisition, together with the employment record of the acquired
124 organization, trade, or business prior to such acquisition, both
125 within the same calendar year, would be sufficient to constitute
126 an employing unit as an employer subject to this chapter under
127 paragraph (1) or (3) of this subsection;

128 (7) Any employing unit which, having become an employer
129 under paragraph (1), (3), (5) or (6) of this subsection or under
130 any other provisions of this chapter, has not, under Section
131 71-5-361, ceased to be an employer subject to this chapter;



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

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

140 (b) In determining whether or not an employing
141 unit for which service other than agricultural labor is also
142 performed is an employer under paragraph (1) or (4)(b) of this
143 subsection, the wages earned or the employment of an employee
144 performing services in agricultural labor, shall not be taken into
145 account. If an employing unit is determined an employer of
146 agricultural labor, such employing unit shall be determined an
147 employer for purposes of paragraph (1) of this subsection;

148 (10) All entities utilizing the services of any
149 employee leasing firm shall be considered the employer of the
150 individuals leased from the employee leasing firm. Temporary help
151 firms shall be considered the employer of the individuals they
152 provide to perform services for other individuals or
153 organizations.

154 I. "Employment" means and includes:

155 (1) Any service performed, which was employment as
156 defined in this section and, subject to the other provisions of



157 this subsection, including service in interstate commerce,
158 performed for wages or under any contract of hire, written or
159 oral, express or implied.

160 (2) Services performed for remuneration for a
161 principal:

162 (a) As an agent-driver or commission-driver
163 engaged in distributing meat products, vegetable products, fruit
164 products, bakery products, beverages (other than milk), or laundry
165 or dry-cleaning services;

166 (b) As a traveling or city salesman, other than as
167 an agent-driver or commission-driver, engaged upon a full-time
168 basis in the solicitation on behalf of, and the transmission to, a
169 principal (except for sideline sales activities on behalf of some
170 other person) of orders from wholesalers, retailers, contractors,
171 or operator of hotels, restaurants, or other similar
172 establishments for merchandise for resale or supplies for use in
173 their business operations.

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

177 (i) The contract of service contemplates that
178 substantially all of the services are to be performed personally
179 by such individual;

180 (ii) The individual does not have a
181 substantial investment in facilities used in connection with the



182 performance of the services (other than in facilities for
183 transportation); and

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

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

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

203 (b) The organization had four (4) or more
204 individuals in employment for some portion of a day in each of
205 twenty (20) different weeks, whether or not such weeks were
206 consecutive, within the current or preceding calendar year,



207 regardless of whether they were employed at the same moment of
208 time.

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

212 (a) In the employ of:

213 (i) A church or convention or association of
214 churches; or

215 (ii) An organization which is operated
216 primarily for religious purposes and which is operated,
217 supervised, controlled, or principally supported by a church or
218 convention or association of churches; or

219 (b) By a duly ordained, commissioned, or licensed
220 minister of a church in the exercise of his or her ministry, or by
221 a member of a religious order in the exercise of duties required
222 by such order; or

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

226 (i) As an elected official;

227 (ii) As a member of a legislative body, or a
228 member of the judiciary, of a state or political subdivision or a
229 member of an Indian tribal council;

230 (iii) As a member of the State National Guard
231 or Air National Guard;



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

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

238 1. A major nontenured policy-making or
239 advisory position, or

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

243 (d) In a facility conducted for the purpose of
244 carrying out a program of rehabilitation for individuals whose
245 earning capacity is impaired by age or physical or mental
246 deficiency or injury, or providing remunerative work for
247 individuals who because of their impaired physical or mental
248 capacity cannot be readily absorbed in the competitive labor
249 market, by an individual receiving such rehabilitation or
250 remunerative work; or

251 (e) By an inmate of a custodial or penal
252 institution; or

253 (f) As part of an unemployment work-relief or
254 work-training program assisted or financed, in whole or in part,
255 by any federal agency or agency of a state or political
256 subdivision thereof or of an Indian tribe, by an individual



257 receiving such work relief or work training, unless coverage of
258 such service is required by federal law or regulation.

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

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

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

266 (ii) For some portion of a day in each of
267 twenty (20) different calendar weeks, whether or not such weeks
268 were consecutive, in either the current or the preceding calendar
269 year, employed in agricultural labor ten (10) or more individuals,
270 regardless of whether they were employed at the same moment of
271 time.

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

276 (i) If such crew leader holds a valid
277 certificate of registration under the Farm Labor Contractor
278 Registration Act of 1963; or substantially all the members of such
279 crew operate or maintain tractors, mechanized harvesting or crop
280 dusting equipment, or any other mechanized equipment, which is
281 provided by such crew leader; and



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

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

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

291 (ii) Such other person shall be treated as
292 having paid cash remuneration to such individual in an amount
293 equal to the amount of cash remuneration paid to such individual
294 by the crew leader (either on his or her own behalf or on behalf
295 of such other person) for the service in agricultural labor
296 performed for such other person.

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

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

301 (ii) Pays (either on his or her own behalf or
302 on behalf of such other person) the individuals so furnished by
303 him or her for the service in agricultural labor performed by
304 them; and



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

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

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

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

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

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

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



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

339 (10) Service shall be deemed to be localized within a
340 state if:

341 (a) The service is performed entirely within such
342 state; or

343 (b) The service is performed both within and
344 without such state, but the service performed without such state
345 is incidental to the individual's service within the state; for
346 example, is temporary or transitory in nature or consists of
347 isolated transactions.

348 (11) The services of an individual who is a citizen of
349 the United States, performed outside the United States (except in
350 Canada), in the employ of an American employer (other than service
351 which is deemed "employment" under the provisions of paragraph
352 (8), (9) or (10) of this subsection or the parallel provisions of
353 another state's law), if:



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

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

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

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

362 (iii) The employer is a partnership or a
363 trust and the number of the partners or trustees who are residents
364 of this state is greater than the number who are residents of any
365 one (1) other state; or

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

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

373 (i) An individual who is a resident of the
374 United States; or

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

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



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

381 (12) All services performed by an officer or member of
382 the crew of an American vessel on or in connection with such
383 vessel, if the operating office from which the operations of such
384 vessel operating on navigable waters within, or within and
385 without, the United States are ordinarily and regularly
386 supervised, managed, directed and controlled, is within this
387 state, notwithstanding the provisions of subsection I(8).

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

395 (14) Services performed by an individual for wages
396 shall be deemed to be employment subject to this chapter unless
397 and until it is shown to the satisfaction of the department that
398 such individual has been and will continue to be free from control
399 and direction over the performance of such services both under his
400 or her contract of service and in fact; and the relationship of
401 employer and employee shall be determined in accordance with the
402 principles of the common law governing the relation of master and
403 servant.



404 (15) The term "employment" shall not include:
405 (a) Agricultural labor, except as provided in
406 subsection I(6) of this section. The term "agricultural labor"
407 includes all services performed:
408 (i) On a farm or in a forest in the employ of
409 any employing unit in connection with cultivating the soil, in
410 connection with cutting, planting, deadening, marking or otherwise
411 improving timber, or in connection with raising or harvesting any
412 agricultural or horticultural commodity, including the raising,
413 shearing, feeding, caring for, training, and management of
414 livestock, bees, poultry, fur-bearing animals and wildlife;
415 (ii) In the employ of the owner or tenant or
416 other operator of a farm, in connection with the operation,
417 management, conservation, improvement or maintenance of such farm
418 and its tools and equipment, or in salvaging timber or clearing
419 land of brush and other debris left by a hurricane, if the major
420 part of such service is performed on a farm;
421 (iii) In connection with the production or
422 harvesting of naval stores products or any commodity defined in
423 the Federal Agricultural Marketing Act, 12 USCS Section 1141j(g),
424 or in connection with the raising or harvesting of mushrooms, or
425 in connection with the ginning of cotton, or in connection with
426 the operation or maintenance of ditches, canals, reservoirs, or
427 waterways not owned or operated for profit, used exclusively for
428 supplying and storing water for farming purposes;



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

436 (B) In the employ of a group of
437 operators of farms (or a cooperative organization of which such
438 operators are members) in the performance of service described in
439 subitem (A), but only if such operators produced more than
440 one-half (1/2) of the commodity with respect to which such service
441 is performed;

442 (C) The provisions of subitems (A) and
443 (B) shall not be deemed to be applicable with respect to service
444 performed in connection with commercial canning or commercial
445 freezing or in connection with any agricultural or horticultural
446 commodity after its delivery to a terminal market for distribution
447 for consumption;

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

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



454 primarily for the raising of agricultural or horticultural
455 commodities, and orchards.

456 (b) Domestic service in a private home, local
457 college club, or local chapter of a college fraternity or
458 sorority, except as provided in subsection I(7) of this section,
459 or service performed as a "sitter" at a hospital in the employ of
460 an individual.

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

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

467 (e) Service performed in the employ of the United
468 States government or of an instrumentality wholly owned by the
469 United States; except that if the Congress of the United States
470 shall permit states to require any instrumentalities of the United
471 States to make payments into an unemployment fund under a state
472 unemployment compensation act, then to the extent permitted by
473 Congress and from and after the date as of which such permission
474 becomes effective, all of the provisions of this chapter shall be
475 applicable to such instrumentalities and to services performed by
476 employees for such instrumentalities in the same manner, to the
477 same extent, and on the same terms as to all other employers and
478 employing units. If this state should not be certified under the



479 Federal Unemployment Tax Act, 26 USCS Section 3304(c), for any
480 year, then the payment required by such instrumentality with
481 respect to such year shall be deemed to have been erroneously
482 collected and shall be refunded by the department from the fund in
483 accordance with the provisions of Section 71-5-383.

484 (f) Service performed in the employ of an
485 "employer" as defined by the Railroad Unemployment Insurance Act,
486 45 USCS Section 351(a), or as an "employee representative" as
487 defined by the Railroad Unemployment Insurance Act, 45 USCS
488 Section 351(f), and service with respect to which unemployment
489 compensation is payable under an unemployment compensation system
490 for maritime employees, or under any other unemployment
491 compensation system established by an act of Congress; however,
492 the department is authorized and directed to enter into agreements
493 with the proper agencies under such act or acts of Congress, which
494 agreements shall become effective ten (10) days after publication
495 thereof in the manner provided in Section 71-5-117 for general
496 rules, to provide reciprocal treatment to individuals who have,
497 after acquiring potential rights to benefits under this chapter,
498 acquired rights to unemployment compensation under such act or
499 acts of Congress or who have, after acquiring potential rights to
500 unemployment compensation under such act or acts of Congress,
501 acquired rights to benefits under this chapter.

502 (g) Service performed in any calendar quarter in
503 the employ of any organization exempt from income tax under the



504 Internal Revenue Code, 26 USCS Section 501(a) (other than an
505 organization described in 26 USCS Section 401(a)), or exempt from
506 income tax under 26 USCS Section 521 if the remuneration for such
507 service is less than Fifty Dollars (\$50.00).

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

510 (i) By a student who is enrolled and is
511 regularly attending classes at such school, college or university,
512 or

513 (ii) By the spouse of such a student if such
514 spouse is advised, at the time such spouse commences to perform
515 such service, that

516 (A) The employment of such spouse to
517 perform such service is provided under a program to provide
518 financial assistance to such student by such school, college, or
519 university, and

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

522 (i) Service performed by an individual under the
523 age of twenty-two (22) who is enrolled at a nonprofit or public
524 educational institution which normally maintains a regular faculty
525 and curriculum and normally has a regularly organized body of
526 students in attendance at the place where its educational
527 activities are carried on, as a student in a full-time program
528 taken for credit at such institution, which combines academic



529 instruction with work experience, if such service is an integral
530 part of such program and such institution has so certified to the
531 employer, except that this subparagraph shall not apply to service
532 performed in a program established for or on behalf of an employer
533 or group of employers.

534 (j) Service performed in the employ of a hospital,
535 if such service is performed by a patient of the hospital, as
536 defined in subsection M of this section.

537 (k) Service performed as a student nurse in the
538 employ of a hospital or a nurses' training school by an individual
539 who is enrolled and is regularly attending classes in a nurses'
540 training school chartered or approved pursuant to state law; and
541 services performed as an intern in the employ of a hospital by an
542 individual who has completed a four-year course in a medical
543 school chartered or approved pursuant to state law.

544 (l) Service performed by an individual as an
545 insurance agent or as an insurance solicitor, if all such service
546 performed by such individual is performed for remuneration solely
547 by way of commission.

548 (m) Service performed by an individual in the
549 delivery or distribution of newspapers or shopping news, not
550 including delivery or distribution to any point for subsequent
551 delivery or distribution, except those employed by political
552 subdivisions, state and local governments, nonprofit organizations
553 and Indian tribes, as defined by this chapter, or any other



554 entities for which coverage is required by federal statute and
555 regulation.

556 (n) If the services performed during one-half
557 (1/2) or more of any pay period by an employee for the employing
558 unit employing him or her constitute employment, all the services
559 of such employee for such period shall be deemed to be employment;
560 but if the services performed during more than one-half (1/2) of
561 any such pay period by an employee for the employing unit
562 employing him or her do not constitute employment, then none of
563 the services of such employee for such period shall be deemed to
564 be employment. As used in this subsection, the term "pay period"
565 means a period (of not more than thirty-one (31) consecutive days)
566 for which a payment of remuneration is ordinarily made to the
567 employee by the employing unit employing him or her.

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

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

574 (i) Such person is engaged in the trade or
575 business of selling (or soliciting the sale of) consumer products
576 to any buyer on a buy-sell basis, a deposit-commission basis, or
577 any similar basis which the department prescribes by regulations,
578 for resale (by the buyer or any other person) in the home or



579 otherwise than in a permanent retail establishment; or such person
580 is engaged in the trade or business of selling (or soliciting the
581 sale of) consumer products in the home or otherwise than in a
582 permanent retail establishment;

583 (ii) Substantially all the remuneration
584 (whether or not paid in cash) for the performance of the services
585 described in item (i) of this subparagraph is directly related to
586 sales or other output (including the performance of services)
587 rather than to the number of hours worked; and

588 (iii) The services performed by the person
589 are performed pursuant to a written contract between such person
590 and the person for whom the services are performed and such
591 contract provides that the person will not be treated as an
592 employee with respect to such services for federal tax purposes.

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

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

599 L. "Fund" means the Unemployment Compensation Fund
600 established by this chapter, to which all contributions required
601 and from which all benefits provided under this chapter shall be
602 paid.



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

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

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

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

613 (3) Provides an educational program for which it awards
614 a bachelor's or higher degree, or provides a program which is
615 acceptable for full credit toward such a degree, a program of
616 postgraduate or postdoctoral studies, or a program of training to
617 prepare students for gainful employment in a recognized
618 occupation;

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

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

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



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

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

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

636 (3) The provisions of paragraphs (1) and (2) of
637 subsection P, as including the Virgin Islands, shall become
638 effective on the day after the day on which the United States
639 Secretary of Labor approves for the first time under Section
640 3304(a) of the Internal Revenue Code of 1954 an unemployment
641 compensation law submitted to the secretary by the Virgin Islands
642 for such approval.

643 Q. "Unemployment."

644 (1) An individual shall be deemed "unemployed" in any
645 week during which he or she performs no services and with respect
646 to which no wages are payable to him or her, or in any week of
647 less than full-time work if the wages payable to him or her with
648 respect to such week are less than his or her weekly benefit
649 amount as computed and adjusted in Section 71-5-505. This
650 definition shall exclude individuals receiving voluntary payments
651 from employers, from any source, that are in lieu of the worker's
652 regular wages. However, individuals receiving voluntary payments



653 of less than their set full weekly wage, as well as individuals
654 who do not work a specified number of hours each week resulting in
655 inconsistent weekly wages, and who are receiving voluntary
656 payments for partial wage substitution, may be considered
657 "unemployed," but would be required to report the gross amount of
658 the voluntary payments to be treated as wages so the appropriate
659 deductions to the weekly benefit amount can be made. The
660 department shall prescribe regulations applicable to unemployed
661 individuals, making such distinctions in the procedure as to total
662 unemployment, part-total unemployment, partial unemployment of
663 individuals attached to their regular jobs, and other forms of
664 short-time work, as the department deems necessary.

665 (2) An individual's week of total unemployment shall be
666 deemed to commence only after his registration * * * with an
667 employment office, except as the department may by regulation
668 otherwise prescribe.

669 (3) Unemployment shall not include administrative leave
670 for any week with respect to which:

671 (a) An employer has designated their employee as
672 being on official administrative leave;

673 (b) The administrative leave is for a specified
674 period of time;

675 (c) There is no apparent permanent job separation;
676 and



677 (d) The employee has received compensation equal
678 to their standard compensation.

679 (4) If the individual on official administrative leave,
680 as designated by the employer, does not receive full compensation
681 in line with his or her standard hours or salary, the individual
682 may be eligible for unemployment insurance benefits as partially
683 unemployed for the wages they are missing.

684 (5) Any individual on official administrative leave is
685 required to report all compensation received.

686 R. (1) "Wages" means all remuneration for personal
687 services, including commissions and bonuses and the cash value of
688 all remuneration in any medium other than cash, except that
689 "wages," for purposes of determining employer's coverage and
690 payment of contributions for agricultural and domestic service
691 means cash remuneration only. Wages shall include payments from
692 employers, from any source, and for any reason, that are in lieu
693 of the employee's regular wages. The reasonable cash value of
694 remuneration in any medium other than cash shall be estimated and
695 determined in accordance with rules prescribed by the department;
696 however, that the term "wages" shall not include:

697 (a) The amount of any payment made to, or on
698 behalf of, an employee under a plan or system established by an
699 employer which makes provision for his or her employees generally
700 or for a class or classes of his or her employees (including any



701 amount paid by an employer for insurance or annuities, or into a
702 fund, to provide for any such payment), on account of:

703 (i) Retirement, or
704 (ii) Sickness or accident disability, or
705 (iii) Medical or hospitalization expenses in
706 connection with sickness or actual disability, or

707 (iv) Death, provided the employee:

708 (A) Has not the option to receive,
709 instead of provision for such death benefit, any part of such
710 payment or, if such death benefit is insured, any part of the
711 premiums (or contributions to premiums) paid by his or her
712 employer, and

713 (B) Has not the right, under the
714 provisions of the plan or system or policy of insurance providing
715 for such death benefit, to assign such benefit or to receive a
716 cash consideration in lieu of such benefit, either upon his or her
717 withdrawal from the plan or system providing for such benefit or
718 upon termination of such plan or system or policy of insurance or
719 of his or her employment with such employer;

720 (b) Dismissal payments which the employer is not
721 legally required to make;

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



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

728 (i) Qualifies under Section 125 of the
729 Internal Revenue Code;
730 (ii) Covers only employees;
731 (iii) Covers only noncash benefits;
732 (iv) Does not include deferred compensation
733 plans.

734 (2) [Not enacted].

735 S. "Week" means calendar week or such period of seven (7)
736 consecutive days as the department may by regulation prescribe.
737 The department may by regulation prescribe that a week shall be
738 deemed to be in, within, or during any benefit year which includes
739 any part of such week.

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

741 U. The term "includes" and "including," when used in a
742 definition contained in this chapter, shall not be deemed to
743 exclude other things otherwise within the meaning of the term
744 defined.

745 V. "Employee leasing arrangement" means any agreement
746 between an employee leasing firm and a client, whereby specified
747 client responsibilities such as payment of wages, reporting of
748 wages for unemployment insurance purposes, payment of unemployment



749 insurance contributions and other such administrative duties are
750 to be performed by an employee leasing firm, on an ongoing basis.

751 W. "Employee leasing firm" means any entity which provides
752 specified duties for a client company such as payment of wages,
753 reporting of wages for unemployment insurance purposes, payment of
754 unemployment insurance contributions and other administrative
755 duties, in connection with the client's employees, that are
756 directed and controlled by the client and that are providing
757 ongoing services for the client.

758 X. (1) "Temporary help firm" means an entity which hires
759 its own employees and provides those employees to other
760 individuals or organizations to perform some service, to support
761 or supplement the existing workforce in special situations such as
762 employee absences, temporary skill shortages, seasonal workloads
763 and special assignments and projects, with the expectation that
764 the worker's position will be terminated upon the completion of
765 the specified task or function.

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

768 Y. For the purposes of this chapter, the term "notice" shall
769 include any official communication, statement or other
770 correspondence required under the administration of this chapter,
771 and sent by the department through the United States Postal
772 Service or electronic or digital transfer, via modem or the
773 Internet.



774 **SECTION 2.** Section 71-5-365, Mississippi Code of 1972, is
775 amended as follows:

776 71-5-365. If any employer fails to make and file any report
777 as and when required by the terms and provisions of this chapter
778 or by any rule or regulation of the commission for the purpose of
779 determining the amount of contributions due by him or her under
780 this chapter, or if any report which has been filed is deemed by
781 the executive director or his or her designee within the
782 department to be incorrect or insufficient, and such employer,
783 after having been given notice by the executive director or his or
784 her designee within the department to file such report, or a
785 corrected or sufficient report, as the case may be, shall fail to
786 file such report within fifteen (15) days after the date of such
787 notice, the executive director or his or her designee within the
788 department may (a) determine the amount of contributions due from
789 such noncompliant employer on the basis of * * * the best
790 information * * * that may be readily available to * * * the
791 department, which * * * determination shall be prima facie
792 correct, (b) assess such noncompliant employer with the amount of
793 contribution so determined as due, to which amount may be added
794 and assessed by the executive director or his or her designee
795 within the department in his or her discretion, as damages, in an
796 amount equal to ten percent (10%) of * * * the assessed amount,
797 and (c) immediately give notice to such noncompliant employer of
798 such determination, assessment, and * * * penalties, if any, added



799 and assessed, demanding payment of same together with interest, as
800 herein provided, on the amount of contributions owed from the date
801 when same were due and payable. Such determination and assessment
802 by the executive director or his or her designee within the
803 department shall be final at the expiration of fifteen (15) days
804 from the date of such notice thereof demanding payment, unless:

805 (a) Such employer shall have filed with the department
806 a written protest and petition for a hearing, specifying his or
807 her objections thereto. Upon receipt of such petition within the
808 fifteen (15) days allowed, the department shall fix the time and
809 place for a hearing and shall notify the petitioner thereof. At
810 any hearing held before the department as herein provided,
811 evidence may be offered to support such determination and
812 assessment or to prove that it is incorrect, and the commission
813 shall have all the power provided in Sections 71-5-137 and
814 71-5-139. Immediately after such hearing a final decision in the
815 matter shall be made by the commission, and any contributions or
816 deficiencies in contributions found and determined by the
817 commission to be due shall be assessed and paid, together with
818 interest, within fifteen (15) days after notice of such final
819 decision and assessment, and demand for payment thereof by the
820 department shall have been sent to such employer.

821 (b) The department, in its discretion, determines on
822 the basis of information submitted by the employer that such



823 assessment should be amended and adjusted to reflect the correct
824 amount of taxes.

825 Sixty (60) days after the due date of the contributions,
826 together with interest and damages, or upon issuance of a warrant,
827 whichever occurs first, the department, in its discretion, may
828 assess an additional sum not exceeding one hundred percent (100%)
829 of the amount of the unpaid contributions due as * * * penalties
830 for failure to pay.

831 **SECTION 3.** Section 71-5-363, Mississippi Code of 1972, is
832 amended as follows:

833 71-5-363. (1) Contributions unpaid on the date on which
834 they are due and payable shall bear interest at the rate of one
835 percent (1%) per month from and after such date until payment plus
836 accrued interest is received by the * * * department, provided
837 that the * * * department may prescribe fair and reasonable
838 general rules pursuant to which such interest shall not accrue
839 during the first calendar year that any employer is subject to
840 this chapter. Interest collected pursuant to this section shall be
841 paid into the Special Employment Security Administration Fund
842 established by Section 71-5-114.

843 (2) Notwithstanding the provisions of subsection (1) of this
844 section, the executive director or his or her designee within the
845 department shall have the discretion, subject only to federal laws
846 and regulations, to abate interest accrued on past-due
847 contributions or overpayments, in part or in full, when



848 negotiating the settlements of past-due amounts owed to the
849 agency.

850 **SECTION 4.** Section 71-5-389, Mississippi Code of 1972, is
851 amended as follows:

852 71-5-389. (1) For the purposes of this section, the
853 following terms shall have the respective meanings ascribed by
854 this section:

855 (a) "Claimant agency" means the Mississippi Department
856 of Employment Security.

857 (b) "Debtor" means any individual, corporation or
858 partnership owing money or having a delinquent account with any
859 claimant agency, which obligation has not been adjudicated
860 satisfied by court order, set aside by court order, or discharged
861 in bankruptcy.

862 (c) "Debt" means any sum due and owing any claimant
863 agency, including costs, court costs, fines, penalties and
864 interest which have accrued through contract, subrogation, tort,
865 operation of law, or any other legal theory regardless of whether
866 there is an outstanding judgment for that sum which is legally
867 collectible and for which a collection effort has been or is being
868 made.

869 (d) "Department" or "Department of Revenue," or
870 "Revenue" means the Department of Revenue of the State of
871 Mississippi.



872 (e) "Refund" means the Mississippi income tax refund or
873 federal income tax refund which the department determines to be
874 due any individual taxpayer, corporation or partnership.

875 (f) "Treasury" means the United States Department of
876 the Treasury.

877 (2) The collection remedy authorized by this section is in
878 addition to and is not substitution for any other remedy available
879 by law.

880 (3) (a) A claimant agency may submit debts in excess of
881 Twenty-five Dollars (\$25.00) owed to it to the department for
882 collection through setoff, under the procedure established by this
883 section, except in cases where the validity of the debt is
884 legitimately in dispute, an alternate means of collection is
885 pending and believed to be adequate, or such collection would
886 result in a loss of federal funds or federal assistance.

887 (b) Upon the request of a claimant agency, the
888 department or, if applicable, Treasury shall set off any refund,
889 as defined herein, against the sum certified by the claimant
890 agency as provided in this section.

891 (4) (a) Within the time frame specified by the department
892 and/or Treasury, a claimant agency seeking to collect a debt
893 through setoff shall supply the information necessary to identify
894 each debtor whose refund is sought to be set off and certify the
895 amount of debt or debts owed by each such debtor.



896 (b) If a debtor identified by a claimant agency is
897 determined by the department and/or Treasury to be entitled to a
898 refund of at least Twenty-five Dollars (\$25.00), the department
899 or, if applicable, Treasury shall transfer an amount equal to the
900 refund owed, not to exceed the amount of the claimed debt
901 certified, to the claimant agency. The Department of Revenue or,
902 if applicable, Treasury shall send the excess amount to the debtor
903 within a reasonable time after such excess is determined. At the
904 time of the transfer of funds to a claimant agency pursuant to
905 this paragraph (b), the Department of Revenue or, if applicable,
906 Treasury shall notify the taxpayer or taxpayers whose refund is
907 sought to be set off that the transfer has been made. Such notice
908 shall clearly set forth the name of the debtor, the manner in
909 which the debt arose, the amount of the claimed debt, the transfer
910 of funds to the claimant agency pursuant to this paragraph (b) and
911 the intention to set off the refund against the debt, the amount
912 of the refund in excess of the claimed debt, the taxpayer's
913 opportunity to give written notice to contest the setoff within
914 thirty (30) days of the date of mailing of the notice, the name
915 and mailing address of the claimant agency to which the
916 application for such a hearing must be sent, and the fact that the
917 failure to apply for such a hearing, in writing, within the
918 thirty-day period will be deemed a waiver of the opportunity to
919 contest the setoff. In the case of a joint return or a joint
920 refund, the notice shall also state the name of the taxpayer named



921 in the return, if any, against whom no debt is claimed, the fact
922 that a debt is not claimed against such taxpayer, the fact that
923 such taxpayer is entitled to receive a refund if it is due him or
924 her regardless of the debt asserted against his or her spouse, and
925 that in order to obtain a refund due him or her such taxpayer must
926 apply in writing for a hearing with the claimant agency named in
927 the notice within thirty (30) days of the date of the mailing of
928 the notice. If a taxpayer fails to apply in writing for such a
929 hearing within thirty (30) days of the mailing of such notice, he
930 or she will have waived his or her opportunity to contest the
931 setoff.

932 (c) Upon receipt of funds transferred from the
933 Department of Revenue and/or Treasury pursuant to paragraph (b) of
934 this subsection, the claimant agency shall deposit and hold such
935 funds in an escrow account until a final determination of the
936 validity of the debt.

937 (d) The claimant agency shall pay the Department of
938 Revenue and/or Treasury a fee, not to exceed Seventeen Dollars
939 (\$17.00) in each case in which a tax refund is identified as being
940 available for offset. Such fees shall be deposited by the
941 Department of Revenue into a special fund hereby created in the
942 State Treasury, out of which the Legislature shall appropriate
943 monies to defray expenses of the Department of Revenue in
944 employing personnel to administer the provisions of this section.



945 (5) (a) When the claimant agency receives a protest or an
946 application in writing from a taxpayer within thirty (30) days of
947 the notice issued by the Department of Revenue and/or Treasury,
948 the claimant agency shall set a date to hear the protest and give
949 notice to the taxpayer through the United States Postal Service or
950 electronic digital transfer of the date so set. The time and
951 place of such hearing shall be designated in such notice and the
952 date set shall not be less than fifteen (15) days from the date of
953 such notice. If, at the hearing, the sum asserted as due and
954 owing is found not to be correct, an adjustment to the claim may
955 be made. The claimant agency shall give notice to the debtor of
956 its final determination as provided in paragraph (c) of this
957 subsection.

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

960 (c) If any debtor is dissatisfied with the final
961 determination made at the hearing by the claimant agency, he or
962 she may appeal the final determination to the circuit court of the
963 county in which the main office of the claimant agency is located
964 by filing notice of appeal with the administrative head of the
965 claimant agency and with the clerk of the circuit court of the
966 county in which the appeal shall be taken within thirty (30) days
967 from the date the notice of final determination was given by the
968 claimant agency.



969 (6) (a) Upon final determination of the amount of the debt
970 due and owing by means of hearing or by the taxpayer's default
971 through failure to comply with timely request for review, the
972 claimant agency shall remove the amount of the debt due and owing
973 from the escrow account and credit such amount to the debtor's
974 obligation.

975 (b) Upon transfer of the debt due and owing from the
976 escrow account to the credit of the debtor's account, the claimant
977 agency shall notify the debtor in writing of the finalization of
978 the setoff. Such notice shall include a final accounting if the
979 refund which was set off, including the amount of the refund to
980 which the debtor was entitled * * * before the setoff, the amount
981 of the debt due and owing, the amount of the collection fee paid
982 to the Department of Revenue and/or Treasury, the amount of the
983 refund in excess of the debt which was returned to the debtor by
984 the Department of Revenue and/or Treasury, and the amount of the
985 funds transferred to the claimant agency in excess of the debt
986 determined to be due and owing at a hearing, if such a hearing was
987 held. At such time, the claimant agency shall refund to the
988 debtor the amount of the claimed debt originally certified and
989 transferred to it by the Department of Revenue in excess of the
990 amount of debt finally found to be due and owing.

991 (7) (a) Notwithstanding the provision that prohibits
992 disclosure by the Department of Revenue and/or Treasury of the
993 contents of taxpayer records or information and notwithstanding



994 any other confidentiality statute, the Department of Revenue
995 and/or Treasury may provide to a claimant agency all information
996 necessary to accomplish and effectuate the intent of the section.

997 (b) The information obtained by claimant agency from
998 the Department of Revenue and/or Treasury in accordance with the
999 provisions of this section shall retain its confidentiality and
1000 shall only be used by a claimant agency in the pursuit of its debt
1001 collection duties and practices; and any employee or prior
1002 employee of any claimant agency who unlawfully discloses any such
1003 information for any other purpose, except as specifically
1004 authorized by law, shall be subject to the same penalties
1005 specified by law for unauthorized confidential information by an
1006 agent or employee of the Department of Revenue and/or Treasury.

1007 **SECTION 5.** Section 71-5-355, Mississippi Code of 1972, is
1008 amended as follows:

1009 71-5-355. (1) As used in this section, the following words
1010 and phrases shall have the following meanings, unless the context
1011 clearly requires otherwise:

1012 (a) "Tax year" means any period beginning on January 1
1013 and ending on December 31 of a year.

1014 (b) "Computation date" means June 30 of any calendar
1015 year immediately preceding the tax year during which the
1016 particular contribution rates are effective.

1017 (c) "Effective date" means January 1 of the tax year.



1018 (d) Except as hereinafter provided, "payroll" means the
1019 total of all wages paid for employment by an employer as defined
1020 in Section 71-5-11, subsection H, plus the total of all
1021 remuneration paid by such employer excluded from the definition of
1022 wages by Section 71-5-351. For the computation of modified rates,
1023 "payroll" means the total of all wages paid for employment by an
1024 employer as defined in Section 71-5-11, subsection H.

1025 (e) For the computation of modified rates, "eligible
1026 employer" means an employer whose experience-rating record has
1027 been chargeable with benefits throughout the thirty-six (36)
1028 consecutive calendar-month period ending on the computation date,
1029 except that any employer who has not been subject to the
1030 Mississippi Employment Security Law for a period of time
1031 sufficient to meet the thirty-six (36) consecutive calendar-month
1032 requirement shall be an eligible employer if his or her
1033 experience-rating record has been chargeable throughout not less
1034 than the twelve (12) consecutive calendar-month period ending on
1035 the computation date. No employer shall be considered eligible
1036 for a contribution rate less than five and four-tenths percent
1037 (5.4%) with respect to any tax year, who has failed to file any
1038 two (2) quarterly reports within the qualifying period by
1039 September 30 following the computation date. No employer or
1040 employing unit shall be eligible for a contribution rate of less
1041 than five and four-tenths percent (5.4%) for the tax year in which
1042 the employing unit is found by the department to be in violation



1043 of Section 71-5-19(2) or (3) and for the next two (2) succeeding
1044 tax years. No representative of such employing unit who was a
1045 party to a violation as described in Section 71-5-19(2) or (3), if
1046 such representative was or is an employing unit in this state,
1047 shall be eligible for a contribution rate of less than five and
1048 four-tenths percent (5.4%) for the tax year in which such
1049 violation was detected by the department and for the next two (2)
1050 succeeding tax years.

1051 (f) With respect to any tax year, "reserve ratio" means
1052 the ratio which the total amount available for the payment of
1053 benefits in the Unemployment Compensation Fund, excluding any
1054 amount which has been credited to the account of this state under
1055 Section 903 of the Social Security Act, as amended, and which has
1056 been appropriated for the expenses of administration pursuant to
1057 Section 71-5-457 whether or not withdrawn from such account, on
1058 October 31 (close of business) of each calendar year bears to the
1059 aggregate of the taxable payrolls of all employers for the twelve
1060 (12) calendar months ending on June 30 next preceding.

1061 (g) "Modified rates" means the rates of employer
1062 unemployment insurance contributions determined under the
1063 provisions of this chapter and the rates of newly subject
1064 employers, as provided in Section 71-5-353.

1065 (h) For the computation of modified rates, "qualifying
1066 period" means a period of not less than the thirty-six (36)
1067 consecutive calendar months ending on the computation date



1068 throughout which an employer's experience-rating record has been
1069 chargeable with benefits; except that with respect to any eligible
1070 employer who has not been subject to this article for a period of
1071 time sufficient to meet the thirty-six (36) consecutive
1072 calendar-month requirement, "qualifying period" means the period
1073 ending on the computation date throughout which his or her
1074 experience-rating record has been chargeable with benefits, but in
1075 no event less than the twelve (12) consecutive calendar-month
1076 period ending on the computation date throughout which his or her
1077 experience-rating record has been so chargeable.

1078 (i) The "exposure criterion" (EC) is defined as the
1079 cash balance of the Unemployment Compensation Fund which is
1080 available for the payment of benefits as of November 16 of each
1081 calendar year or the next working day if November 16 falls on a
1082 holiday or a weekend, divided by the total wages, exclusive of
1083 wages paid by all state agencies, all political subdivisions,
1084 reimbursable nonprofit corporations, and tax-exempt public service
1085 employment, for the twelve-month period ending June 30 immediately
1086 preceding such date. The EC shall be computed to four (4) decimal
1087 places and rounded up if any fraction remains.

1088 (j) The "cost rate criterion" (CRC) is defined as
1089 follows: Beginning with January 1974, the benefits paid for the
1090 twelve-month period ending December 1974 are summed and divided by
1091 the total wages for the twelve-month period ending on June 30,
1092 1975. Similar ratios are computed by subtracting the earliest



1093 month's benefit payments and adding the benefits of the next month
1094 in the sequence and dividing each sum of twelve (12) months'
1095 benefits by the total wages for the twelve-month period ending on
1096 the June 30 which is nearest to the final month of the period used
1097 to compute the numerator. If December is the final month of the
1098 period used to compute the numerator, then the twelve-month period
1099 ending the following June 30 will be used for the denominator.
1100 Benefits and total wages used in the computation of the cost rate
1101 criterion shall exclude all benefits and total wages applicable to
1102 state agencies, political subdivisions, reimbursable nonprofit
1103 corporations, and tax-exempt PSE employment.

1104 The CRC shall be computed as the average for the highest
1105 monthly value of the cost rate criterion computations during each
1106 of the economic cycles since the calendar year 1974 as defined by
1107 the National Bureau of Economic Research. The CRC shall be
1108 computed to four (4) decimal places and any remainder shall be
1109 rounded up.

1110 The CRC shall be adjusted only through annual computations
1111 and additions of future economic cycles.

1112 (k) "Size of fund index" (SOFI) is defined as the ratio
1113 of the exposure criterion (EC) to the cost rate criterion (CRC).
1114 The target size of fund index will be fixed at 1.0. If the
1115 insured unemployment rate (IUR) exceeds a four and five-tenths
1116 percent (4.5%) average for the most recent completed July to June
1117 period, the target SOFI will be .8 and will remain at that level



1118 until the computed SOFI (the average exposure criterion of the
1119 current year and the preceding year divided by the average cost
1120 rate criterion) equals 1.0 or the average IUR falls to four and
1121 five-tenths percent (4.5%) or less for any period July to June.
1122 However, if the IUR falls below two and five-tenths percent (2.5%)
1123 for any period July to June the target SOFI shall be 1.2 until
1124 such time as the computed SOFI is equal to or greater than 1.0 or
1125 the IUR is equal to or greater than two and five-tenths percent
1126 (2.5%), at which point the target SOFI shall return to 1.0.

1127 (1) No employer's unemployment contribution general
1128 experience rate plus individual unemployment experience rate shall
1129 exceed five and four-tenths percent (5.4%). Accrual rules shall
1130 apply for purposes of computing contribution rates including
1131 associated functions.

1132 (m) The term "general experience rate" has the same
1133 meaning as the minimum tax rate.

1134 (2) Modified rates:

1135 (a) For any tax year, when the reserve ratio on the
1136 preceding November 16, in the case of any tax year, equals or
1137 exceeds three percent (3%), the modified rates, as hereinafter
1138 prescribed, shall be in effect. In computation of this reserve
1139 ratio, any remainder shall be rounded down.

1140 (b) Modified rates shall be determined for the tax year
1141 for each eligible employer on the basis of his or her
1142 experience-rating record in the following manner:



1143 (i) The department shall maintain an
1144 experience-rating record for each employer. Nothing in this
1145 chapter shall be construed to grant any employer or individuals
1146 performing services for him or her any prior claim or rights to
1147 the amounts paid by the employer into the fund.

1148 (ii) Benefits paid to an eligible individual shall
1149 be charged against the experience-rating record of his or her base
1150 period employers in the proportion to which the wages paid by each
1151 base period employer bears to the total wages paid to the
1152 individual by all the base period employers, provided that
1153 benefits shall not be charged to an employer's experience-rating
1154 record if the department finds that the individual:

1155 1. Voluntarily left the employ of such
1156 employer without good cause attributable to the employer or to
1157 accept other work;

1158 2. Was discharged by such employer for
1159 misconduct connected with his or her work;

1160 3. Refused an offer of suitable work by such
1161 employer without good cause, and the department further finds that
1162 such benefits are based on wages for employment for such employer
1163 prior to such voluntary leaving, discharge or refusal of suitable
1164 work, as the case may be;

1165 4. Had base period wages which included wages
1166 for previously uncovered services as defined in Section
1167 71-5-511(e) to the extent that the Unemployment Compensation Fund



1168 is reimbursed for such benefits pursuant to Section 121 of Public
1169 Law 94-566;

1170 5. Extended benefits paid under the
1171 provisions of Section 71-5-541 which are not reimbursable from
1172 federal funds shall be charged to the experience-rating record of
1173 base period employers;

1174 6. Is still working for such employer on a
1175 regular part-time basis under the same employment conditions as
1176 hired. Provided, however, that benefits shall be charged against
1177 an employer if an eligible individual is paid benefits who is
1178 still working for such employer on a part-time "as-needed" basis;

1179 7. Was hired to replace a United States
1180 serviceman or servicewoman called into active duty and was laid
1181 off upon the return to work by that serviceman or servicewoman,
1182 unless such employer is a state agency or other political
1183 subdivision or instrumentality of the state;

1184 8. Was paid benefits during any week while in
1185 training with the approval of the department, under the provisions
1186 of Section 71-5-513B, or for any week while in training approved
1187 under Section 236(a) (1) of the Trade Act of 1974, under the
1188 provisions of Section 71-5-513C;

1189 9. Is not required to serve the one-week
1190 waiting period as described in Section 71-5-505(2). In that
1191 event, only the benefits paid in lieu of the waiting period week
1192 may be noncharged; or



1193 10. Was paid benefits as a result of a
1194 fraudulent claim, provided notification was made to the
1195 Mississippi Department of Employment Security in writing or by
1196 email by the employer, within ten (10) days of the mailing of the
1197 notice of claim filed to the employer's last-known address.

1198 (iii) Notwithstanding any other provision
1199 contained herein, an employer shall not be noncharged when the
1200 department finds that the employer or the employer's agent of
1201 record was at fault for failing to respond timely or adequately to
1202 the request of the department for information relating to an
1203 unemployment claim that was subsequently determined to be
1204 improperly paid, unless the employer or the employer's agent of
1205 record shows good cause for having failed to respond timely or
1206 adequately to the request of the department for information. For
1207 purposes of this subparagraph "good cause" means an event that
1208 prevents the employer or employer's agent of record from timely
1209 responding, and includes a natural disaster, emergency or similar
1210 event, or an illness on the part of the employer, the employer's
1211 agent of record, or their staff charged with responding to such
1212 inquiries when there is no other individual who has the knowledge
1213 or ability to respond. Any agency error that resulted in a delay
1214 in, or the failure to deliver notice to, the employer or the
1215 employer's agent of record shall also be considered good cause for
1216 purposes of this subparagraph.



1217 (iv) The department shall compute a benefit ratio
1218 for each eligible employer, which shall be the quotient obtained
1219 by dividing the total benefits charged to his or her
1220 experience-rating record during the period his or her
1221 experience-rating record has been chargeable, but not less than
1222 the twelve (12) consecutive calendar-month period nor more than
1223 the thirty-six (36) consecutive calendar-month period ending on
1224 the computation date, by his or her total taxable payroll for the
1225 same period on which all unemployment insurance contributions due
1226 have been paid on or before the September 30 immediately following
1227 the computation date. Such benefit ratio shall be computed to the
1228 tenth of a percent (.1%), rounding any remainder to the next
1229 higher tenth.

1230 (v) 1. The unemployment insurance contribution
1231 rate for each eligible employer shall be the sum of two (2) rates:
1232 his or her individual experience rate in the range from zero
1233 percent (0%) to five and four-tenths percent (5.4%), plus a
1234 general experience rate. In no event shall the resulting
1235 unemployment insurance rate be in excess of five and four-tenths
1236 percent (5.4%), however, it is the intent of this section to
1237 provide the ability for employers to have a tax rate, the general
1238 experience rate plus the individual experience rate, of up to five
1239 and four-tenths percent (5.4%).



1240 2. The employer's individual experience rate
1241 shall be equal to his or her benefit ratio as computed under
1242 subsection (2) (b) (iv) above.

1243 3. The general experience rate shall be
1244 determined in the following manner: The department shall
1245 determine annually, for the thirty-six (36) consecutive
1246 calendar-month period ending on the computation date, the amount
1247 of benefits which were not charged to the record of any employer
1248 and of benefits which were ineffectively charged to the employer's
1249 experience-rating record. For the purposes of this item 3, the
1250 term "ineffectively charged benefits" shall include:

1251 a. The total of the amounts of benefits
1252 charged to the experience-rating records of all eligible employers
1253 which caused their benefit ratios to exceed five and four-tenths
1254 percent (5.4%);

1255 b. The total of the amounts of benefits
1256 charged to the experience-rating records of all ineligible
1257 employers which would cause their benefit ratios to exceed five
1258 and four-tenths percent (5.4%) if they were eligible employers;
1259 and

1260 c. The total of the amounts of benefits
1261 charged or chargeable to the experience-rating record of any
1262 employer who has discontinued his or her business or whose
1263 coverage has been terminated within such period; provided, that
1264 solely for the purposes of determining the amounts of



1265 ineffectively charged benefits as herein defined, a "benefit
1266 ratio" shall be computed for each ineligible employer, which shall
1267 be the quotient obtained by dividing the total benefits charged to
1268 his or her experience-rating record throughout the period ending
1269 on the computation date, during which his or her experience-rating
1270 record has been chargeable with benefits, by his or her total
1271 taxable payroll for the same period on which all unemployment
1272 insurance contributions due have been paid on or before the
1273 September 30 immediately following the computation date; and
1274 provided further, that such benefit ratio shall be computed to the
1275 tenth of one percent (.1%) and any remainder shall be rounded to
1276 the next higher tenth.

1277 The ratio of the sum of these amounts (subsection
1278 (2) (b) (v) 3a, b and c) to the taxable wages paid during the same
1279 period divided by all eligible employers whose benefit ratio did
1280 not exceed five and four-tenths percent (5.4%), computed to the
1281 next higher tenth of one percent (.1%), shall be the general
1282 experience rate; however, the general experience rate for rate
1283 year 2014 shall be two tenths of one percent (.2%) and to that
1284 will be added the employer's individual experience rate for the
1285 total unemployment insurance rate.

1286 4. a. Except as otherwise provided in this
1287 item 4, the general experience rate shall be adjusted by use of
1288 the size of fund index factor. This factor may be positive or
1289 negative, and shall be determined as follows: From the target



1290 SOFI, as defined in subsection (1)(k) of this section, subtract
1291 the simple average of the current and preceding years' exposure
1292 criterions divided by the cost rate criterion, as defined in
1293 subsection (1)(j) of this section. The result is then multiplied
1294 by the product of the CRC, as defined in subsection (1)(j) of this
1295 section, and total wages for the twelve-month period ending June
1296 30 divided by the taxable wages for the twelve-month period ending
1297 June 30. This is the percentage positive or negative added to the
1298 general experience rate. The sum of the general experience rate
1299 and the trust fund adjustment factor shall be multiplied by fifty
1300 percent (50%) and this product shall be computed to one (1)
1301 decimal place, and rounded to the next higher tenth.

1302 b. Notwithstanding the minimum rate
1303 provisions as set forth in subsection (1)(l) of this section, the
1304 general experience rate of all employers shall be reduced by seven
1305 one-hundredths of one percent (.07%) for calendar year 2013 only.

1306 5. The general experience rate shall be zero
1307 percent (0%) unless the general experience ratio for any tax year
1308 as computed and adjusted on the basis of the trust fund adjustment
1309 factor and reduced by fifty percent (50%) is an amount equal to or
1310 greater than two-tenths of one percent (.2%), then the general
1311 experience rate shall be the computed general experience ratio and
1312 adjusted on the basis of the trust fund adjustment factor and
1313 reduced by fifty percent (50%); however, in no case shall the sum
1314 of the general experience plus the individual experience



1315 unemployment insurance rate exceed five and four-tenths percent
1316 (5.4%). For rate years subsequent to 2014, Mississippi Workforce
1317 Enhancement Training contribution rate, and/or State Workforce
1318 Investment contribution rate, and/or Mississippi Works
1319 contribution rate, when in effect, shall be added to the
1320 unemployment contribution rate, regardless of whether the addition
1321 of this contribution rate causes the total contribution rate for
1322 the employer to exceed five and four-tenths percent (5.4%).

1323 6. The department shall include in its annual
1324 rate notice to employers a brief explanation of the elements of
1325 the general experience rate, and shall include in its regular
1326 publications an annual analysis of benefits not charged to the
1327 record of any employer, and of the benefit experience of employers
1328 by industry group whose benefit ratio exceeds four percent (4%),
1329 and of any other factors which may affect the size of the general
1330 experience rate.

1331 7. Notwithstanding any other provision
1332 contained herein, the general experience rate for calendar year
1333 2021 shall be zero percent (0%). Charges attributed to each
1334 employer's individual experience rate for the period March 8,
1335 2020, through June 30, 2020, will not impact the employer's
1336 individual experience rate calculations for purposes of
1337 calculating the total unemployment insurance rate for 2021 and the
1338 two (2) subsequent tax rate years. Moreover, charges attributed
1339 to each employer's individual experience rate for the period July



1340 1, 2020, through December 31, 2020, will not impact the employer's
1341 individual experience rate calculations for purposes of
1342 calculating the total unemployment insurance rate for 2022 and the
1343 two (2) subsequent tax rate years.

1344 (vi) When any employing unit in any manner
1345 succeeds to or acquires the organization, trade, business or
1346 substantially all the assets thereof of an employer, excepting any
1347 assets retained by such employer incident to the liquidation of
1348 his or her obligations, whether or not such acquiring employing
1349 unit was an employer within the meaning of Section 71-5-11,
1350 subsection H, prior to such acquisition, and continues such
1351 organization, trade or business, the experience-rating and payroll
1352 records of the predecessor employer shall be transferred as of the
1353 date of acquisition to the successor employer for the purpose of
1354 rate determination.

1355 (vii) When any employing unit succeeds to or
1356 acquires a distinct and severable portion of an organization,
1357 trade or business, the experience-rating and payroll records of
1358 such portion, if separately identifiable, shall be transferred to
1359 the successor upon:

- 1360 1. The mutual consent of the predecessor and
1361 the successor;
- 1362 2. Approval of the department;
- 1363 3. Continued operation of the transferred
1364 portion by the successor after transfer; and



1365 4. The execution and the filing with the
1366 department by the predecessor employer of a waiver relinquishing
1367 all rights to have the experience-rating and payroll records of
1368 the transferred portion used for the purpose of determining
1369 modified rates of contribution for such predecessor.

1370 (viii) If the successor was an employer subject to
1371 this chapter prior to the date of acquisition, it shall continue
1372 to pay unemployment insurance contributions at the rate applicable
1373 to it from the date the acquisition occurred until the end of the
1374 then current tax year. If the successor was not an employer prior
1375 to the date of acquisition, it shall pay unemployment insurance
1376 contributions at the rate applicable to the predecessor or, if
1377 more than one (1) predecessor and the same rate is applicable to
1378 both, the rate applicable to the predecessor or predecessors, from
1379 the date the acquisition occurred until the end of the then
1380 current tax year. If the successor was not an employer prior to
1381 the date the acquisition occurred and simultaneously acquires the
1382 businesses of two (2) or more employers to whom different rates of
1383 unemployment insurance contributions are applicable, it shall pay
1384 unemployment insurance contributions from the date of the
1385 acquisition until the end of the current tax year at a rate
1386 computed on the basis of the combined experience-rating and
1387 payroll records of the predecessors as of the computation date for
1388 such tax year. In all cases the rate of unemployment insurance
1389 contributions applicable to such successor for each succeeding tax



1390 year shall be computed on the basis of the combined
1391 experience-rating and payroll records of the successor and the
1392 predecessor or predecessors.

1393 (ix) The department shall notify each employer
1394 quarterly of the benefits paid and charged to his or her
1395 experience-rating record; and such notification, in the absence of
1396 an application for redetermination filed within thirty (30) days
1397 after the date of such notice, shall be final, conclusive and
1398 binding upon the employer for all purposes. A redetermination,
1399 made after notice and opportunity for a fair hearing, by a hearing
1400 officer designated by the department who shall consider and decide
1401 these and related applications and protests; and the finding of
1402 fact in connection therewith may be introduced into any subsequent
1403 administrative or judicial proceedings involving the determination
1404 of the rate of unemployment insurance contributions of any
1405 employer for any tax year, and shall be entitled to the same
1406 finality as is provided in this subsection with respect to the
1407 findings of fact in proceedings to redetermine the contribution
1408 rate of an employer.

1409 (x) The department shall notify each employer of
1410 his or her rate of contribution as determined for any tax year as
1411 soon as reasonably possible after September 1 of the preceding
1412 year. Such determination shall be final, conclusive and binding
1413 upon such employer unless, within thirty (30) days after the date
1414 of such notice to his or her last-known address, the employer



1415 files with the department an application for review and
1416 redetermination of his or her contribution rate, setting forth his
1417 or her reasons therefor. If the department grants such review,
1418 the employer shall be promptly notified thereof and shall be
1419 afforded an opportunity for a fair hearing by a hearing officer
1420 designated by the department who shall consider and decide these
1421 and related applications and protests; but no employer shall be
1422 allowed, in any proceeding involving his or her rate of
1423 unemployment insurance contributions or contribution liability, to
1424 contest the chargeability to his or her account of any benefits
1425 paid in accordance with a determination, redetermination or
1426 decision pursuant to Sections 71-5-515 through 71-5-533 except
1427 upon the ground that the services on the basis of which such
1428 benefits were found to be chargeable did not constitute services
1429 performed in employment for him or her, and then only in the event
1430 that he or she was not a party to such determination,
1431 redetermination, decision or to any other proceedings provided in
1432 this chapter in which the character of such services was
1433 determined. The employer shall be promptly notified of the denial
1434 of this application or of the redetermination, both of which shall
1435 become final unless, within ten (10) days after the date of notice
1436 thereof, there shall be an appeal to the department itself. Any
1437 such appeal shall be on the record before said designated hearing
1438 officer, and the decision of said department shall become final
1439 unless, within thirty (30) days after the date of notice thereof



1440 to the employer's last-known address, there shall be an appeal to
1441 the Circuit Court of the First Judicial District of Hinds County,
1442 Mississippi, in accordance with the provisions of law with respect
1443 to review of civil causes by certiorari.

1444 (3) Notwithstanding any other provision of law, the
1445 following shall apply regarding assignment of rates and transfers
1446 of experience:

1447 (a) (i) If an employer transfers its trade or
1448 business, or a portion thereof, to another employer and, at the
1449 time of the transfer, there is substantially common ownership,
1450 management or control of the two (2) employers, then the
1451 unemployment experience attributable to the transferred trade or
1452 business shall be transferred to the employer to whom such
1453 business is so transferred. The rates of both employers shall be
1454 recalculated and made effective on January 1 of the year following
1455 the year the transfer occurred.

1456 (ii) If, following a transfer of experience under
1457 subparagraph (i) of this paragraph (a), the department determines
1458 that a substantial purpose of the transfer of trade or business
1459 was to obtain a reduced liability of unemployment insurance
1460 contributions, then the experience-rating accounts of the
1461 employers involved shall be combined into a single account and a
1462 single rate assigned to such account.

1463 (b) Whenever a person who is not an employer or an
1464 employing unit under this chapter at the time it acquires the



1465 trade or business of an employer, the unemployment experience of
1466 the acquired business shall not be transferred to such person if
1467 the department finds that such person acquired the business solely
1468 or primarily for the purpose of obtaining a lower rate of
1469 unemployment insurance contributions. Instead, such person shall
1470 be assigned the new employer rate under Section 71-5-353, unless
1471 assignment of the new employer rate results in an increase of less
1472 than two percent (2%), in which case such person would be assigned
1473 the new employer rate plus an additional two percent (2%) penalty
1474 for the rate year. In determining whether the business was
1475 acquired solely or primarily for the purpose of obtaining a lower
1476 rate of unemployment insurance contributions, the department shall
1477 use objective factors which may include the cost of acquiring the
1478 business, whether the person continued the business enterprise of
1479 the acquired business, how long such business enterprise was
1480 continued, or whether a substantial number of new employees were
1481 hired for performance of duties unrelated to the business activity
1482 conducted prior to acquisition.

1483 (c) (i) If a person knowingly violates or attempts to
1484 violate paragraph (a) or (b) of this subsection or any other
1485 provision of this chapter related to determining the assignment of
1486 a contribution rate, or if a person knowingly advises another
1487 person in a way that results in a violation of such provision, the
1488 person shall be subject to the following penalties:



1489 1. If the person is an employer, then such
1490 employer shall be assigned the highest rate assignable under this
1491 chapter for the rate year during which such violation or attempted
1492 violation occurred and the three (3) rate years immediately
1493 following this rate year. However, if the person's business is
1494 already at such highest rate for any year, or if the amount of
1495 increase in the person's rate would be less than two percent (2%)
1496 for such year, then * * * the person's tax rate shall be increased
1497 by two percent (2%) for such year. The penalty rate will apply to
1498 the successor business as well as the related entity from which
1499 the employees were transferred in an effort to obtain a lower rate
1500 of unemployment insurance contributions.

1501 2. If the person is not an employer, such
1502 person shall be subject to a civil money penalty of not more than
1503 Five Thousand Dollars (\$5,000.00). Each such transaction for
1504 which advice was given and each occurrence or reoccurrence after
1505 notification being given by the department shall be a separate
1506 offense and punishable by a separate penalty. Any such fine shall
1507 be deposited in the penalty and interest account established under
1508 Section 71-5-114.

1509 (ii) For purposes of this paragraph (c), the term
1510 "knowingly" means having actual knowledge of or acting with
1511 deliberate ignorance or reckless disregard for the prohibition
1512 involved.



1513 (iii) For purposes of this paragraph (c), the term
1514 "violates or attempts to violate" includes, but is not limited to,
1515 intent to evade, misrepresentation or willful nondisclosure.

1516 (iv) In addition to the penalty imposed by
1517 subparagraph (i) of this paragraph (c), any violation of this
1518 subsection may be punishable by a fine of not more than Ten
1519 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1520 five (5) years, or by both such fine and imprisonment. This
1521 subsection shall prohibit prosecution under any other criminal
1522 statute of this state.

1523 (d) The department shall establish procedures to
1524 identify the transfer or acquisition of a business for purposes of
1525 this subsection.

1526 (e) For purposes of this subsection:

1527 (i) "Person" has the meaning given such term by
1528 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

1529 (ii) "Employing unit" has the meaning as set forth
1530 in Section 71-5-11.

1531 (f) This subsection shall be interpreted and applied in
1532 such a manner as to meet the minimum requirements contained in any
1533 guidance or regulations issued by the United States Department of
1534 Labor.

1535 **SECTION 6.** This act shall take effect and be in force from
1536 and after July 1, 2021.



Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

1 AN ACT TO AMEND SECTION 71-5-11, MISSISSIPPI CODE OF 1972, TO
2 AMEND THE DEFINITION OF "UNEMPLOYMENT" TO EXCLUDE INDIVIDUALS
3 RECEIVING VOLUNTARY PAYMENTS FROM EMPLOYERS IF THOSE PAYMENTS
4 EQUAL THEIR REGULAR SALARY AND INDIVIDUALS ON ADMINISTRATIVE
5 LEAVE; TO AMEND THE DEFINITION OF "WAGES" TO INCLUDE PAYMENTS FROM
6 EMPLOYERS THAT ARE IN LIEU OF THE EMPLOYEE'S REGULAR WAGES; TO
7 AMEND SECTION 71-5-365, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
8 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT SECURITY TO
9 DESIGNATE A DEPARTMENT EMPLOYEE TO DETERMINE WHETHER AN EMPLOYER
10 REPORT ON CONTRIBUTIONS DUE IS INCORRECT OR INSUFFICIENT, MAKE AN
11 ASSESSMENT ON BEST INFORMATION AVAILABLE, ASSESS THE CONTRIBUTIONS
12 DUE, AND ASSESS A PENALTY IF ONE IS NEEDED FOR NONCOMPLIANT
13 EMPLOYERS; TO AMEND SECTION 71-5-363, MISSISSIPPI CODE OF 1972, TO
14 AUTHORIZE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF EMPLOYMENT
15 SECURITY TO ABATE INTEREST ACCRUED ON PAST-DUE CONTRIBUTIONS OR
16 OVERPAYMENTS WHEN NEGOTIATING THE SETTLEMENTS OF SUCH PAST-DUE
17 AMOUNTS; TO AMEND SECTION 71-5-389, MISSISSIPPI CODE OF 1972, TO
18 CLARIFY THAT TAX OFFSETS ARE FROM BOTH THE MISSISSIPPI DEPARTMENT
19 OF REVENUE AND THE UNITED STATES DEPARTMENT OF TREASURY; TO AMEND
20 SECTION 71-5-355, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT A
21 PERSON WHO ACQUIRES A BUSINESS SOLELY TO OBTAIN A LOWER RATE OF
22 UNEMPLOYMENT INSURANCE CONTRIBUTIONS SHALL HAVE A 2% INCREASE IN
23 THE TAX RATE; AND FOR RELATED PURPOSES.

