

By: Representative Moss

To: Labor

HOUSE BILL NO. 1579  
(As Sent to Governor)

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

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

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

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

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

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

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



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

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

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

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

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



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

86 H. "Employer" means:

87 (1) Any employing unit which,

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

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

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



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

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

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

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

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

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

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

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



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

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

147           I. "Employment" means and includes:

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

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

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

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



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

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

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

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

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

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

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

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



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

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

205 (a) In the employ of:

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

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

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

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

219 (i) As an elected official;

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

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

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

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



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

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

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

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

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

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

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

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

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





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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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



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

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

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

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

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

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

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

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





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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

607 O. "Unemployment."

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

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



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

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

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

638 (i) Retirement, or

639 (ii) Sickness or accident disability, or

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

642 (iv) Death, provided the employee:

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

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



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

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

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

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

664 (ii) Covers only employees;

665 (iii) Covers only noncash benefits;

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

668 (2) [Not enacted].

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

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

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

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

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



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

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

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

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

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



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

726 (ii) Any nonprofit organization which makes an  
727 election in accordance with subparagraph (i) of this subsection  
728 will continue to be liable for payments in lieu of contributions  
729 unless it files with the commission a written termination notice  
730 not later than thirty (30) days prior to the beginning of the tax  
731 year for which such termination shall first be effective.

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

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

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



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

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

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

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

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

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





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

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

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



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

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

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

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

846 (ii) If benefits paid to an individual are based  
847 on wages paid by two (2) or more employers that are liable for  
848 payments in lieu of contributions, the amount of benefits payable



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

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

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

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



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

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



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

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

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

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

937 71-5-387. (1) Indian tribe(s) as defined in Section 3306(u)  
938 of the Federal Unemployment Tax Act (FUTA), which includes any  
939 subdivision, subsidiary or business enterprise wholly owned by  
940 such Indian tribe(s), subject to this chapter shall pay  
941 contributions under the same terms and conditions as all other  
942 subject employers, unless such Indian tribe elects to pay into the  
943 State Unemployment Fund amounts equal to the amount of benefits  
944 attributable to service in the employ of the Indian tribe.

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



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

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

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

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

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

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



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

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

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

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

1000 (a) Shall cause the Indian tribe to be liable for taxes  
1001 under the Federal Unemployment Tax Act (FUTA);

1002 (b) Shall cause the Indian tribe to lose the option to  
1003 make payments in lieu of contributions;

1004 (c) May cause the Indian tribe to be excepted from the  
1005 definition of "employer," as provided in Section 71-5-11, and  
1006 services in the employ of the Indian tribe, as provided in Section  
1007 71-5-11, to be excepted from "employment."

1008 (11) Benefits based on service performed in employment with  
1009 an Indian tribe as defined in Section 3306(u) of the Federal  
1010 Unemployment Tax Act (FUTA), which includes any subdivision,  
1011 subsidiary or business enterprise wholly owned by such Indian  
1012 tribe, shall be payable in the same amount, on the same terms and



1013 subject to the same conditions, as benefits payable on the basis  
1014 of other service subject to this chapter.

1015 (12) Extended benefits paid that are attributable to service  
1016 in the employ of an Indian tribe, and not reimbursed by the  
1017 federal government, shall be financed in their entirety by such  
1018 Indian tribe.

1019 (13) Any non-FUTA exclusions, that are by reference included  
1020 in this section, shall not apply to Indian tribes if federal law  
1021 requires coverage of such services.

1022 **SECTION 4.** Section 71-5-501, Mississippi Code of 1972, is  
1023 amended as follows:

1024 71-5-501. \* \* \* Wages earned for services defined in Section  
1025 71-5-11(I)(15)(g), irrespective of when performed, shall not be  
1026 included for purposes of determining eligibility under Section  
1027 71-5-511(e) or weekly benefit amount under Section 71-5-503 \* \* \*  
1028 nor shall any benefits with respect to unemployment \* \* \* be  
1029 payable under Section 71-5-505 on the basis of such wages. All  
1030 benefits shall be paid through employment offices or such other  
1031 agency or agencies as the commission may, by regulation,  
1032 designate, in accordance with such regulations as the commission  
1033 may prescribe. The commission may, by regulation, prescribe that  
1034 benefits due and payable to claimants who die prior to the receipt  
1035 or cashing of benefits checks may be paid to the legal  
1036 representative, dependents, or next of kin, of the deceased as may  
1037 be found by it to be equitably entitled thereto, and every such  
1038 payment shall be deemed a valid payment to the same extent as if  
1039 made to the legal representative of the decedent.

1040 **SECTION 5.** This act shall take effect and be in force from  
1041 and after July 1, 2002.

