

By: Representatives Smith (39th), Miles

To: Workforce Development

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 911

1 AN ACT TO AMEND SECTION 71-5-353, MISSISSIPPI CODE OF 1972,
2 TO CREATE THE MISSISSIPPI WORKS FUND IN THE MISSISSIPPI EMPLOYMENT
3 SECURITY LAW; TO PROVIDE THAT CONTRIBUTIONS TO SUCH FUND SHALL BE
4 MADE IN CALENDAR YEARS 2015 AND 2016 AND TO PROVIDE THE AMOUNT OF
5 CONTRIBUTIONS AND THE PAYMENT OF CONTRIBUTIONS TO SUCH FUND; TO
6 ESTABLISH THE CONTRIBUTION RATE FOR CALENDAR YEARS 2015 AND 2016;
7 TO PROVIDE THAT MISSISSIPPI WORKS FUNDS SHALL BE TRANSFERRED TO A
8 TREASURY FUND FOR THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT
9 SECURITY; TO PROVIDE THAT ALL FUNDS DEPOSITED INTO THE MISSISSIPPI
10 DEPARTMENT OF EMPLOYMENT SECURITY TREASURY FUND FROM THE
11 MISSISSIPPI WORKS CONTRIBUTIONS SHALL BE ALLOCATED EXCLUSIVELY BY
12 THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY TO MAKE
13 STRATEGIC AND TARGETED INVESTMENTS IN THE MISSISSIPPI WORKFORCE TO
14 ENCOURAGE THE GROWTH OF BETTER PAYING, HIGHER SKILLED IN-DEMAND
15 JOBS, WITH A FOCUS ON HIGH GROWTH INDUSTRIES, SUPPLYING TRAINING
16 FUNDS TO MEET IMMEDIATE TRAINING NEEDS; TO AMEND SECTION 71-5-355,
17 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE GENERAL EXPERIENCE
18 RATE FOR RATE YEARS 2015 AND 2016 SHALL BE ZERO; TO PROVIDE FOR AN
19 INCREASE IN THE GENERAL EXPERIENCE RATE IN 2015 AND 2016 UNDER
20 CERTAIN CIRCUMSTANCES; TO AMEND SECTION 71-5-453, MISSISSIPPI CODE
21 OF 1972, IN CONFORMITY THERETO; TO AMEND SECTION 37-153-7,
22 MISSISSIPPI CODE OF 1972, TO REVISE THE MEMBERSHIP OF THE STATE
23 WORKFORCE INVESTMENT BOARD; AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** Section 71-5-353, Mississippi Code of 1972, is
26 amended as follows:

27 71-5-353. (1) (a) Each employer shall pay unemployment
28 insurance contributions equal to five and four-tenths percent



29 (5.4%) of taxable wages paid by him each calendar year, except as
30 may be otherwise provided in Section 71-5-361 and except that each
31 newly subject employer shall pay unemployment insurance
32 contributions at the rate of one percent (1%) of taxable wages,
33 for his first year of liability, one and one-tenth percent (1.1%)
34 of taxable wages for his second year of liability, and one and
35 two-tenths percent (1.2%) of taxable wages for his third and
36 subsequent years of liability unless the employer's
37 experience-rating record has been chargeable throughout at least
38 the twelve (12) consecutive calendar months ending on the most
39 recent computation date at the time the rate for a year is
40 determined; thereafter the employer's contribution rate shall be
41 determined in accordance with the provisions of Section 71-5-355.

42 (b) Notwithstanding the newly subject employer
43 contribution rate provided for in paragraph (a) of this
44 subsection, the contribution rate of all newly subject employers
45 shall be reduced by seven one-hundredths of one percent (.07%) for
46 calendar year 2013 only. The contribution rate of all newly
47 subject employers shall be reduced by three one-hundredths of one
48 percent (.03%) for calendar year 2014 only. For purposes of this
49 chapter, "newly subject employers" means employers whose
50 unemployment insurance experience-rating record has not been
51 chargeable throughout at least the twelve (12) consecutive
52 calendar months ending on the most recent computation date at the
53 time the contribution rate for a year is determined.



54 (2) (a) (i) There is hereby created in the Treasury of the
55 State of Mississippi * * * special funds to be known as the
56 "Mississippi Workforce Enhancement Training Fund * * *" and the
57 "Mississippi Works Fund" which * * * consist of funds collected
58 pursuant to subsection (3) of this section.

59 (ii) Funds collected shall initially be deposited
60 into the Mississippi Department of Employment Security bank
61 account for clearing contribution collections and subsequently
62 appropriate amounts shall be transferred to the Mississippi
63 Workforce Investment and Training Fund Holding Account described
64 in Section 71-5-453 and the Mississippi Department of Employment
65 Security Treasury Fund for Mississippi Works Contributions. In
66 the event any employer pays an amount insufficient to cover the
67 total contributions due, the amounts due shall be satisfied in the
68 following order:

69 1. Unemployment contributions;

70 * * *

71 * * *2. Mississippi Workforce Enhancement
72 Training Fund, State Workforce Investment Fund and Mississippi
73 Works Fund contributions * * * on a pro rata basis;

74 * * *3. Interest and damages; then

75 * * *4. Legal and processing costs.

76 The amount of unemployment insurance contributions due for
77 any period will be the amount due according to the actual
78 computations unless the employer is participating in the MLPP. In



79 that event, the amount due is the MLPP amount computed by the
80 department.

81 Cost of collection and administration of the Mississippi
82 Workforce Enhancement Training Fund * * *, the State Workforce
83 Investment Fund and Mississippi Works Fund contributions shall be
84 allocated based on a plan approved by the United States Department
85 of Labor (USDOL) * * *. The Mississippi Community College Board
86 shall pay the cost of collecting the Mississippi Workforce
87 Enhancement Training Fund contributions, the State Workforce
88 Investment Board shall pay the costs of collecting the State
89 Workforce Investment Fund contributions and the Mississippi
90 Department of Employment Security shall pay the costs of
91 collection for the Mississippi Works Fund contributions, each out
92 of the respective fund contributions. Payments shall be made
93 semiannually * * * with the cost allocated to each based on a
94 USDOL approved plan on a pro rata basis, for periods ending
95 in * * * June and December of each year. Payment shall be made by
96 each organization to the department no later than sixty (60) days
97 after the billing date. Cost shall be allocated * * * under the
98 United States Department of Labor's approved plan and in the same
99 ratio as the distribution described for the distribution of funds
100 described in paragraph (b) of this subsection.

101 (b) Mississippi Workforce Enhancement Training * * *,
102 State Workforce Investment and Mississippi Works contributions
103 shall be distributed as follows:



104 (i) For calendar year 2014, ninety-four and
105 seventy-five one-hundredths percent (94.75%) shall be distributed
106 to the Mississippi Workforce Enhancement Training Fund and the
107 remainder shall be distributed to the State Workforce Investment
108 Board bank account;

109 (ii) For calendar years 2015 and 2016, forty-one
110 and seven-tenths percent (41.7%) shall be distributed to the
111 Mississippi Workforce Enhancement Training Fund, two and
112 seven-tenths percent (2.7%) shall be distributed to the State
113 Workforce Investment Fund and fifty-five and six-tenths percent
114 (55.6%) shall be distributed to the Mississippi Works Fund.

115 (* * * iii) For calendar years subsequent to
116 calendar year * * * 2016, ninety-three and seventy-five
117 one-hundredths percent (93.75%) shall be distributed to the
118 Mississippi Workforce Enhancement Training Fund and the remainder
119 shall be distributed to the State Workforce Investment Board bank
120 account.

121 (c) All * * * contributions collected for the State
122 Workforce Enhancement Training Fund, the State Workforce
123 Investments Fund and the Mississippi Works Fund will be initially
124 deposited into the Mississippi Department of Employment Security
125 bank account for clearing contribution collections and
126 subsequently transferred to the Workforce Investment and Training
127 Holding Account and will be held by the Mississippi Department of
128 Employment Security in such account for a period of not less than



129 thirty (30) days. After such period, the Mississippi Workforce
130 Enhancement Training Fund * * * contributions shall be transferred
131 to the Mississippi Community College Board Treasury Account, * * *
132 the State Workforce Investment * * * Fund * * * contributions
133 shall be transferred to the State Workforce Investment Board bank
134 account and the Mississippi Works Fund contributions shall be
135 transferred to the Mississippi Department of Employment Security
136 Mississippi Works Treasury Fund, in the manner described in
137 paragraph (b) of this subsection and within the time frame
138 determined by the department; however, except in cases of
139 extraordinary circumstances, these funds shall be transferred
140 within fifteen (15) days. Interest earnings or interest credits
141 on deposit amounts in the Workforce Investment and Training * * *
142 Holding Account shall be retained in the account to pay the
143 banking costs of the account. If after the period of twelve (12)
144 months interest earnings less banking costs exceeds Ten Thousand
145 Dollars (\$10,000.00), such excess amounts shall be transferred to
146 the respective accounts within thirty (30) days following the end
147 of each calendar year on the basis described in paragraph (b) of
148 this subsection. Interest earnings and/or interest credits for
149 the State Workforce Investment funds shall be used for payment of
150 banking costs and excess shall be used in accordance with the
151 rules and regulations of the State Workforce Investment Board
152 expenditure policies.



153 (d) All enforcement procedures for the collection of
154 delinquent unemployment contributions contained in Sections
155 71-5-363 through 71-5-383 shall be applicable in all respects for
156 collections of delinquent unemployment insurance contributions
157 designated for the Unemployment Compensation Fund, the Mississippi
158 Workforce Enhancement Training Fund * * *, the State Workforce
159 Investment * * * Fund and the Mississippi Works Fund.

160 (e) (i) Except as otherwise provided for in this
161 subparagraph (i), all monies deposited into the Mississippi
162 Workforce Enhancement Training Fund treasury account shall be
163 utilized exclusively by the Mississippi Community College Board in
164 accordance with the Workforce Training Act of 1994 (Section
165 37-153-1 et seq.) and the annual plan developed by the State
166 Workforce Investment Board for the following purposes: to provide
167 training at no charge to employers and employees in order to
168 enhance employee productivity. Such training may be subject to a
169 minimal administrative fee to be paid from the Mississippi
170 Workforce Enhancement Training Fund as established by the State
171 Workforce Investment Board subject to the advice of the
172 Mississippi Community College Board. The initial priority of
173 these funds shall be for the benefit of existing businesses
174 located within the state. Employers may request training for
175 existing employees and/or newly hired employees from the
176 Mississippi Community College Board. The Mississippi Community
177 College Board will be responsible for approving the training. A



178 portion of the funds collected for the Mississippi Workforce
179 Enhancement Training Fund shall be used for the development of
180 performance measures to measure the effectiveness of the use of
181 the Mississippi Workforce Enhancement Training Fund dollars.
182 These performance measures shall be uniform for all community
183 colleges and shall be reported to the Governor, Lieutenant
184 Governor and members of the Legislature. Nothing in this section
185 or elsewhere in law shall be interpreted as giving the State
186 Workforce Investment Board authority to direct the Mississippi
187 Community College Board or individual community or junior colleges
188 on how to expend money for workforce training, whether such money
189 comes from the Mississippi Workforce Enhancement Training Fund, is
190 appropriated by the Legislature to the Mississippi Community
191 College Board for workforce training or comes from other sources.
192 The Mississippi Community College Board, individual community or
193 junior colleges and the State Workforce Investment Board shall
194 cooperate with each other and with other state agencies to promote
195 effective workforce training in Mississippi. Any subsequent
196 changes to these performance measures shall also be reported to
197 the Governor, Lieutenant Governor and members of the Legislature.
198 A performance report for each community college, based upon these
199 measures, shall be submitted annually to the Governor, Lieutenant
200 Governor and members of the Legislature.

201 (ii) Except as otherwise provided in this
202 subsection, all funds deposited into the State Workforce



203 Investment Board bank account shall be used for administration of
204 State Workforce Investment Board business, grants related to
205 training, and other projects as determined appropriate by the
206 State Workforce Investment Board and shall be nonexpiring.
207 Policies for grants and other projects shall be approved through a
208 majority vote of the State Workforce Investment Board.

209 (iii) All funds deposited into the Mississippi
210 Department of Employment Security Mississippi Works Fund shall be
211 nonexpiring and allocated exclusively by the Executive Director of
212 the Mississippi Department of Employment Security, in accordance
213 with the rules and regulations promulgated by the State Workforce
214 Investment Board Rules Committee, to make strategic and targeted
215 investments in the Mississippi workforce for the purpose of
216 meeting immediate training needs for economic development. When
217 appropriate, the Mississippi Public Community College System and
218 its partners shall be the preferred entities to facilitate the
219 training. In no case shall these funds be used to supplant
220 workforce funds available from any other sources, including, but
221 not limited to, local, state or federal sources that are available
222 for workforce training and development. Such training conducted
223 utilizing these Mississippi Works funds may be subject to a
224 minimal administrative fee to be paid from the Mississippi Works
225 Fund as authorized by the Mississippi Department of Employment
226 Security. All costs associated with the administration of these



227 funds shall be reimbursed to the Mississippi Department of
228 Employment Security from the Mississippi Works Fund.

229 (* * * iv) 1. The Department of Employment
230 Security shall be the fiscal agent for the receipt and
231 disbursement of all funds in the State Workforce Investment Board
232 bank account.

233 2. In managing the State Workforce Investment
234 Board bank account, the department shall ensure that any funds
235 expended for contractual services rendered to the State Workforce
236 Investment Board shall be paid only to service providers who have
237 been selected on a competitive basis. Any contract for services
238 entered into using funds from the Workforce Investment * * * Board
239 bank account shall contain the deliverables stated in terms that
240 allow for the assessment of work performance against measurable
241 performance standards and shall include milestones for completion
242 of each deliverable under the contract. For each contract for
243 services entered into by the State Workforce Investment Board, the
244 board shall develop a quality assurance surveillance plan that
245 specifies quality control obligations of the contractor as well as
246 measurable inspection and acceptance criteria corresponding to the
247 performance standards contained in the contract's statement of
248 work.

249 3. Any commodities procured for the board
250 shall be procured in accordance with the provisions of Section
251 31-7-13.



252 (* * *y) In addition to other expenditures, the
253 department shall expend from the State Workforce Investment Board
254 bank account for the use and benefit of the State Workforce
255 Investment Board, such funds as are necessary to prepare and
256 develop a study of workforce development needs that will consist
257 of the following:

258 1. An identification of the state's workforce
259 development needs through a well-documented quantitative and
260 qualitative analysis of:

261 a. The current and projected workforce
262 training needs of existing and identified potential Mississippi
263 industries, with priority given to assessing the needs of existing
264 in-state industry and business. Where possible, the analysis
265 should include a verification and expansion of existing
266 information previously developed by workforce training and service
267 providers, as well as analysis of existing workforce data, such as
268 the data collected through the Statewide Longitudinal Data System.

269 b. The needs of the state's workers and
270 residents requiring additional workforce training to improve their
271 work skills in order to compete for better employment
272 opportunities, including a priority-based analysis of the critical
273 factors currently limiting the state's ability to provide a
274 trained and ready workforce.

275 c. The needs of workforce service and
276 training providers in improving their ability to offer



277 industry-relevant training, including an assessment of the
278 practical limits of keeping training programs on the leading edge
279 and eliminating those programs with marginal workforce relevance.

280 2. An assessment of Mississippi's current
281 workforce development service delivery structure relative to the
282 needs quantified in this subparagraph, including:

283 a. Development of a list of
284 strengths/weaknesses/opportunities/threats (SWOT) of the current
285 workforce development delivery system relative to the identified
286 needs;

287 b. Identification of strategic options
288 for workforce development services based on the results of the
289 SWOT analysis; and

290 c. Development of results-oriented
291 measures for each option that can be baselined and, if
292 implemented, tracked over time, with quantifiable milestones and
293 goals.

294 3. Preparation of a report presenting all
295 subjects set out in this subparagraph to be delivered to the
296 Lieutenant Governor, Speaker of the House of Representatives,
297 Chairman of the Senate Finance Committee and Chairman of the House
298 Appropriations Committee no later than February 1, 2015.

299 4. Following the preparation of the report,
300 the State Workforce Investment Board shall make a recommendation
301 to the House and Senate Appropriations Committees on future uses



302 of funds deposited to the State Workforce Investment Fund account.

303 Such future uses may include:

304 a. The development of promotion
305 strategies for workforce development programs;

306 b. Initiatives designed to reduce the
307 state's dropout rate including the development of a statewide
308 career awareness program * * *;

309 c. The long-term monitoring of the
310 state's workforce development programs to determine whether they
311 are addressing the needs of business, industry, and the workers of
312 the state; and

313 d. The study of the potential
314 restructuring of the state's workforce programs and delivery
315 systems.

316 (3) (a) (i) 1. For calendar year 2014 only, Mississippi
317 Workforce Enhancement Training contributions and State Workforce
318 Investment contributions shall be collected at * * * the rate of
319 nineteen one-hundredths of one percent (.19%) based upon taxable
320 wages; * * *

321 2. For calendar years 2015 and 2016,
322 Mississippi Workforce Enhancement Training contributions and State
323 Workforce Investment contributions shall be collected at the rate
324 of sixteen one-hundredths of one percent (.16%), based upon
325 taxable wages, and Mississippi Works contributions shall be
326 collected in addition to Mississippi Workforce Enhancement



327 Training and State Workforce Investment contributions at the rate
328 of two-tenths of one percent (.2%) based upon taxable wages. The
329 total Workforce Enhancement Training, State Workforce Investment
330 and Mississippi Works contributions rate shall be thirty-six
331 one-hundredths of one percent (.36%) for 2015 and 2016 unless
332 suspended under the provisions of Section 71-5-355;

333 * * *3. For calendar years subsequent to
334 calendar year * * * 2016, Mississippi Workforce Enhancement
335 Training contributions and State Workforce Investment
336 contributions shall be collected at a rate of sixteen
337 one-hundredths of one percent (.16%), based upon taxable wages.

338 (ii) The contribution rate to the Mississippi
339 Workforce Enhancement Training Fund for calendar year 2013 only
340 shall be twenty-two one-hundredths of one percent (.22%).

341 (iii) The Mississippi Workforce Enhancement
342 Training * * * contributions, the State Workforce Investment Fund
343 contributions and Mississippi Works contributions shall be in
344 addition to the general experience rate plus the individual
345 experience rate of all employers but shall not be charged to
346 reimbursing or rate-paying political subdivisions or institutions
347 of higher learning, or reimbursing nonprofit organizations, as
348 described in Sections 71-5-357 and 71-5-359.

349 (b) All Mississippi Workforce Enhancement
350 Training * * * contributions, State Workforce Investment
351 contributions and Mississippi Works contributions collected shall



352 be deposited initially into the Mississippi Department of
353 Employment Security bank account for clearing contribution
354 collections and shall within two (2) business days be transferred
355 to the Workforce Investment and Training Holding Account. Any
356 Mississippi Workforce Enhancement Training Fund * * *, State
357 Workforce Investment * * * Fund and/or Mississippi Works
358 Fund * * * transactions from the Mississippi Department of
359 Employment Security bank account for clearing contribution
360 collections that are deposited into the Workforce Investment and
361 Training Fund Holding Account and are not honored by a financial
362 institution will be transferred back to the Mississippi Department
363 of Employment Security bank account for clearing contribution
364 collections out of funds in the Mississippi Workforce Investment
365 and Training Fund Holding Account.

366 (c) Suspension of the Workforce Enhancement Training
367 Fund contributions required pursuant to this chapter shall occur
368 if the insured unemployment rate exceeds an average of five and
369 five-tenths percent (5.5%) for the three (3) consecutive months
370 immediately preceding the effective date of the new rate year
371 following such occurrence and shall remain suspended throughout
372 the duration of that rate year. Such suspension shall continue
373 until such time as the three (3) consecutive months immediately
374 preceding the effective date of * * * the next rate year that has
375 an insured unemployment rate of less than an average of four and
376 five-tenths percent (4.5%). Upon such occurrence, reactivation



377 shall be effective upon the first day of the rate year following
378 the event that lifts suspension and shall be in effect for that
379 year only.

380 (4) All collections due or accrued prior to any suspension
381 of the Mississippi Workforce Enhancement Training Fund will be
382 collected based upon the law at the time the contributions
383 accrued, regardless of when they are actually collected.

384 **SECTION 2.** Section 71-5-355, Mississippi Code of 1972, is
385 amended as follows:

386 71-5-355. (1) As used in this section, the following words
387 and phrases shall have the following meanings, unless the context
388 clearly requires otherwise:

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

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

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

395 (d) Except as hereinafter provided, "payroll" means the
396 total of all wages paid for employment by an employer as defined
397 in Section 71-5-11, subsection H, plus the total of all
398 remuneration paid by such employer excluded from the definition of
399 wages by Section 71-5-351. For the computation of modified rates,
400 "payroll" means the total of all wages paid for employment by an
401 employer as defined in Section 71-5-11, subsection H.



402 (e) For the computation of modified rates, "eligible
403 employer" means an employer whose experience-rating record has
404 been chargeable with benefits throughout the thirty-six (36)
405 consecutive calendar-month period ending on the computation date,
406 except that any employer who has not been subject to the
407 Mississippi Employment Security Law for a period of time
408 sufficient to meet the thirty-six (36) consecutive calendar-month
409 requirement shall be an eligible employer if his experience-rating
410 record has been chargeable throughout not less than the twelve
411 (12) consecutive calendar-month period ending on the computation
412 date. No employer shall be considered eligible for a contribution
413 rate less than five and four-tenths percent (5.4%) with respect to
414 any tax year, who has failed to file any two (2) quarterly reports
415 within the qualifying period by September 30 following the
416 computation date. No employer or employing unit shall be eligible
417 for a contribution rate of less than five and four-tenths percent
418 (5.4%) for the tax year in which the employing unit is found by
419 the department to be in violation of Section 71-5-19(2) or (3) and
420 for the next two (2) succeeding tax years. No representative of
421 such employing unit who was a party to a violation as described in
422 Section 71-5-19(2) or (3), if such representative was or is an
423 employing unit in this state, shall be eligible for a contribution
424 rate of less than five and four-tenths percent (5.4%) for the tax
425 year in which such violation was detected by the department and
426 for the next two (2) succeeding tax years.



427 (f) With respect to any tax year, "reserve ratio" means
428 the ratio which the total amount available for the payment of
429 benefits in the Unemployment Compensation Fund, excluding any
430 amount which has been credited to the account of this state under
431 Section 903 of the Social Security Act, as amended, and which has
432 been appropriated for the expenses of administration pursuant to
433 Section 71-5-457 whether or not withdrawn from such account, on
434 October 31 (close of business) of each calendar year bears to the
435 aggregate of the taxable payrolls of all employers for the twelve
436 (12) calendar months ending on June 30 next preceding.

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

441 (h) For the computation of modified rates, "qualifying
442 period" means a period of not less than the thirty-six (36)
443 consecutive calendar months ending on the computation date
444 throughout which an employer's experience-rating record has been
445 chargeable with benefits; except that with respect to any eligible
446 employer who has not been subject to this article for a period of
447 time sufficient to meet the thirty-six (36) consecutive
448 calendar-month requirement, "qualifying period" means the period
449 ending on the computation date throughout which his
450 experience-rating record has been chargeable with benefits, but in
451 no event less than the twelve (12) consecutive calendar-month



452 period ending on the computation date throughout which his
453 experience-rating record has been so chargeable.

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

464 (j) The "cost rate criterion" (CRC) is defined as
465 follows: Beginning with January 1974, the benefits paid for the
466 twelve-month period ending December 1974 are summed and divided by
467 the total wages for the twelve-month period ending on June 30,
468 1975. Similar ratios are computed by subtracting the earliest
469 month's benefit payments and adding the benefits of the next month
470 in the sequence and dividing each sum of twelve (12) months'
471 benefits by the total wages for the twelve-month period ending on
472 the June 30 which is nearest to the final month of the period used
473 to compute the numerator. If December is the final month of the
474 period used to compute the numerator, then the twelve-month period
475 ending the following June 30 will be used for the denominator.
476 Benefits and total wages used in the computation of the cost rate



477 criterion shall exclude all benefits and total wages applicable to
478 state agencies, political subdivisions, reimbursable nonprofit
479 corporations, and tax-exempt PSE employment.

480 The CRC shall be computed as the average for the highest
481 monthly value of the cost rate criterion computations during each
482 of the economic cycles since the calendar year 1974 as defined by
483 the National Bureau of Economic Research. The CRC shall be
484 computed to four (4) decimal places and any remainder shall be
485 rounded up.

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

488 (k) "Size of fund index" (SOFI) is defined as the ratio
489 of the exposure criterion (EC) to the cost rate criterion (CRC).
490 The target size of fund index will be fixed at 1.0. If the
491 insured unemployment rate (IUR) exceeds a four and five-tenths
492 percent (4.5%) average for the most recent completed July to June
493 period, the target SOFI will be .8 and will remain at that level
494 until the computed SOFI (the average exposure criterion of the
495 current year and the preceding year divided by the average cost
496 rate criterion) equals 1.0 or the average IUR falls to four and
497 five-tenths percent (4.5%) or less for any period July to June.
498 However, if the IUR falls below two and five-tenths percent (2.5%)
499 for any period July to June the target SOFI shall be 1.2 until
500 such time as the computed SOFI is equal to or greater than 1.0 or



501 the IUR is equal to or greater than two and five-tenths percent
502 (2.5%), at which point the target SOFI shall return to 1.0.

503 (1) No employer's unemployment contribution rate shall
504 exceed five and four-tenths percent (5.4%), nor, except as
505 otherwise provided in subsection (2) (b) (v) 5 of this section, be
506 less than two-tenths of one percent (.2%). For any year the
507 general experience rate computes as an amount less than two-tenths
508 of one percent (.2%) the general experience rate shall be
509 established at two-tenths of one percent (.2%). Accrual rules
510 shall apply for purposes of computing contribution rates including
511 associated functions.

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

514 (2) Modified rates:

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

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

523 (i) The department shall maintain an
524 experience-rating record for each employer. Nothing in this
525 chapter shall be construed to grant any employer or individuals



526 performing services for him any prior claim or rights to the
527 amounts paid by the employer into the fund.

528 (ii) Benefits paid to an eligible individual shall
529 be charged against the experience-rating record of his base period
530 employers in the proportion to which the wages paid by each base
531 period employer bears to the total wages paid to the individual by
532 all the base period employers, provided that benefits shall not be
533 charged to an employer's experience-rating record if the
534 department finds that the individual:

535 1. Voluntarily left the employ of such
536 employer without good cause attributable to the employer or to
537 accept other work;

538 2. Was discharged by such employer for
539 misconduct connected with his work;

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

545 4. Had base period wages which included wages
546 for previously uncovered services as defined in Section
547 71-5-511(e) to the extent that the Unemployment Compensation Fund
548 is reimbursed for such benefits pursuant to Section 121 of Public
549 Law 94-566;



550 5. Extended benefits paid under the
551 provisions of Section 71-5-541 which are not reimbursable from
552 federal funds shall be charged to the experience-rating record of
553 base period employers;

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

559 7. Was hired to replace a United States
560 serviceman or servicewoman called into active duty and was laid
561 off upon the return to work by that serviceman or servicewoman,
562 unless such employer is a state agency or other political
563 subdivision or instrumentality of the state;

564 8. Was paid benefits during any week while in
565 training with the approval of the department, under the provisions
566 of Section 71-5-513B, or for any week while in training approved
567 under Section 236(a) (1) of the Trade Act of 1974, under the
568 provisions of Section 71-5-513C; or

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

573 10. Was paid benefits as the result of a
574 fraudulent claim.



575 (iii) Notwithstanding any other provision
576 contained herein, an employer shall not be noncharged when the
577 department finds that the employer or the employer's agent of
578 record was at fault for failing to respond timely or adequately to
579 the request of the department for information relating to an
580 unemployment claim that was subsequently determined to be
581 improperly paid, unless the employer or the employer's agent of
582 record shows good cause for having failed to respond timely or
583 adequately to the request of the department for information. For
584 purposes of this subparagraph "good cause" means an event that
585 prevents the employer or employer's agent of record from timely
586 responding, and includes a natural disaster, emergency or similar
587 event, or an illness on the part of the employer, the employer's
588 agent of record, or their staff charged with responding to such
589 inquiries when there is no other individual who has the knowledge
590 or ability to respond. Any agency error that resulted in a delay
591 in, or the failure to deliver notice to, the employer or the
592 employer's agent of record shall also be considered good cause for
593 purposes of this subparagraph.

594 (iv) The department shall compute a benefit ratio
595 for each eligible employer, which shall be the quotient obtained
596 by dividing the total benefits charged to his experience-rating
597 record during the period his experience-rating record has been
598 chargeable, but not less than the twelve (12) consecutive
599 calendar-month period nor more than the thirty-six (36)



600 consecutive calendar-month period ending on the computation date,
601 by his total taxable payroll for the same period on which all
602 unemployment insurance contributions due have been paid on or
603 before the September 30 immediately following the computation
604 date. Such benefit ratio shall be computed to the tenth of a
605 percent (.1%), rounding any remainder to the next higher tenth.

606 (v) 1. The unemployment insurance contribution
607 rate for each eligible employer shall be the sum of two (2) rates:
608 his individual experience rate in the range from zero percent (0%)
609 to five and four-tenths percent (5.4%), plus a general experience
610 rate. In no event shall the resulting unemployment insurance rate
611 be in excess of five and four-tenths percent (5.4%), however, it
612 is the intent of this section to provide the ability for employers
613 to have a tax rate, the general experience rate plus the
614 individual experience rate, of up to five and four-tenths percent
615 (5.4%).

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

619 3. The general experience rate shall be
620 determined in the following manner: The department shall
621 determine annually, for the thirty-six (36) consecutive
622 calendar-month period ending on the computation date, the amount
623 of benefits which were not charged to the record of any employer
624 and of benefits which were ineffectively charged to the employer's



625 experience-rating record. For the purposes of this item 3, the
626 term "ineffectively charged benefits" shall include:

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

631 b. The total of the amounts of benefits
632 charged to the experience-rating records of all ineligible
633 employers which would cause their benefit ratios to exceed five
634 and four-tenths percent (5.4%) if they were eligible employers;
635 and

636 c. The total of the amounts of benefits
637 charged or chargeable to the experience-rating record of any
638 employer who has discontinued his business or whose coverage has
639 been terminated within such period; provided, that solely for the
640 purposes of determining the amounts of ineffectively charged
641 benefits as herein defined, a "benefit ratio" shall be computed
642 for each ineligible employer, which shall be the quotient obtained
643 by dividing the total benefits charged to his experience-rating
644 record throughout the period ending on the computation date,
645 during which his experience-rating record has been chargeable with
646 benefits, by his total taxable payroll for the same period on
647 which all unemployment insurance contributions due have been paid
648 on or before the September 30 immediately following the
649 computation date; and provided further, that such benefit ratio



650 shall be computed to the tenth of one percent (.1%) and any
651 remainder shall be rounded to the next higher tenth.

652 The ratio of the sum of these amounts (subsection
653 (2)(b)(v)3a, b and c) to the taxable wages paid during the same
654 period divided by all eligible employers whose benefit ratio did
655 not exceed five and four-tenths percent (5.4%), computed to the
656 next higher tenth of one percent (.1%), shall be the general
657 experience rate; however, the general experience rate for rate
658 year 2014 shall be two tenths of one percent (.2%) and to that
659 will be added the employer's individual experience rate for the
660 total unemployment insurance rate.

661 4. a. Except as otherwise provided in this
662 item 4, the general experience rate shall be adjusted by use of
663 the size of fund index factor. This factor may be positive or
664 negative, and shall be determined as follows: From the target
665 SOFI, as defined in subsection (1)(k) of this section, subtract
666 the simple average of the current and preceding years' exposure
667 criteria divided by the cost rate criterion, as defined in
668 subsection (1)(j) of this section. The result is then multiplied
669 by the product of the CRC, as defined in subsection (1)(j) of this
670 section, and total wages for the twelve-month period ending June
671 30 divided by the taxable wages for the twelve-month period ending
672 June 30. This is the percentage positive or negative added to the
673 general experience rate. The sum of the general experience rate
674 and the trust fund adjustment factor shall be multiplied by fifty



675 percent (50%) and this product shall be computed to one (1)
676 decimal place, and rounded to the next higher tenth.

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

681 5. Notwithstanding any other provisions of
682 subsection (2)(b)(v) of this section, if the general experience
683 rate for any tax year as computed and adjusted on the basis of the
684 size of fund index is a negative percentage, it shall be
685 disregarded and the general experience rate for the year shall be
686 two-tenths of one percent (.2%) except in rate years 2015 and 2016
687 or years the Mississippi Works Contributions are in effect. In
688 tax years 2015 and 2016 or years the Mississippi Works
689 Contributions are in effect the general experience rate shall be
690 zero percent (0%) unless the insured unemployment rate exceeds an
691 average of five and five-tenths percent (5.5%) for the three (3)
692 consecutive months immediately preceding the 2016 rate year in
693 which case Mississippi Works Fund collections shall be suspended
694 as of January 1, 2016, and shall remain suspended throughout the
695 duration of that rate year. Such suspension shall continue until
696 there are three (3) consecutive months immediately preceding the
697 effective date of any subsequent rate year with an insured
698 unemployment rate of less than an average of four and five-tenths
699 percent (4.5%). When the specified insured unemployment rate is



700 achieved, the Mississippi Works Fund collections shall resume for
701 a period of one (1) rate year effective on January 1 of the year
702 immediately following the period when the insured unemployment
703 rate described in this paragraph meets the resumption criteria.
704 In no year shall the general experience rate be less than
705 two-tenths of one percent (.2%) except as otherwise provided in
706 this item 5, and in all cases the employer's total rate for
707 unemployment insurance contributions shall be the sum of the
708 general experience rate plus the employer's individual tax rate.
709 In the event suspension of Mississippi Works Fund contributions
710 occurs as described in Section 71-5-355(2) (b) (v) 5, the
711 unemployment insurance general experience rate shall equal the
712 greater of the computed general experience rate or two-tenths of
713 one percent (.2%) as described in this section. Upon resumption
714 of Mississippi Works Fund collections, the general experience rate
715 shall be zero percent (0%) during the one (1) year period for
716 which the Mississippi Works contribution collections are resumed.
717 However, the total contribution rate (including Workforce
718 Enhancement Training and State Workforce Investment contribution
719 rate) shall not exceed five and four-tenths percent (5.4%) for the
720 rate year 2014. In order to achieve the maximum tax rate of five
721 and four-tenths percent (5.4%) for the rate year 2014, the
722 Workforce Enhancement Training and State Workforce Investment
723 contribution rate shall be reduced in the amounts necessary to
724 achieve the maximum rate of five and four-tenths percent (5.4%).



725 If the total rate still exceeds five and four tenths percent
726 (5.4%), the individual experience rate is the component of the
727 total tax rate that will then be reduced to achieve the maximum
728 unemployment contribution rate of five and four-tenths percent
729 (5.4%). For rate years subsequent to 2014, the individual
730 experience rate is the only component of the total unemployment
731 tax rate that will be reduced to achieve the maximum unemployment
732 contribution rate of five and four-tenths percent (5.4%). For
733 rate years subsequent to 2014, Mississippi Workforce Enhancement
734 Training Fund contribution rate * * *, the State Workforce
735 Investment contribution rate and the Mississippi Works
736 contribution rate shall be added to the unemployment contribution
737 rate in applicable years, regardless of whether the addition of
738 this contribution rate causes the total contribution rate for the
739 employer to exceed five and four-tenths percent (5.4%).

740 6. The department shall include in its annual
741 rate notice to employers a brief explanation of the elements of
742 the general experience rate, and shall include in its regular
743 publications an annual analysis of benefits not charged to the
744 record of any employer, and of the benefit experience of employers
745 by industry group whose benefit ratio exceeds four percent (4%),
746 and of any other factors which may affect the size of the general
747 experience rate.

748 (vi) When any employing unit in any manner
749 succeeds to or acquires the organization, trade, business or



750 substantially all the assets thereof of an employer, excepting any
751 assets retained by such employer incident to the liquidation of
752 his obligations, whether or not such acquiring employing unit was
753 an employer within the meaning of Section 71-5-11, subsection H,
754 prior to such acquisition, and continues such organization, trade
755 or business, the experience-rating and payroll records of the
756 predecessor employer shall be transferred as of the date of
757 acquisition to the successor employer for the purpose of rate
758 determination.

759 (vii) When any employing unit succeeds to or
760 acquires a distinct and severable portion of an organization,
761 trade or business, the experience-rating and payroll records of
762 such portion, if separately identifiable, shall be transferred to
763 the successor upon:

764 1. The mutual consent of the predecessor and
765 the successor;

766 2. Approval of the department;

767 3. Continued operation of the transferred
768 portion by the successor after transfer; and

769 4. The execution and the filing with the
770 department by the predecessor employer of a waiver relinquishing
771 all rights to have the experience-rating and payroll records of
772 the transferred portion used for the purpose of determining
773 modified rates of contribution for such predecessor.



774 (viii) If the successor was an employer subject to
775 this chapter prior to the date of acquisition, it shall continue
776 to pay unemployment insurance contributions at the rate applicable
777 to it from the date the acquisition occurred until the end of the
778 then current tax year. If the successor was not an employer prior
779 to the date of acquisition, it shall pay unemployment insurance
780 contributions at the rate applicable to the predecessor or, if
781 more than one (1) predecessor and the same rate is applicable to
782 both, the rate applicable to the predecessor or predecessors, from
783 the date the acquisition occurred until the end of the then
784 current tax year. If the successor was not an employer prior to
785 the date the acquisition occurred and simultaneously acquires the
786 businesses of two (2) or more employers to whom different rates of
787 unemployment insurance contributions are applicable, it shall pay
788 unemployment insurance contributions from the date of the
789 acquisition until the end of the current tax year at a rate
790 computed on the basis of the combined experience-rating and
791 payroll records of the predecessors as of the computation date for
792 such tax year. In all cases the rate of unemployment insurance
793 contributions applicable to such successor for each succeeding tax
794 year shall be computed on the basis of the combined
795 experience-rating and payroll records of the successor and the
796 predecessor or predecessors.

797 (ix) The department shall notify each employer
798 quarterly of the benefits paid and charged to his



799 experience-rating record; and such notification, in the absence of
800 an application for redetermination filed within thirty (30) days
801 after the date of such notice, shall be final, conclusive and
802 binding upon the employer for all purposes. A redetermination,
803 made after notice and opportunity for a fair hearing, by a hearing
804 officer designated by the department who shall consider and decide
805 these and related applications and protests; and the finding of
806 fact in connection therewith may be introduced into any subsequent
807 administrative or judicial proceedings involving the determination
808 of the rate of unemployment insurance contributions of any
809 employer for any tax year, and shall be entitled to the same
810 finality as is provided in this subsection with respect to the
811 findings of fact in proceedings to redetermine the contribution
812 rate of an employer.

813 (x) The department shall notify each employer of
814 his rate of contribution as determined for any tax year as soon as
815 reasonably possible after September 1 of the preceding year. Such
816 determination shall be final, conclusive and binding upon such
817 employer unless, within thirty (30) days after the date of such
818 notice to his last-known address, the employer files with the
819 department an application for review and redetermination of his
820 contribution rate, setting forth his reasons therefor. If the
821 department grants such review, the employer shall be promptly
822 notified thereof and shall be afforded an opportunity for a fair
823 hearing by a hearing officer designated by the department who



824 shall consider and decide these and related applications and
825 protests; but no employer shall be allowed, in any proceeding
826 involving his rate of unemployment insurance contributions or
827 contribution liability, to contest the chargeability to his
828 account of any benefits paid in accordance with a determination,
829 redetermination or decision pursuant to Sections 71-5-515 through
830 71-5-533 except upon the ground that the services on the basis of
831 which such benefits were found to be chargeable did not constitute
832 services performed in employment for him, and then only in the
833 event that he was not a party to such determination,
834 redetermination, decision or to any other proceedings provided in
835 this chapter in which the character of such services was
836 determined. The employer shall be promptly notified of the denial
837 of this application or of the redetermination, both of which shall
838 become final unless, within ten (10) days after the date of notice
839 thereof, there shall be an appeal to the department itself. Any
840 such appeal shall be on the record before said designated hearing
841 officer, and the decision of said department shall become final
842 unless, within thirty (30) days after the date of notice thereof
843 to the employer's last-known address, there shall be an appeal to
844 the Circuit Court of the First Judicial District of Hinds County,
845 Mississippi, in accordance with the provisions of law with respect
846 to review of civil causes by certiorari.



847 (3) Notwithstanding any other provision of law, the
848 following shall apply regarding assignment of rates and transfers
849 of experience:

850 (a) (i) If an employer transfers its trade or
851 business, or a portion thereof, to another employer and, at the
852 time of the transfer, there is substantially common ownership,
853 management or control of the two (2) employers, then the
854 unemployment experience attributable to the transferred trade or
855 business shall be transferred to the employer to whom such
856 business is so transferred. The rates of both employers shall be
857 recalculated and made effective on January 1 of the year following
858 the year the transfer occurred.

859 (ii) If, following a transfer of experience under
860 subparagraph (i) of this paragraph (a), the department determines
861 that a substantial purpose of the transfer of trade or business
862 was to obtain a reduced liability of unemployment insurance
863 contributions, then the experience-rating accounts of the
864 employers involved shall be combined into a single account and a
865 single rate assigned to such account.

866 (b) Whenever a person who is not an employer or an
867 employing unit under this chapter at the time it acquires the
868 trade or business of an employer, the unemployment experience of
869 the acquired business shall not be transferred to such person if
870 the department finds that such person acquired the business solely
871 or primarily for the purpose of obtaining a lower rate of



872 unemployment insurance contributions. Instead, such person shall
873 be assigned the new employer rate under Section 71-5-353. In
874 determining whether the business was acquired solely or primarily
875 for the purpose of obtaining a lower rate of unemployment
876 insurance contributions, the department shall use objective
877 factors which may include the cost of acquiring the business,
878 whether the person continued the business enterprise of the
879 acquired business, how long such business enterprise was
880 continued, or whether a substantial number of new employees were
881 hired for performance of duties unrelated to the business activity
882 conducted prior to acquisition.

883 (c) (i) If a person knowingly violates or attempts to
884 violate paragraph (a) or (b) of this subsection or any other
885 provision of this chapter related to determining the assignment of
886 a contribution rate, or if a person knowingly advises another
887 person in a way that results in a violation of such provision, the
888 person shall be subject to the following penalties:

889 1. If the person is an employer, then such
890 employer shall be assigned the highest rate assignable under this
891 chapter for the rate year during which such violation or attempted
892 violation occurred and the three (3) rate years immediately
893 following this rate year. However, if the person's business is
894 already at such highest rate for any year, or if the amount of
895 increase in the person's rate would be less than two percent (2%)
896 for such year, then a penalty rate of unemployment insurance



897 contributions of two percent (2%) of taxable wages shall be
898 imposed for such year. The penalty rate will apply to the
899 successor business as well as the related entity from which the
900 employees were transferred in an effort to obtain a lower rate of
901 unemployment insurance contributions.

902 2. If the person is not an employer, such
903 person shall be subject to a civil money penalty of not more than
904 Five Thousand Dollars (\$5,000.00). Each such transaction for
905 which advice was given and each occurrence or reoccurrence after
906 notification being given by the department shall be a separate
907 offense and punishable by a separate penalty. Any such fine shall
908 be deposited in the penalty and interest account established under
909 Section 71-5-114.

910 (ii) For purposes of this paragraph (c), the term
911 "knowingly" means having actual knowledge of or acting with
912 deliberate ignorance or reckless disregard for the prohibition
913 involved.

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

917 (iv) In addition to the penalty imposed by
918 subparagraph (i) of this paragraph (c), any violation of this
919 subsection may be punishable by a fine of not more than Ten
920 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
921 five (5) years, or by both such fine and imprisonment. This



922 subsection shall prohibit prosecution under any other criminal
923 statute of this state.

924 (d) The department shall establish procedures to
925 identify the transfer or acquisition of a business for purposes of
926 this subsection.

927 (e) For purposes of this subsection:

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

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

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

936 **SECTION 3.** Section 71-5-453, Mississippi Code of 1972, is
937 amended as follows:

938 71-5-453. The department shall be the treasurer and
939 custodian of the fund, and shall administer such fund in
940 accordance with the directions of the department, and shall issue
941 its warrants upon it in accordance with such regulations as the
942 department shall prescribe. The department shall maintain within
943 the fund three (3) separate accounts: (a) a clearing account, (b)
944 an unemployment trust fund account, and (c) a benefit payment
945 account. All monies payable to the fund, upon receipt thereof by
946 the department, shall be immediately deposited in the clearing



947 account. Refunds payable pursuant to Section 71-5-383 may be paid
948 from the clearing account by the department. Transfers pursuant
949 to Section 71-5-114 of all interest, penalties and damages
950 collected shall be made to the Special Employment Security
951 Administration Fund as soon as practicable after the end of each
952 calendar quarter. Workforce Enhancement Training and State
953 Workforce Investment contributions shall be deposited into the
954 Workforce Investment and Training Holding Account as described in
955 this section. All other monies in the clearing account shall be
956 immediately deposited with the Secretary of the Treasury of the
957 United States of America to the Unemployment Trust Fund account
958 for the State of Mississippi, established and maintained pursuant
959 to Section 904 of the Social Security Act, as amended, any
960 provisions of law in this state relating to the deposit,
961 administration, release or disbursement of monies in the
962 possession or custody of this state to the contrary
963 notwithstanding. The benefit account shall consist of all monies
964 requisitioned from this state's account in the Unemployment Trust
965 Fund. Except as herein otherwise provided, monies in the clearing
966 and benefit accounts may be deposited by the department, in any
967 bank or public depository in which general funds of the state may
968 be deposited, but no public deposit insurance charge or premium
969 shall be paid out of the fund. The department shall be liable for
970 the faithful performance of its duties in connection with the
971 Unemployment Compensation Fund under this chapter. A Workforce



972 Investment and Training Holding Account shall be established by
973 and maintained under the control of the Mississippi Department of
974 Employment Security. Contributions collected pursuant to the
975 provisions in this chapter for the Workforce Enhancement
976 Training * * *, State Workforce Investment and Mississippi Works
977 funds shall be transferred from the clearing account into the
978 Workforce Investment and Training Holding Account on the same
979 schedule and under the same conditions as funds transferred to the
980 Unemployment Compensation Fund. Such funds shall remain on
981 deposit in the holding account for a period of thirty (30) days.
982 After such period, Workforce Enhancement Training contributions
983 shall be transferred to the appropriate Mississippi Community
984 College Board treasury account by the department. The State
985 Workforce Investment contributions shall be transferred to the
986 State Workforce Investment Board bank account established by the
987 department, and the department shall have the authority to deposit
988 and disburse funds from the State Workforce Investment Board bank
989 account as directed by the State Workforce Investment Board, and
990 the Mississippi Works contribution shall be transferred to the
991 Mississippi Department of Employment Security treasury account for
992 Mississippi Work Funds. Such transfers of these contributions
993 shall occur within fifteen (15) days after the funds have resided
994 in the Workforce Investment and Training Holding Account for
995 thirty (30) days. One (1) such transfer shall be made monthly,
996 but the department, in its discretion, may make additional



997 transfers in any month. In the event such funds transferred are
998 subsequently determined to be erroneously paid or collected, or if
999 deposit of such funds is denied or rejected by the banking
1000 institution for any reason, or deposits are unable to clear
1001 drawer's account for any reason, the funds must be reimbursed by
1002 the recipient of such funds within thirty (30) days of mailing of
1003 notice by the department demanding such refund, unless funds are
1004 available in the Workforce Investment and Training Holding
1005 Account. In that event such amounts shall be immediately
1006 withdrawn from the Workforce Investment and Training Holding
1007 Account by the department and re-deposited into the clearing
1008 account.

1009 **SECTION 4.** Section 37-153-7, Mississippi Code of 1972, is
1010 amended as follows:

1011 37-153-7. (1) There is created the Mississippi State
1012 Workforce Investment Board. The Mississippi State Workforce
1013 Investment Board shall be composed of * * * forty-one (41) voting
1014 members, of which a majority shall be representatives of business
1015 and industry in accordance with the federal Workforce Investment
1016 Act.

1017 (a) The Governor shall appoint the following members of
1018 the board to serve a term of four (4) years:

1019 (i) The Executive Director of the Mississippi
1020 Association of Supervisors, or his/her designee;



1021 (ii) The Executive Director of the Mississippi
1022 Municipal League;

1023 (iii) One (1) elected mayor;

1024 (iv) One (1) * * * representative of an
1025 apprenticeship program in the state;

1026 (v) * * * One (1) representative of labor
1027 organizations, who * * * has been nominated by state labor
1028 federations;

1029 (vi) * * * One (1) representative of individuals
1030 and organizations that * * * has experience with respect to youth
1031 activities;

1032 (vii) One (1) representative of the Mississippi
1033 Association of Planning and Development Districts;

1034 (viii) One (1) representative from each of the
1035 four (4) workforce areas in the state, who has been nominated by
1036 the community colleges in each respective area, with the consent
1037 of the elected county supervisors within the respective workforce
1038 area; * * *

1039 (ix) The chair of the Mississippi Association of
1040 Community and Junior Colleges; and

1041 (* * *x) * * * Twenty-one (21) representatives of
1042 business owners nominated by business and industry organizations,
1043 which may include representatives of the various planning and
1044 development districts in Mississippi.



1045 (b) The following state officials shall be members of
1046 the board:

1047 (i) The Executive Director of the Mississippi
1048 Department of Employment Security;

1049 (ii) The Executive Director of the Department of
1050 Rehabilitation Services;

1051 (iii) The State Superintendent of Public
1052 Education;

1053 (iv) The Executive Director of the Mississippi
1054 Development Authority;

1055 (v) The Executive Director of the Mississippi
1056 Department of Human Services;

1057 (vi) The Executive Director of the Mississippi
1058 Community College Board * * *;and

1059 (vii) The Commissioner of the Institutions of
1060 Higher Learning.

1061 (c) The Governor, or his designee, shall serve as a
1062 member.

1063 (d) Four (4) legislators, who shall serve in a
1064 nonvoting capacity, two (2) of whom shall be appointed by the
1065 Lieutenant Governor from the membership of the Mississippi Senate,
1066 and two (2) of whom shall be appointed by the Speaker of the House
1067 from the membership of the Mississippi House of Representatives.

1068 (e) The membership of the board shall reflect the
1069 diversity of the State of Mississippi.



1070 (f) The Governor shall designate the Chairman of the
1071 Mississippi State Workforce Investment Board from among the voting
1072 members of the board, and a quorum of the board shall consist of a
1073 majority of the voting members of the board.

1074 (g) The voting members of the board who are not state
1075 employees shall be entitled to reimbursement of their reasonable
1076 expenses incurred in carrying out their duties under this chapter,
1077 from any funds available for that purpose.

1078 * * *

1079 (2) The Mississippi Department of Employment Security shall
1080 establish limits on administrative costs for each portion of
1081 Mississippi's workforce development system consistent with the
1082 federal Workforce Investment Act or any future federal workforce
1083 legislation.

1084 (3) The Mississippi State Workforce Investment Board shall
1085 have the following duties:

1086 (a) Develop and submit to the Governor a strategic plan
1087 for an integrated state workforce development system that aligns
1088 resources and structures the system to more effectively and
1089 efficiently meet the demands of Mississippi's employers and job
1090 seekers. This plan will comply with the federal Workforce
1091 Investment Act of 1998, as amended, the federal Workforce
1092 Innovation and Opportunity Act of 2014 and amendments and
1093 successor legislation to these acts;



1094 (b) Assist the Governor in the development and
1095 continuous improvement of the statewide workforce investment
1096 system that shall include:

1097 (i) Development of linkages in order to assure
1098 coordination and nonduplication among programs and activities; and

1099 (ii) Review local workforce development plans that
1100 reflect the use of funds from the federal Workforce Investment
1101 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
1102 Act and the amendment or successor legislation to the acts, and
1103 the Mississippi Comprehensive Workforce Training and Education
1104 Consolidation Act;

1105 (c) Recommend the designation of local workforce
1106 investment areas as required in Section 116 of the federal
1107 Workforce Investment Act of 1998 and the Workforce Investment and
1108 Opportunity Act of 2014. There shall be four (4) workforce
1109 investment areas that are generally aligned with the planning and
1110 development district structure in Mississippi. Planning and
1111 development districts will serve as the fiscal agents to manage
1112 Workforce Investment Act funds, oversee and support the local
1113 workforce investment boards aligned with the area and the local
1114 programs and activities as delivered by the one-stop employment
1115 and training system. The planning and development districts will
1116 perform this function through the provisions of the county
1117 cooperative service districts created under Sections 19-3-101
1118 through 19-3-115; however, planning and development districts



1119 currently performing this function under the Interlocal
1120 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
1121 continue to do so;

1122 (d) Assist the Governor in the development of an
1123 allocation formula for the distribution of funds for adult
1124 employment and training activities and youth activities to local
1125 workforce investment areas;

1126 (e) Recommend comprehensive, results-oriented measures
1127 that shall be applied to all of Mississippi's workforce
1128 development system programs;

1129 (f) Assist the Governor in the establishment and
1130 management of a one-stop employment and training system conforming
1131 to the requirements of the federal Workforce Investment Act of
1132 1998 and the Workforce Investment and Opportunity Act of 2014, as
1133 amended, recommending policy for implementing the Governor's
1134 approved plan for employment and training activities and services
1135 within the state. In developing this one-stop career operating
1136 system, the Mississippi State Workforce Investment Board, in
1137 conjunction with local workforce investment boards, shall:

1138 (i) Design broad guidelines for the delivery of
1139 workforce development programs;

1140 (ii) Identify all existing delivery agencies and
1141 other resources;



1142 (iii) Define appropriate roles of the various
1143 agencies to include an analysis of service providers' strengths
1144 and weaknesses;

1145 (iv) Determine the best way to utilize the various
1146 agencies to deliver services to recipients; and

1147 (v) Develop a financial plan to support the
1148 delivery system that shall, at a minimum, include an
1149 accountability system;

1150 (g) Assist the Governor in reducing duplication of
1151 services by urging the local workforce investment boards to
1152 designate the local community/junior college as the operator of
1153 the WIN Job Center. Incentive grants of Two Hundred Thousand
1154 Dollars (\$200,000.00) from federal Workforce Investment Act funds
1155 may be awarded to the local workforce boards where the
1156 community/junior college district is designated as the WIN Job
1157 Center. These grants must be provided to the community and junior
1158 colleges for the extraordinary costs of coordinating with the
1159 Workforce Investment Act, advanced technology centers and advanced
1160 skills centers. In no case shall these funds be used to supplant
1161 state resources being used for operation of workforce development
1162 programs;

1163 (h) To provide authority, in accordance with any
1164 executive order of the Governor, for developing the necessary
1165 collaboration among state agencies at the highest level for
1166 accomplishing the purposes of this chapter;



1167 (i) To monitor the effectiveness of the workforce
1168 development centers and WIN job centers;

1169 (j) To advise the Governor, public schools,
1170 community/junior colleges and institutions of higher learning on
1171 effective school-to-work transition policies and programs that
1172 link students moving from high school to higher education and
1173 students moving between community colleges and four-year
1174 institutions in pursuit of academic and technical skills training;

1175 (k) To work with industry to identify barriers that
1176 inhibit the delivery of quality workforce education and the
1177 responsiveness of educational institutions to the needs of
1178 industry;

1179 (l) To provide periodic assessments on effectiveness
1180 and results of the overall Mississippi comprehensive workforce
1181 development system and district councils; and

1182 (m) To assist the Governor in carrying out any other
1183 responsibility required by the federal Workforce Investment Act of
1184 1998, as amended and the Workforce Innovations and Opportunity
1185 Act, successor legislation and amendments.

1186 (4) The Mississippi State Workforce Investment Board shall
1187 coordinate all training programs and funds in the State of
1188 Mississippi.

1189 Each state agency director responsible for workforce training
1190 activities shall advise the Mississippi State Workforce Investment
1191 Board of appropriate federal and state requirements. Each such



1192 state agency director shall remain responsible for the actions of
1193 his agency; however, each state agency and director shall work
1194 cooperatively, and shall be individually and collectively
1195 responsible to the Governor for the successful implementation of
1196 the statewide workforce investment system. The Governor, as the
1197 Chief Executive Officer of the state, shall have complete
1198 authority to enforce cooperation among all entities within the
1199 state that utilize federal or state funding for the conduct of
1200 workforce development activities.

1201 (5) The State Workforce Investment Board shall establish a
1202 Rules Committee. The Rules Committee, in consultation with the
1203 full board, shall be designated as the body with the sole
1204 authority to promulgate rules and regulations for distribution of
1205 Mississippi Works Funds created in Section 71-5-353. The State
1206 Workforce Investment Board Rules Committee shall develop and
1207 submit rules and regulations in accordance with the Mississippi
1208 Administrative Procedures Act, within sixty(60) days of the
1209 effective date of this act. The State Workforce Investment Board
1210 Rules Committee shall consist of the following State Workforce
1211 Investment Board members:

1212 (a) The Executive Director of the Mississippi
1213 Development Authority;

1214 (b) The Executive Director of the Mississippi
1215 Department of Employment Security;



1216 (c) The Executive Director of the Mississippi Community
1217 College Board;

1218 (d) The Chair of the Mississippi Association of
1219 Community and Junior Colleges;

1220 (e) The Chair of the State Workforce Investment Board;

1221 (f) The Commissioner of the Institutions of Higher
1222 Learning;

1223 (g) A business representative currently serving on the
1224 board, selected by the Chairman of the State Workforce Investment
1225 Board; and

1226 (h) Two (2) legislators, who shall serve in a nonvoting
1227 capacity, one (1) of whom shall be appointed by the Lieutenant
1228 Governor from the membership of the Mississippi Senate and one (1)
1229 of whom shall be appointed by the Speaker of the House of
1230 Representatives from the membership of the Mississippi House of
1231 Representatives.

1232 (6) The Mississippi State Workforce Investment Board shall
1233 create and implement performance metrics for the Mississippi Works
1234 Fund to determine the added value to the local and state economy
1235 and the contribution to the future growth of the state economy. A
1236 report on the performance of the fund shall be made to the
1237 Governor, Lieutenant Governor and Speaker of the House of
1238 Representatives annually, throughout the life of the fund.

1239 **SECTION 5.** This act shall take effect and be in force from
1240 and after its passage.

