

By: Senator(s) Fillingane

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2457

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 AND STATE WORKFORCE
8 INVESTMENT FUNDS SHALL BE TRANSFERRED TO THE STATE WORKFORCE
9 INVESTMENT BOARD BANK ACCOUNT; TO PROVIDE THAT ALL FUNDS DEPOSITED
10 INTO THE STATE WORKFORCE INVESTMENT BOARD BANK ACCOUNT FROM THE
11 MISSISSIPPI WORKS FUND SHALL BE ALLOCATED EXCLUSIVELY BY THE STATE
12 WORKFORCE INVESTMENT BOARD TO MAKE STRATEGIC AND TARGETED
13 INVESTMENTS IN THE MISSISSIPPI WORKFORCE TO ENCOURAGE THE GROWTH
14 OF BETTER PAYING, HIGHER SKILLED IN-DEMAND JOBS, WITH A FOCUS ON
15 HIGH GROWTH INDUSTRIES, BY QUICKLY LINKING TRAINING FUNDS TO OTHER
16 ECONOMIC INCENTIVES FOR THE PURPOSE OF MEETING IMMEDIATE TRAINING
17 NEEDS; TO AMEND SECTION 71-5-355, MISSISSIPPI CODE OF 1972, TO
18 PROVIDE THAT THE GENERAL EXPERIENCE RATE FOR RATE YEARS 2015 AND
19 2016 SHALL BE ZERO; TO PROVIDE FOR AN INCREASE IN THE GENERAL
20 EXPERIENCE RATE IN 2015 AND 2016 UNDER CERTAIN CIRCUMSTANCES; TO
21 AMEND SECTION 71-5-453, MISSISSIPPI CODE OF 1972, IN CONFORMITY
22 THERETO; TO AMEND SECTION 37-153-7, MISSISSIPPI CODE OF 1972, TO
23 REVISE THE MEMBERSHIP OF THE STATE WORKFORCE INVESTMENT BOARD; TO
24 REVISE THE DUTIES OF SUCH BOARD; TO PROVIDE THAT THE STATE
25 WORKFORCE INVESTMENT EXECUTIVE COMMITTEE, IN CONSULTATION WITH THE
26 FULL BOARD, SHALL BE DESIGNATED AS THE BODY WITH THE SOLE
27 AUTHORITY TO MAKE ALLOCATIONS FROM THE MISSISSIPPI WORKS FUND; TO
28 PROVIDE THAT THE STATE WORKFORCE INVESTMENT BOARD SHALL CREATE AND
29 IMPLEMENT PERFORMANCE METRICS FOR THE MISSISSIPPI WORKS FUND TO
30 DETERMINE THE ADDED VALUE TO THE LOCAL AND STATE ECONOMY AND THE
31 CONTRIBUTION TO THE FUTURE GROWTH OF THE STATE ECONOMY; TO PROVIDE
32 THAT A REPORT ON THE PERFORMANCE OF THE FUND SHALL BE MADE TO THE
33 GOVERNOR, THE LIEUTENANT GOVERNOR AND THE SPEAKER OF THE HOUSE



34 ANNUALLY THROUGHOUT THE LIFE OF THE FUND; AND FOR RELATED
35 PURPOSES.

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

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

39 71-5-353. (1) (a) Each employer shall pay unemployment
40 insurance contributions equal to five and four-tenths percent
41 (5.4%) of taxable wages paid by him each calendar year, except as
42 may be otherwise provided in Section 71-5-361 and except that each
43 newly subject employer shall pay unemployment insurance
44 contributions at the rate of one percent (1%) of taxable wages,
45 for his first year of liability, one and one-tenth percent (1.1%)
46 of taxable wages for his second year of liability, and one and
47 two-tenths percent (1.2%) of taxable wages for his third and
48 subsequent years of liability unless the employer's
49 experience-rating record has been chargeable throughout at least
50 the twelve (12) consecutive calendar months ending on the most
51 recent computation date at the time the rate for a year is
52 determined; thereafter the employer's contribution rate shall be
53 determined in accordance with the provisions of Section 71-5-355.

54 (b) Notwithstanding the newly subject employer
55 contribution rate provided for in paragraph (a) of this
56 subsection, the contribution rate of all newly subject employers
57 shall be reduced by seven one-hundredths of one percent (.07%) for
58 calendar year 2013 only. The contribution rate of all newly
59 subject employers shall be reduced by three one-hundredths of one



60 percent (.03%) for calendar year 2014 only. For purposes of this
61 chapter, "newly subject employers" means employers whose
62 unemployment insurance experience-rating record has not been
63 chargeable throughout at least the twelve (12) consecutive
64 calendar months ending on the most recent computation date at the
65 time the contribution rate for a year is determined.

66 (2) (a) (i) There is hereby created in the Treasury of the
67 State of Mississippi a special fund to be known as the
68 "Mississippi Workforce Enhancement Training Fund," which consists
69 of funds collected pursuant to subsection (3) of this section.

70 (ii) Funds collected shall initially be deposited
71 into the Mississippi Department of Employment Security bank
72 account for clearing contribution collections and subsequently
73 appropriate amounts shall be transferred to the Mississippi
74 Workforce Investment and Training Fund Holding Account described
75 in Section 71-5-453 and the State Workforce Investment Board bank
76 account. In the event any employer pays an amount insufficient to
77 cover the total contributions due, the amounts due shall be
78 satisfied in the following order:

79 1. Unemployment contributions;

80 * * *

81 * * *2. Mississippi Workforce Enhancement
82 Training Fund, State Workforce Investment Fund and Mississippi
83 Works Fund contributions * * * on a pro rata basis;

84 * * *3. Interest and damages; then



85 * * *4. Legal and processing costs.

86 The amount of unemployment insurance contributions due for
87 any period will be the amount due according to the actual
88 computations unless the employer is participating in the MLPP. In
89 that event, the amount due is the MLPP amount computed by the
90 department.

91 Cost of collection and administration of the Mississippi
92 Workforce Enhancement Training Fund * * *, the State Workforce
93 Investment and Mississippi Works contributions shall be allocated
94 based on a plan approved by the United States Department of Labor
95 (USDOL) * * *. Costs for collection and administration of the
96 Mississippi Workforce Enhancement Training Fund contributions
97 shall be paid to the Mississippi Department of Employment Security
98 semiannually by the Mississippi Community College Board and State
99 Workforce Investment and Mississippi Works Fund contributions
100 shall be paid to the Mississippi Department of Employment Security
101 semiannually by the State Workforce Investment Board with the cost
102 allocated to each based on a USDOL approved plan on a pro rata
103 basis, for periods ending in * * * June and December of each year.
104 Payment shall be made by each organization to the department no
105 later than sixty (60) days after the billing date. Cost shall be
106 allocated to the Mississippi Workforce Enhancement Training * * *,
107 State Workforce Investment or Mississippi Works funds or accounts
108 on the same basis as the distribution of funds collected as
109 described in paragraph (b) of this subsection.



110 (b) Mississippi Workforce Enhancement Training * * *,
111 State Workforce Investment and Mississippi Works contributions
112 shall be distributed as follows:

113 (i) For calendar year 2014, ninety-four and
114 seventy-five one-hundredths percent (94.75%) shall be distributed
115 to the Mississippi Workforce Enhancement Training Fund and the
116 remainder shall be distributed to the State Workforce Investment
117 Board bank account;

118 (ii) For calendar years 2015 and 2016, forty-one
119 and seven tenth percent (41.7%) shall be distributed to the
120 Mississippi Workforce Enhancement Training Fund, fifty-five and
121 six tenths percent (55.6%) shall be distributed to the Mississippi
122 Works Fund and two and seven tenths percent (2.7%) shall be
123 distributed to the State Workforce Investment Fund.

124 (* * *iii) For calendar years subsequent to
125 calendar year * * * 2016, ninety-three and seventy-five
126 one-hundredths percent (93.75%) shall be distributed to the
127 Mississippi Workforce Enhancement Training Fund and the remainder
128 shall be distributed to the State Workforce Investment Board bank
129 account.

130 (c) All monies collected will be initially deposited
131 into the Mississippi Department of Employment Security bank
132 account for clearing contribution collections and subsequently
133 transferred to the Workforce Investment and Training Holding
134 Account and will be held by the Mississippi Department of



135 Employment Security in such account for a period of not less than
136 thirty (30) days. After such period, the Mississippi Workforce
137 Enhancement Training Fund monies shall be transferred to the
138 Mississippi Community College Board Treasury Account, and the
139 Mississippi Works Fund and State Workforce Investment * * * Fund
140 monies shall be transferred to the State Workforce Investment
141 Board bank account, in the manner described in paragraph (b) of
142 this subsection and within the time frame determined by the
143 department; however, except in cases of extraordinary
144 circumstances, these funds shall be transferred within fifteen
145 (15) days. Interest earnings or interest credits on deposit
146 amounts in the Workforce Investment and Training * * * Holding
147 Account shall be retained in the account to pay the banking costs
148 of the account. If after the period of twelve (12) months
149 interest earnings less banking costs exceeds Ten Thousand Dollars
150 (\$10,000.00), such excess amounts shall be transferred to the
151 respective accounts within thirty (30) days following the end of
152 each calendar year on the basis described in paragraph (b) of this
153 subsection. Interest earnings and/or interest credits for the
154 Mississippi Works and State Workforce Investment funds shall be
155 used for payment of banking costs and excess shall be used in
156 accordance with the rules and regulations of the State Workforce
157 Investment Board expenditure policies.

158 (d) All enforcement procedures for the collection of
159 delinquent unemployment contributions contained in Sections



160 71-5-363 through 71-5-383 shall be applicable in all respects for
161 collections of delinquent unemployment insurance contributions
162 designated for the Unemployment Compensation Fund, the Mississippi
163 Workforce Enhancement Training Fund * * *, the State Workforce
164 Investment * * * Mississippi Works bank account.

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



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

206 (ii) Except as otherwise provided in this
207 subsection, all funds deposited into the State Workforce
208 Investment Board bank account shall be used for administration of
209 State Workforce Investment Board business, grants related to



210 training, and other projects as determined appropriate by the
211 State Workforce Investment Board and shall be nonexpiring.
212 Policies for grants and other projects shall be approved through a
213 majority vote of the State Workforce Investment Board.

214 (iii) All funds deposited into the State Workforce
215 Investment Board bank account from the Mississippi Works Fund
216 shall be allocated exclusively by the State Workforce Investment
217 Board to make strategic and targeted investments in the
218 Mississippi workforce to encourage the growth of better paying,
219 higher skilled in-demand jobs, with a focus on high growth
220 industries, by quickly linking training funds to other economic
221 incentives for the purpose of meeting immediate training needs and
222 shall be nonexpiring. In no case shall these funds be used to
223 supplant workforce funds available from any other sources,
224 including, but not limited to, local state, or federal sources
225 that are available for workforce training and development. Such
226 training conducted utilizing these Mississippi Works funds may be
227 subject to a minimal administrative fee to be paid from the
228 Mississippi Works Fund as authorized by the State Workforce
229 Investment Board.

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



234 2. In managing the State Workforce Investment
235 Board bank account, the department shall ensure that any funds
236 expended for contractual services rendered to the State Workforce
237 Investment Board shall be paid only to service providers who have
238 been selected on a competitive basis. Any contract for services
239 entered into using funds from the Workforce Investment * * * Board
240 bank account shall contain the deliverables stated in terms that
241 allow for the assessment of work performance against measurable
242 performance standards and shall include milestones for completion
243 of each deliverable under the contract. For each contract for
244 services entered into by the State Workforce Investment Board, the
245 board shall develop a quality assurance surveillance plan that
246 specifies quality control obligations of the contractor as well as
247 measurable inspection and acceptance criteria corresponding to the
248 performance standards contained in the contract's statement of
249 work. State Workforce Investment and Mississippi Works funds
250 expended for training shall be subject to rules and regulations
251 established under the provisions of Section 37-153-7 and such
252 funds are subject to allocation only by the State Workforce
253 Investment Board.

254 3. Any commodities procured for the board
255 shall be procured in accordance with the provisions of Section
256 31-7-13.

257 (* * *y) In addition to other expenditures, the
258 department shall expend from the State Workforce Investment Board



259 bank account for the use and benefit of the State Workforce
260 Investment Board, such funds as are necessary to prepare and
261 develop a study of workforce development needs that will consist
262 of the following:

263 1. An identification of the state's workforce
264 development needs through a well-documented quantitative and
265 qualitative analysis of:

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

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

280 c. The needs of workforce service and
281 training providers in improving their ability to offer
282 industry-relevant training, including an assessment of the



283 practical limits of keeping training programs on the leading edge
284 and eliminating those programs with marginal workforce relevance.

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

288 a. Development of a list of
289 strengths/weaknesses/opportunities/threats (SWOT) of the current
290 workforce development delivery system relative to the identified
291 needs;

292 b. Identification of strategic options
293 for workforce development services based on the results of the
294 SWOT analysis; and

295 c. Development of results-oriented
296 measures for each option that can be baselined and, if
297 implemented, tracked over time, with quantifiable milestones and
298 goals.

299 3. Preparation of a report presenting all
300 subjects set out in this subparagraph to be delivered to the
301 Lieutenant Governor, Speaker of the House of Representatives,
302 Chairman of the Senate Finance Committee and Chairman of the House
303 Appropriations Committee no later than February 1, 2015.

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



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

308 Such future uses may include:

309 a. The development of promotion
310 strategies for workforce development programs;

311 b. Initiatives designed to reduce the
312 state's dropout rate including the development of a statewide
313 career awareness program.

314 c. The long-term monitoring of the
315 state's workforce development programs to determine whether they
316 are addressing the needs of business, industry, and the workers of
317 the state; and

318 d. The study of the potential
319 restructuring of the state's workforce programs and delivery
320 systems.

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

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



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

338 * * *3. For calendar years subsequent to
339 calendar year * * * 2016, Mississippi Workforce Enhancement
340 Training contributions and State Workforce Investment
341 contributions shall be collected at a rate of sixteen
342 one-hundredths of one percent (.16%), based upon taxable wages.

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

346 (iii) The Mississippi Workforce Enhancement
347 Training Fund * * *, the State Workforce Investment and
348 Mississippi Works contributions shall be in addition to the
349 general experience rate plus the individual experience rate of all
350 employers but shall not be charged to reimbursing or rate-paying
351 political subdivisions or institutions of higher learning, or
352 reimbursing nonprofit organizations, as described in Sections
353 71-5-357 and 71-5-359.

354 (b) All Mississippi Workforce Enhancement
355 Training * * *, State Workforce Investment and Mississippi Works
356 contributions collected shall be deposited initially into the



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

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



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

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

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

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

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

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

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

404 (e) For the computation of modified rates, "eligible
405 employer" means an employer whose experience-rating record has
406 been chargeable with benefits throughout the thirty-six (36)



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

429 (f) With respect to any tax year, "reserve ratio" means
430 the ratio which the total amount available for the payment of
431 benefits in the Unemployment Compensation Fund, excluding any



432 amount which has been credited to the account of this state under
433 Section 903 of the Social Security Act, as amended, and which has
434 been appropriated for the expenses of administration pursuant to
435 Section 71-5-457 whether or not withdrawn from such account, on
436 October 31 (close of business) of each calendar year bears to the
437 aggregate of the taxable payrolls of all employers for the twelve
438 (12) calendar months ending on June 30 next preceding.

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

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



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

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



480 state agencies, political subdivisions, reimbursable nonprofit
481 corporations, and tax-exempt PSE employment.

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

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

490 (k) "Size of fund index" (SOFI) is defined as the ratio
491 of the exposure criterion (EC) to the cost rate criterion (CRC).
492 The target size of fund index will be fixed at 1.0. If the
493 insured unemployment rate (IUR) exceeds a four and five-tenths
494 percent (4.5%) average for the most recent completed July to June
495 period, the target SOFI will be .8 and will remain at that level
496 until the computed SOFI (the average exposure criterion of the
497 current year and the preceding year divided by the average cost
498 rate criterion) equals 1.0 or the average IUR falls to four and
499 five-tenths percent (4.5%) or less for any period July to June.
500 However, if the IUR falls below two and five-tenths percent (2.5%)
501 for any period July to June the target SOFI shall be 1.2 until
502 such time as the computed SOFI is equal to or greater than 1.0 or
503 the IUR is equal to or greater than two and five-tenths percent
504 (2.5%), at which point the target SOFI shall return to 1.0.



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

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

516 (2) Modified rates:

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

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

525 (i) The department shall maintain an
526 experience-rating record for each employer. Nothing in this
527 chapter shall be construed to grant any employer or individuals
528 performing services for him any prior claim or rights to the
529 amounts paid by the employer into the fund.



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

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

540 2. Was discharged by such employer for
541 misconduct connected with his work;

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

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

552 5. Extended benefits paid under the
553 provisions of Section 71-5-541 which are not reimbursable from



554 federal funds shall be charged to the experience-rating record of
555 base period employers;

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

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

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

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

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)(l) 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
687 2016. In tax years 2015 and 2016 the general experience rate
688 shall be zero percent (0%) unless the insured unemployment rate
689 exceeds an average of five and five-tenths percent (5.5%) for the
690 three (3) consecutive months immediately preceding the effective
691 date of the next rate year in which case Mississippi Works Fund
692 collections shall be suspended and shall suspend for the rate year
693 immediately following such occurrence and shall remain suspended
694 throughout the duration of that rate year. Such suspension shall
695 continue until there are three (3) consecutive months immediately
696 preceding the effective date of any subsequent rate year with an
697 insured unemployment rate of less than an average of four and
698 five-tenths percent (4.5%). When the specified unemployment rate
699 is achieved, the Mississippi Works Fund collections shall resume
700 for a period of one (1) rate year. In no year shall the general
701 experience rate be less than two-tenths of one percent (.2%)
702 except as otherwise provided in this item 5, and in all cases the
703 employer's total rate for unemployment insurance contributions



704 shall be the sum of the general experience rate plus the
705 employer's individual tax rate. In the event suspension of
706 Mississippi Works Fund contributions occurs as described in this
707 item 5, the unemployment insurance general experience rate shall
708 equal the greater of the computed general experience rate or two
709 tenths of one percent (.2%) as described in this section. Upon
710 resumption of Mississippi Works Fund collections, the general
711 experience rate shall be zero percent (0%) during the one (1) year
712 period for which the Mississippi Works contribution collections
713 are effective. However, the total contribution rate (including
714 Workforce Enhancement Training and State Workforce Investment
715 contribution rate) shall not exceed five and four-tenths percent
716 (5.4%) for the rate year 2014. In order to achieve the maximum
717 tax rate of five and four-tenths percent (5.4%) for the rate year
718 2014, the Workforce Enhancement Training and State Workforce
719 Investment contribution rate shall be reduced in the amounts
720 necessary to achieve the maximum rate of five and four-tenths
721 percent (5.4%). If the total rate still exceeds five and four
722 tenths percent (5.4%), the individual experience rate is the
723 component of the total tax rate that will then be reduced to
724 achieve the maximum unemployment contribution rate of five and
725 four-tenths percent (5.4%). For rate years subsequent to 2014,
726 the individual experience rate is the only component of the total
727 unemployment tax rate that will 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, Mississippi Workforce
730 Enhancement Training Fund contribution rate * * *, the State
731 Workforce Investment contribution rate and the Mississippi Works
732 contribution rate shall be added to the unemployment contribution
733 rate in applicable years, regardless of whether the addition of
734 this contribution rate causes the total contribution rate for the
735 employer to exceed five and four-tenths percent (5.4%).

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

744 (vi) When any employing unit in any manner
745 succeeds to or acquires the organization, trade, business or
746 substantially all the assets thereof of an employer, excepting any
747 assets retained by such employer incident to the liquidation of
748 his obligations, whether or not such acquiring employing unit was
749 an employer within the meaning of Section 71-5-11, subsection H,
750 prior to such acquisition, and continues such organization, trade
751 or business, the experience-rating and payroll records of the
752 predecessor employer shall be transferred as of the date of



753 acquisition to the successor employer for the purpose of rate
754 determination.

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

760 1. The mutual consent of the predecessor and
761 the successor;

762 2. Approval of the department;

763 3. Continued operation of the transferred
764 portion by the successor after transfer; and

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

770 (viii) If the successor was an employer subject to
771 this chapter prior to the date of acquisition, it shall continue
772 to pay unemployment insurance contributions at the rate applicable
773 to it from the date the acquisition occurred until the end of the
774 then current tax year. If the successor was not an employer prior
775 to the date of acquisition, it shall pay unemployment insurance
776 contributions at the rate applicable to the predecessor or, if
777 more than one (1) predecessor and the same rate is applicable to



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

793 (ix) The department shall notify each employer
794 quarterly of the benefits paid and charged to his
795 experience-rating record; and such notification, in the absence of
796 an application for redetermination filed within thirty (30) days
797 after the date of such notice, shall be final, conclusive and
798 binding upon the employer for all purposes. A redetermination,
799 made after notice and opportunity for a fair hearing, by a hearing
800 officer designated by the department who shall consider and decide
801 these and related applications and protests; and the finding of
802 fact in connection therewith may be introduced into any subsequent



803 administrative or judicial proceedings involving the determination
804 of the rate of unemployment insurance contributions of any
805 employer for any tax year, and shall be entitled to the same
806 finality as is provided in this subsection with respect to the
807 findings of fact in proceedings to redetermine the contribution
808 rate of an employer.

809 (x) The department shall notify each employer of
810 his rate of contribution as determined for any tax year as soon as
811 reasonably possible after September 1 of the preceding year. Such
812 determination shall be final, conclusive and binding upon such
813 employer unless, within thirty (30) days after the date of such
814 notice to his last-known address, the employer files with the
815 department an application for review and redetermination of his
816 contribution rate, setting forth his reasons therefor. If the
817 department grants such review, the employer shall be promptly
818 notified thereof and shall be afforded an opportunity for a fair
819 hearing by a hearing officer designated by the department who
820 shall consider and decide these and related applications and
821 protests; but no employer shall be allowed, in any proceeding
822 involving his rate of unemployment insurance contributions or
823 contribution liability, to contest the chargeability to his
824 account of any benefits paid in accordance with a determination,
825 redetermination or decision pursuant to Sections 71-5-515 through
826 71-5-533 except upon the ground that the services on the basis of
827 which such benefits were found to be chargeable did not constitute



828 services performed in employment for him, and then only in the
829 event that he was not a party to such determination,
830 redetermination, decision or to any other proceedings provided in
831 this chapter in which the character of such services was
832 determined. The employer shall be promptly notified of the denial
833 of this application or of the redetermination, both of which shall
834 become final unless, within ten (10) days after the date of notice
835 thereof, there shall be an appeal to the department itself. Any
836 such appeal shall be on the record before said designated hearing
837 officer, and the decision of said department shall become final
838 unless, within thirty (30) days after the date of notice thereof
839 to the employer's last-known address, there shall be an appeal to
840 the Circuit Court of the First Judicial District of Hinds County,
841 Mississippi, in accordance with the provisions of law with respect
842 to review of civil causes by certiorari.

843 (3) Notwithstanding any other provision of law, the
844 following shall apply regarding assignment of rates and transfers
845 of experience:

846 (a) (i) If an employer transfers its trade or
847 business, or a portion thereof, to another employer and, at the
848 time of the transfer, there is substantially common ownership,
849 management or control of the two (2) employers, then the
850 unemployment experience attributable to the transferred trade or
851 business shall be transferred to the employer to whom such
852 business is so transferred. The rates of both employers shall be



853 recalculated and made effective on January 1 of the year following
854 the year the transfer occurred.

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

862 (b) Whenever a person who is not an employer or an
863 employing unit under this chapter at the time it acquires the
864 trade or business of an employer, the unemployment experience of
865 the acquired business shall not be transferred to such person if
866 the department finds that such person acquired the business solely
867 or primarily for the purpose of obtaining a lower rate of
868 unemployment insurance contributions. Instead, such person shall
869 be assigned the new employer rate under Section 71-5-353. In
870 determining whether the business was acquired solely or primarily
871 for the purpose of obtaining a lower rate of unemployment
872 insurance contributions, the department shall use objective
873 factors which may include the cost of acquiring the business,
874 whether the person continued the business enterprise of the
875 acquired business, how long such business enterprise was
876 continued, or whether a substantial number of new employees were



877 hired for performance of duties unrelated to the business activity
878 conducted prior to acquisition.

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

885 1. If the person is an employer, then such
886 employer shall be assigned the highest rate assignable under this
887 chapter for the rate year during which such violation or attempted
888 violation occurred and the three (3) rate years immediately
889 following this rate year. However, if the person's business is
890 already at such highest rate for any year, or if the amount of
891 increase in the person's rate would be less than two percent (2%)
892 for such year, then a penalty rate of unemployment insurance
893 contributions of two percent (2%) of taxable wages shall be
894 imposed for such year. The penalty rate will apply to the
895 successor business as well as the related entity from which the
896 employees were transferred in an effort to obtain a lower rate of
897 unemployment insurance contributions.

898 2. If the person is not an employer, such
899 person shall be subject to a civil money penalty of not more than
900 Five Thousand Dollars (\$5,000.00). Each such transaction for
901 which advice was given and each occurrence or reoccurrence after



902 notification being given by the department shall be a separate
903 offense and punishable by a separate penalty. Any such fine shall
904 be deposited in the penalty and interest account established under
905 Section 71-5-114.

906 (ii) For purposes of this paragraph (c), the term
907 "knowingly" means having actual knowledge of or acting with
908 deliberate ignorance or reckless disregard for the prohibition
909 involved.

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

913 (iv) In addition to the penalty imposed by
914 subparagraph (i) of this paragraph (c), any violation of this
915 subsection may be punishable by a fine of not more than Ten
916 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
917 five (5) years, or by both such fine and imprisonment. This
918 subsection shall prohibit prosecution under any other criminal
919 statute of this state.

920 (d) The department shall establish procedures to
921 identify the transfer or acquisition of a business for purposes of
922 this subsection.

923 (e) For purposes of this subsection:

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



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

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

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

934 71-5-453. The department shall be the treasurer and
935 custodian of the fund, and shall administer such fund in
936 accordance with the directions of the department, and shall issue
937 its warrants upon it in accordance with such regulations as the
938 department shall prescribe. The department shall maintain within
939 the fund three (3) separate accounts: (a) a clearing account, (b)
940 an unemployment trust fund account, and (c) a benefit payment
941 account. All monies payable to the fund, upon receipt thereof by
942 the department, shall be immediately deposited in the clearing
943 account. Refunds payable pursuant to Section 71-5-383 may be paid
944 from the clearing account by the department. Transfers pursuant
945 to Section 71-5-114 of all interest, penalties and damages
946 collected shall be made to the Special Employment Security
947 Administration Fund as soon as practicable after the end of each
948 calendar quarter. Workforce Enhancement Training and State
949 Workforce Investment contributions shall be deposited into the
950 Workforce Investment and Training Holding Account as described in



951 this section. All other monies in the clearing account shall be
952 immediately deposited with the Secretary of the Treasury of the
953 United States of America to the Unemployment Trust Fund account
954 for the State of Mississippi, established and maintained pursuant
955 to Section 904 of the Social Security Act, as amended, any
956 provisions of law in this state relating to the deposit,
957 administration, release or disbursement of monies in the
958 possession or custody of this state to the contrary
959 notwithstanding. The benefit account shall consist of all monies
960 requisitioned from this state's account in the Unemployment Trust
961 Fund. Except as herein otherwise provided, monies in the clearing
962 and benefit accounts may be deposited by the department, in any
963 bank or public depository in which general funds of the state may
964 be deposited, but no public deposit insurance charge or premium
965 shall be paid out of the fund. The department shall be liable for
966 the faithful performance of its duties in connection with the
967 Unemployment Compensation Fund under this chapter. A Workforce
968 Investment and Training Holding Account shall be established by
969 and maintained under the control of the Mississippi Department of
970 Employment Security. Contributions collected pursuant to the
971 provisions in this chapter for the Workforce Enhancement
972 Training * * *, State Workforce Investment Mississippi Works funds
973 shall be transferred from the clearing account into the Workforce
974 Investment and Training Holding Account on the same schedule and
975 under the same conditions as funds transferred to the Unemployment



976 Compensation Fund. Such funds shall remain on deposit in the
977 holding account for a period of thirty (30) days. After such
978 period, Workforce Enhancement Training contributions shall be
979 transferred to the appropriate Mississippi Community College Board
980 treasury account by the department. The State Workforce
981 Investment and the Mississippi Works contributions shall be
982 transferred to the State Workforce Investment Board bank account
983 established by the department, and the department shall have the
984 authority to deposit and disburse funds from the State Workforce
985 Investment Board bank account as directed by the State Workforce
986 Investment Board. Such transfers of these contributions to the
987 bank account shall occur within fifteen (15) days after the funds
988 have resided in the Workforce Investment and Training Holding
989 Account for thirty (30) days. One (1) such transfer shall be made
990 monthly, but the department, in its discretion, may make
991 additional transfers in any month. In the event such funds
992 transferred are subsequently determined to be erroneously paid or
993 collected, or if deposit of such funds is denied or rejected by
994 the banking institution for any reason, or deposits are unable to
995 clear drawer's account for any reason, the funds must be
996 reimbursed by the recipient of such funds within thirty (30) days
997 of mailing of notice by the department demanding such refund,
998 unless funds are available in the Workforce Investment and
999 Training Holding Account. In that event such amounts shall be
1000 immediately withdrawn from the Workforce Investment and Training



1001 Holding Account by the department and re-deposited into the
1002 clearing account.

1003 **SECTION 4.** Section 37-153-7, Mississippi Code of 1972, is
1004 amended as follows:

1005 37-153-7. (1) There is created the Mississippi State
1006 Workforce Investment Board. The Mississippi State Workforce
1007 Investment Board shall be composed of * * * forty-one (41) voting
1008 members, of which a majority shall be representatives of business
1009 and industry in accordance with the federal Workforce Investment
1010 Act.

1011 (a) The Governor shall appoint the following members of
1012 the board to serve a term of four (4) years:

1013 (i) The Executive Director of the Mississippi
1014 Association of Supervisors, or his/her designee;

1015 (ii) The Executive Director of the Mississippi
1016 Municipal League;

1017 (iii) One (1) elected mayor;

1018 (iv) One (1) elected county supervisor;

1019 (v) Two (2) representatives of labor
1020 organizations, who have been nominated by state labor federations;

1021 (vi) Two (2) representatives of individuals and
1022 organizations that have experience with respect to youth
1023 activities;

1024 (vii) One (1) representative of the Mississippi
1025 Association of Planning and Development Districts;



1026 (viii) One (1) representative from each of the
1027 four (4) workforce areas in the state, who has been nominated by
1028 the community colleges in each respective area, with the consent
1029 of the elected county supervisors within the respective workforce
1030 area; and

1031 (ix) * * * Twenty-one (21) representatives of
1032 business owners nominated by business and industry organizations,
1033 which may include representatives of the various planning and
1034 development districts in Mississippi.

1035 (b) The following state officials shall be members of
1036 the board:

1037 (i) The Executive Director of the Mississippi
1038 Department of Employment Security;

1039 (ii) The Executive Director of the Department of
1040 Rehabilitation Services;

1041 (iii) The State Superintendent of Public
1042 Education;

1043 (iv) The Executive Director of the Mississippi
1044 Development Authority;

1045 (v) The Executive Director of the Mississippi
1046 Department of Human Services;

1047 (vi) The Executive Director of the Mississippi
1048 Community College Board.

1049 (c) The Governor, or his designee, shall serve as a
1050 member.



1051 (d) Four (4) legislators, who shall serve in a
1052 nonvoting capacity, two (2) of whom shall be appointed by the
1053 Lieutenant Governor from the membership of the Mississippi Senate,
1054 and two (2) of whom shall be appointed by the Speaker of the House
1055 from the membership of the Mississippi House of Representatives.

1056 (e) The membership of the board shall reflect the
1057 diversity of the State of Mississippi.

1058 (f) The Governor shall designate the Chairman of the
1059 Mississippi State Workforce Investment Board from among the voting
1060 members of the board, and a quorum of the board shall consist of a
1061 majority of the voting members of the board.

1062 (g) The voting members of the board who are not state
1063 employees shall be entitled to reimbursement of their reasonable
1064 expenses incurred in carrying out their duties under this chapter,
1065 from any funds available for that purpose.

1066 * * *

1067 (2) The Mississippi Department of Employment Security shall
1068 establish limits on administrative costs for each portion of
1069 Mississippi's workforce development system consistent with the
1070 federal Workforce Investment Act or any future federal workforce
1071 legislation.

1072 (3) The Mississippi State Workforce Investment Board shall
1073 have the following duties:

1074 (a) Develop and submit to the Governor a strategic plan
1075 for an integrated state workforce development system that aligns



1076 resources and structures the system to more effectively and
1077 efficiently meet the demands of Mississippi's employers and job
1078 seekers. This plan will comply with the federal Workforce
1079 Investment Act of 1998, as amended, the federal Workforce
1080 Innovation and Opportunity Act of 2014 and amendments and
1081 successor legislation to these acts;

1082 (b) Assist the Governor in the development and
1083 continuous improvement of the statewide workforce investment
1084 system that shall include:

1085 (i) Development of linkages in order to assure
1086 coordination and nonduplication among programs and activities; and

1087 (ii) Review local workforce development plans that
1088 reflect the use of funds from the federal Workforce Investment
1089 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
1090 Act and the amendment or successor legislation to the acts, and
1091 the Mississippi Comprehensive Workforce Training and Education
1092 Consolidation Act;

1093 (c) Recommend the designation of local workforce
1094 investment areas as required in Section 116 of the federal
1095 Workforce Investment Act of 1998 and the Workforce Investment and
1096 Opportunity Act of 2014. There shall be four (4) workforce
1097 investment areas that are generally aligned with the planning and
1098 development district structure in Mississippi. Planning and
1099 development districts will serve as the fiscal agents to manage
1100 Workforce Investment Act funds, oversee and support the local



1101 workforce investment boards aligned with the area and the local
1102 programs and activities as delivered by the one-stop employment
1103 and training system. The planning and development districts will
1104 perform this function through the provisions of the county
1105 cooperative service districts created under Sections 19-3-101
1106 through 19-3-115; however, planning and development districts
1107 currently performing this function under the Interlocal
1108 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
1109 continue to do so;

1110 (d) Assist the Governor in the development of an
1111 allocation formula for the distribution of funds for adult
1112 employment and training activities and youth activities to local
1113 workforce investment areas;

1114 (e) Recommend comprehensive, results-oriented measures
1115 that shall be applied to all of Mississippi's workforce
1116 development system programs;

1117 (f) Assist the Governor in the establishment and
1118 management of a one-stop employment and training system conforming
1119 to the requirements of the federal Workforce Investment Act of
1120 1998 and the Workforce Investment and Opportunity Act of 2014, as
1121 amended, recommending policy for implementing the Governor's
1122 approved plan for employment and training activities and services
1123 within the state. In developing this one-stop career operating
1124 system, the Mississippi State Workforce Investment Board, in
1125 conjunction with local workforce investment boards, shall:



1126 (i) Design broad guidelines for the delivery of
1127 workforce development programs;

1128 (ii) Identify all existing delivery agencies and
1129 other resources;

1130 (iii) Define appropriate roles of the various
1131 agencies to include an analysis of service providers' strengths
1132 and weaknesses;

1133 (iv) Determine the best way to utilize the various
1134 agencies to deliver services to recipients; and

1135 (v) Develop a financial plan to support the
1136 delivery system that shall, at a minimum, include an
1137 accountability system;

1138 (g) Assist the Governor in reducing duplication of
1139 services by urging the local workforce investment boards to
1140 designate the local community/junior college as the operator of
1141 the WIN Job Center. Incentive grants of Two Hundred Thousand
1142 Dollars (\$200,000.00) from federal Workforce Investment Act funds
1143 may be awarded to the local workforce boards where the
1144 community/junior college district is designated as the WIN Job
1145 Center. These grants must be provided to the community and junior
1146 colleges for the extraordinary costs of coordinating with the
1147 Workforce Investment Act, advanced technology centers and advanced
1148 skills centers. In no case shall these funds be used to supplant
1149 state resources being used for operation of workforce development
1150 programs;



1151 (h) To provide authority, in accordance with any
1152 executive order of the Governor, for developing the necessary
1153 collaboration among state agencies at the highest level for
1154 accomplishing the purposes of this chapter;

1155 (i) To monitor the effectiveness of the workforce
1156 development centers and WIN job centers;

1157 (j) To advise the Governor, public schools,
1158 community/junior colleges and institutions of higher learning on
1159 effective school-to-work transition policies and programs that
1160 link students moving from high school to higher education and
1161 students moving between community colleges and four-year
1162 institutions in pursuit of academic and technical skills training;

1163 (k) To work with industry to identify barriers that
1164 inhibit the delivery of quality workforce education and the
1165 responsiveness of educational institutions to the needs of
1166 industry;

1167 (l) To provide periodic assessments on effectiveness
1168 and results of the overall Mississippi comprehensive workforce
1169 development system and district councils; and

1170 (m) To assist the Governor in carrying out any other
1171 responsibility required by the federal Workforce Investment Act of
1172 1998, as amended and the Workforce Innovations and Opportunity
1173 Act, successor legislation and amendments.



1174 (4) The Mississippi State Workforce Investment Board shall
1175 coordinate all training programs and funds in the State of
1176 Mississippi.

1177 Each state agency director responsible for workforce training
1178 activities shall advise the Mississippi State Workforce Investment
1179 Board of appropriate federal and state requirements. Each such
1180 state agency director shall remain responsible for the actions of
1181 his agency; however, each state agency and director shall work
1182 cooperatively, and shall be individually and collectively
1183 responsible to the Governor for the successful implementation of
1184 the statewide workforce investment system. The Governor, as the
1185 Chief Executive Officer of the state, shall have complete
1186 authority to enforce cooperation among all entities within the
1187 state that utilize federal or state funding for the conduct of
1188 workforce development activities.

1189 (5) The State Workforce Investment Executive Committee, in
1190 consultation with the full board, shall be designated as the body
1191 with the sole authority to make allocations from the Mississippi
1192 Works Fund created in Section 71-5-353. Such allocation must be
1193 in accordance with rules and regulations promulgated by the State
1194 Workforce Investment Board. The State Workforce Investment Board
1195 shall develop and submit rules and regulations in accordance with
1196 the Mississippi Administrative Procedures Act, within ninety (90)
1197 days of the effective date of this act. The State Workforce



1198 Investment fund rules and regulations established shall be in
1199 effect throughout the life of the fund.

1200 (6) The Mississippi State Workforce Investment Board shall
1201 create and implement performance metrics for the Mississippi Works
1202 Fund to determine the added value to the local and state economy
1203 and the contribution to the future growth of the state economy. A
1204 report on the performance of the fund shall be made to the
1205 Governor, Lieutenant Governor and Speaker of the House of
1206 Representatives annually, throughout the life of the fund.

1207 **SECTION 5.** This act shall take effect and be in force from
1208 and after July 1, 2015, and shall be repealed from and after June
1209 30, 2015.

