

By: Representatives Smith, Sykes, Miles

To: Workforce Development

HOUSE BILL NO. 1554

1 AN ACT TO AMEND SECTIONS 71-5-353, 71-5-355 AND 71-5-453,
2 MISSISSIPPI CODE OF 1972, TO AMEND THE MISSISSIPPI EMPLOYMENT
3 SECURITY LAW, TO ESTABLISH A SPECIAL FUND IN THE STATE TREASURY TO
4 BE KNOWN AS THE "MISSISSIPPI WORKS FUND" INTO WHICH MISSISSIPPI
5 WORKS CONTRIBUTIONS LEVIED UNDER THIS ACT SHALL BE DEPOSITED; TO
6 DESIGNATE THE AGENCIES THAT SHALL BE RESPONSIBLE FOR PAYING THE
7 COST OF COLLECTING CONTRIBUTIONS LEVIED UNDER THE MISSISSIPPI
8 EMPLOYMENT SECURITY LAW; TO PROVIDE FOR THE COLLECTION AND DEPOSIT
9 OF SUCH CONTRIBUTIONS; TO PROVIDE THAT ALL FUNDS DEPOSITED INTO
10 THE MISSISSIPPI WORKS FUND SHALL BE DISBURSED EXCLUSIVELY BY THE
11 EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEPARTMENT OF EMPLOYMENT
12 SECURITY IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY
13 THE STATE WORKFORCE INVESTMENT BOARD RULES COMMITTEE IN SUPPORT OF
14 WORKFORCE TRAINING ACTIVITIES APPROVED BY THE MISSISSIPPI
15 DEVELOPMENT AUTHORITY IN SUPPORT OF ECONOMIC DEVELOPMENT
16 ACTIVITIES; TO PLACE CERTAIN RESTRICTIONS ON THE EXPENDITURE OF
17 SUCH FUNDS; TO ESTABLISH THE RATES AT WHICH MISSISSIPPI WORKFORCE
18 ENHANCEMENT CONTRIBUTIONS, STATE WORKFORCE INVESTMENT
19 CONTRIBUTIONS AND MISSISSIPPI WORKS CONTRIBUTIONS SHALL BE
20 COLLECTED; TO PROVIDE FOR THE SUSPENSION OF MISSISSIPPI WORKS
21 CONTRIBUTIONS UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE THAT CERTAIN
22 FRAUDULENT CLAIMS SHALL NOT BE CHARGED AGAINST AN EMPLOYER'S
23 EXPERIENCE-RATING RECORD; TO SET THE GENERAL EXPERIENCE RATE AT
24 ZERO PERCENT UNLESS THE GENERAL EXPERIENCE RATIO FOR ANY TAX YEAR
25 AS COMPUTED AND ADJUSTED ON THE BASIS OF THE TRUST FUND ADJUSTMENT
26 FACTOR AND REDUCED BY 50% IS AN AMOUNT EQUAL TO OR GREATER THAN
27 TWO-TENTHS OF ONE PERCENT; TO AMEND SECTION 37-153-7, MISSISSIPPI
28 CODE OF 1972, TO REVISE THE MEMBERSHIP AND DUTIES OF THE
29 MISSISSIPPI STATE WORKFORCE INVESTMENT BOARD; TO REQUIRE THE STATE
30 WORKFORCE INVESTMENT BOARD TO ESTABLISH A RULES COMMITTEE; TO
31 PROVIDE FOR THE MEMBERSHIP OF SUCH RULES COMMITTEE; TO PROVIDE
32 THAT THE STATE WORKFORCE INVESTMENT BOARD SHALL CREATE AND
33 IMPLEMENT PERFORMANCE METRICS FOR THE MISSISSIPPI WORKS FUND TO
34 DETERMINE THE ADDED VALUE TO THE LOCAL AND STATE ECONOMY AND THE



35 CONTRIBUTION TO THE FUTURE GROWTH OF THE STATE ECONOMY; AND FOR
36 RELATED PURPOSES.

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

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

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

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



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

67 (2) (a) (i) There is hereby created in the Treasury of the
68 State of Mississippi * * * special funds to be known as the
69 "Mississippi Workforce Enhancement Training Fund * * *" and the
70 "Mississippi Works Fund" which * * * consist of funds collected
71 pursuant to subsection (3) of this section.

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

- 80 1. Unemployment contributions;
- 81 2. Mississippi Workforce Enhancement
82 Training * * * contributions * * *, State Workforce Investment
83 contributions and the Mississippi Works contributions, known
84 collectively as the Mississippi Workforce Investment and Training
85 contributions, on a pro rata basis;



86 * * *

87 * * *3. Interest and damages; then

88 * * *4. Legal and processing costs.

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

94 Cost of collection and administration of the Mississippi
95 Workforce Enhancement Training * * * contribution * * *, the State
96 Workforce Investment contribution and the Mississippi Works
97 contribution shall be allocated based on a plan approved by the
98 United States Department of Labor (USDOL) * * *. The Mississippi
99 Community College Board * * * shall pay the cost * * * of
100 collecting the Mississippi Workforce Enhancement Training
101 contributions, the State Workforce Investment Board shall pay the
102 costs of collecting the State Workforce Investment contributions
103 and the Mississippi Department of Employment Security shall pay
104 the cost of collecting the Mississippi Works contributions.
105 Payments shall be made semiannually with the cost allocated to
106 each based on a USDOL approved plan on a pro rata basis, for
107 periods ending in * * * June and December of each year. Payment
108 shall be made by each organization to the department no later than
109 sixty (60) days after the billing date. Cost shall be
110 allocated * * * under the USDOL's approved plan and in the same



111 ratio as each contribution type represents to the total authorized
112 by subparagraph (ii) (2) of this paragraph to be collected for the
113 period.

114 (b) Mississippi Workforce Enhancement Training
115 contributions and State Workforce Investment contributions shall
116 be distributed as follows:

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

122 (ii) For calendar years subsequent to calendar
123 year 2014, ninety-three and seventy-five one-hundredths percent
124 (93.75%) shall be distributed to the Mississippi Workforce
125 Enhancement Training Fund and the remainder shall be distributed
126 to the State Workforce Investment Board bank account.

127 (iii) Workforce Enhancement Training contributions
128 and State Workforce Investment contributions for calendar years
129 2014 and 2015 shall be distributed as provided in subparagraphs
130 (i) and (ii) of this paragraph regardless of when the
131 contributions were collected.

132 (c) All * * * contributions collected for the State
133 Workforce Enhancement Training Fund, the State Workforce
134 Investment Fund and the Mississippi Works Fund will be initially
135 deposited into the Mississippi Department of Employment Security



136 bank account for clearing contribution collections and
137 subsequently transferred to the Workforce Investment and Training
138 Holding Account and will be held by the Mississippi Department of
139 Employment Security in such account for a period of not less than
140 thirty (30) days. After such period, the Mississippi Workforce
141 Enhancement Training * * * contributions shall be transferred to
142 the Mississippi Community College Board Treasury Account, * * *
143 the State Workforce Investment * * * contributions * * * and the
144 Mississippi Works contributions shall be transferred to the
145 Mississippi Department of Employment Security Mississippi Works
146 Treasury Account in the same ratio as each contribution type
147 represents to the total authorized by paragraph (a) (ii) (2) of this
148 subsection to be collected for the period and within the time
149 frame determined by the department; however, except in cases of
150 extraordinary circumstances, these funds shall be transferred
151 within fifteen (15) days. Interest earnings or interest credits
152 on deposit amounts in the Workforce Investment and Training * * *
153 Holding Account shall be retained in the account to pay the
154 banking costs of the account. If after the period of twelve (12)
155 months interest earnings less banking costs exceeds Ten Thousand
156 Dollars (\$10,000.00), such excess amounts shall be transferred to
157 the respective accounts within thirty (30) days following the end
158 of each calendar year on the basis described in paragraph (b) of
159 this subsection. Interest earnings and/or interest credits for
160 the State Workforce Investments funds shall be used for the



161 payment of banking costs and excess amounts shall be used in
162 accordance with the rules and regulations of the State Workforce
163 Investment Board expenditure policies.

164 (d) All enforcement procedures for the collection of
165 delinquent unemployment contributions contained in Sections
166 71-5-363 through 71-5-383 shall be applicable in all respects for
167 collections of delinquent unemployment insurance contributions
168 designated for the Unemployment Compensation Fund, the Mississippi
169 Workforce Enhancement Training Fund and the State Workforce
170 Investment Board * * * Fund and the Mississippi Works Fund.

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



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



211 shall be submitted annually to the Governor, Lieutenant Governor
212 and members of the Legislature.

213 (ii) Except as otherwise provided in this
214 paragraph (e), all funds deposited into the State Workforce
215 Investment Board bank account shall be used for administration of
216 State Workforce Investment Board business, grants related to
217 training, and other projects as determined appropriate by the
218 State Workforce Investment Board and shall be nonexpiring.
219 Policies for grants and other projects shall be approved through a
220 majority vote of the State Workforce Investment Board.

221 (iii) All funds deposited into the Mississippi
222 Department of Employment Security Mississippi Works Fund shall be
223 disbursed exclusively by the Executive Director of the Mississippi
224 Department of Employment Security, in accordance with the rules
225 and regulations promulgated by the State Workforce Investment
226 Board Rules Committee in support of workforce training activities
227 approved by the Mississippi Development Authority in support of
228 economic development activities. Funds allocated by the executive
229 director under this subparagraph (iii) shall only be utilized for
230 immediate training needs for the net new jobs created by an
231 employer, for the retention of jobs or to create a work-ready
232 applicant pool of Mississippians with credentials and/or
233 post-secondary education in accordance with the state's Workforce
234 Investment and Opportunity Act plan; however, not more than
235 twenty-five percent (25%) of the funds may be allocated for the



236 retention of jobs and/or creation of a work-ready applicant pool.
237 Not more than Five Hundred Thousand Dollars (\$500,000.00) may be
238 allocated annually for the training needs of any one (1) employer.
239 The Mississippi Public Community College System and its partners
240 shall be the primary entities to facilitate training. In no case
241 shall these funds be used to supplant workforce funds available
242 from any other sources, including, but not limited to, local,
243 state or federal sources that are available for workforce training
244 and development. Training conducted utilizing these Mississippi
245 Works funds may be subject to a minimal administrative fee to be
246 paid from the Mississippi Works Fund as authorized by the
247 Mississippi Department of Employment Security. All costs
248 associated with the administration of these funds shall be
249 reimbursed to the Mississippi Department of Employment Security
250 from the Mississippi Works Fund.

251 (* * *iv) 1. The Department of Employment
252 Security shall be the fiscal agent for the receipt and
253 disbursement of all funds in the State Workforce Investment Board
254 bank account.

255 2. In managing the State Workforce Investment
256 Board bank account, the department shall ensure that any funds
257 expended for contractual services rendered to the State Workforce
258 Investment Board shall be paid only to service providers who have
259 been selected on a competitive basis. Any contract for services
260 entered into using funds from the Workforce Investment Fund bank



261 account shall contain the deliverables stated in terms that allow
262 for the assessment of work performance against measurable
263 performance standards and shall include milestones for completion
264 of each deliverable under the contract. For each contract for
265 services entered into by the State Workforce Investment Board, the
266 board shall develop a quality assurance surveillance plan that
267 specifies quality control obligations of the contractor as well as
268 measurable inspection and acceptance criteria corresponding to the
269 performance standards contained in the contract's statement of
270 work.

271 3. Any commodities procured for the board
272 shall be procured in accordance with the provisions of Section
273 31-7-13.

274 (* * *y) In addition to other expenditures, the
275 department shall expend from the State Workforce Investment Board
276 bank account for the use and benefit of the State Workforce
277 Investment Board, such funds as are necessary to prepare and
278 develop a study of workforce development needs that will consist
279 of the following:

280 1. An identification of the state's workforce
281 development needs through a well-documented quantitative and
282 qualitative analysis of:

283 a. The current and projected workforce
284 training needs of existing and identified potential Mississippi
285 industries, with priority given to assessing the needs of existing



286 in-state industry and business. Where possible, the analysis
287 should include a verification and expansion of existing
288 information previously developed by workforce training and service
289 providers, as well as analysis of existing workforce data, such as
290 the data collected through the Statewide Longitudinal Data System.

291 b. The needs of the state's workers and
292 residents requiring additional workforce training to improve their
293 work skills in order to compete for better employment
294 opportunities, including a priority-based analysis of the critical
295 factors currently limiting the state's ability to provide a
296 trained and ready workforce.

297 c. The needs of workforce service and
298 training providers in improving their ability to offer
299 industry-relevant training, including an assessment of the
300 practical limits of keeping training programs on the leading edge
301 and eliminating those programs with marginal workforce relevance.

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

305 a. Development of a list of
306 strengths/weaknesses/opportunities/threats (SWOT) of the current
307 workforce development delivery system relative to the identified
308 needs;



309 b. Identification of strategic options
310 for workforce development services based on the results of the
311 SWOT analysis; and

312 c. Development of results-oriented
313 measures for each option that can be baselined and, if
314 implemented, tracked over time, with quantifiable milestones and
315 goals.

316 3. Preparation of a report presenting all
317 subjects set out in this subparagraph to be delivered to the
318 Lieutenant Governor, Speaker of the House of Representatives,
319 Chairman of the Senate Finance Committee and Chairman of the House
320 Appropriations Committee no later than February 1, 2015.

321 4. Following the preparation of the report,
322 the State Workforce Investment Board shall make a recommendation
323 to the House and Senate Appropriations Committees on future uses
324 of funds deposited to the State Workforce Investment Fund account.
325 Such future uses may include:

326 a. The development of promotion
327 strategies for workforce development programs;

328 b. Initiatives designed to reduce the
329 state's dropout rate including the development of a statewide
330 career awareness program.

331 c. The long-term monitoring of the
332 state's workforce development programs to determine whether they



333 are addressing the needs of business, industry, and the workers of
334 the state; and

335 d. The study of the potential
336 restructuring of the state's workforce programs and delivery
337 systems.

338 (3) (a) (i) Mississippi Workforce Enhancement Training
339 contributions and State Workforce Investment contributions shall
340 be collected at the following rates:

341 1. For calendar year 2014 only, the rate of
342 nineteen one-hundredths of one percent (.19%) based upon taxable
343 wages of which eighteen one-hundredths of one percent (.18%) shall
344 be the Workforce Enhancement Training contribution and
345 one-hundredths of one percent (.01%) shall be the State Workforce
346 Investment contribution; and

347 2. For calendar * * * year 2015 only, the
348 rate of sixteen one-hundredths of one percent (.16%), based upon
349 taxable wages of which fifteen one-hundredths of one percent
350 (.15%) shall be the Workforce Enhancement Training contribution
351 and one-hundredths of one percent (.01%) shall be the State
352 Workforce Investment contribution.

353 (ii) * * * Mississippi Workforce Enhancement
354 Training contributions, State Workforce Investment contributions
355 and Mississippi Works contributions shall be collected at the
356 following rates:



357 1. For calendar year 2016 only, at a rate of
358 twenty-four one-hundredths percent (.24%), based upon taxable
359 wages, of which fifteen one-hundredths percent (.15%) shall be the
360 Workforce Enhancement Training contribution, one-hundredths of one
361 percent (.01%) shall be the State Workforce Investment
362 contribution and eight one-hundredths percent (.08%) shall be the
363 Mississippi Works contribution.

364 2. For calendar years subsequent to calendar
365 year 2016, at a rate of twenty one-hundredths percent (.20%),
366 based upon taxable wages, of which fifteen one-hundredths percent
367 (.15%) shall be the Workforce Enhancement Training contribution,
368 one-hundredths of one percent (.01%) shall be the State Workforce
369 Investment contribution and four one-hundredths percent (.04%)
370 shall be the Mississippi Works contribution. The Mississippi
371 Works contribution shall be collected for calendar years in which
372 the general experience ratio, adjusted on the basis of the trust
373 fund adjustment factor and reduced by fifty percent (50%), results
374 in a general experience rate of less than two-tenths percent
375 (.2%). In all other years the Mississippi Works contribution
376 shall not be in effect.

377 (iii) The Mississippi Workforce Enhancement
378 Training Fund contribution * * *, the State Workforce Investment
379 contribution and the Mississippi Works contribution shall be in
380 addition to the general experience rate plus the individual
381 experience rate of all employers but shall not be charged to



382 reimbursing or rate-paying political subdivisions or institutions
383 of higher learning, or reimbursing nonprofit organizations, as
384 described in Sections 71-5-357 and 71-5-359.

385 (b) All Mississippi Workforce Enhancement Training
386 contributions * * *, State Workforce Investment contributions and
387 Mississippi Works contributions collected shall be deposited
388 initially into the Mississippi Department of Employment Security
389 bank account for clearing contribution collections and shall
390 within two (2) business days be transferred to the Workforce
391 Investment and Training Holding Account. Any Mississippi
392 Workforce Enhancement Training Fund and/or State Workforce
393 Investment Board bank account and/or Mississippi Works Fund
394 transactions from the Mississippi Department of Employment
395 Security bank account for clearing contribution collections that
396 are deposited into the Workforce Investment and Training Fund
397 Holding Account and are not honored by a financial institution
398 will be transferred back to the Mississippi Department of
399 Employment Security bank account for clearing contribution
400 collections out of funds in the Mississippi Workforce Investment
401 and Training Fund Holding Account.

402 (c) Suspension of the Workforce Enhancement Training
403 Fund contributions required pursuant to this chapter shall occur
404 if the insured unemployment rate exceeds an average of five and
405 five-tenths percent (5.5%) for the three (3) consecutive months
406 immediately preceding the effective date of the new rate year



407 following such occurrence and shall remain suspended throughout
408 the duration of that rate year. Such suspension shall continue
409 until such time as the three (3) consecutive months immediately
410 preceding the effective date of * * * the next rate year that has
411 an insured unemployment rate of less than an average of four and
412 five-tenths percent (4.5%). Upon such occurrence, reactivation
413 shall be effective upon the first day of the rate year following
414 the event that lifts suspension and shall be in effect for that
415 year and shall continue until such time as a subsequent suspension
416 event as described in this chapter occurs.

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

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

423 71-5-355. (1) As used in this section, the following words
424 and phrases shall have the following meanings, unless the context
425 clearly requires otherwise:

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

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

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



432 (d) Except as hereinafter provided, "payroll" means the
433 total of all wages paid for employment by an employer as defined
434 in Section 71-5-11, subsection H, plus the total of all
435 remuneration paid by such employer excluded from the definition of
436 wages by Section 71-5-351. For the computation of modified rates,
437 "payroll" means the total of all wages paid for employment by an
438 employer as defined in Section 71-5-11, subsection H.

439 (e) For the computation of modified rates, "eligible
440 employer" means an employer whose experience-rating record has
441 been chargeable with benefits throughout the thirty-six (36)
442 consecutive calendar-month period ending on the computation date,
443 except that any employer who has not been subject to the
444 Mississippi Employment Security Law for a period of time
445 sufficient to meet the thirty-six (36) consecutive calendar-month
446 requirement shall be an eligible employer if his experience-rating
447 record has been chargeable throughout not less than the twelve
448 (12) consecutive calendar-month period ending on the computation
449 date. No employer shall be considered eligible for a contribution
450 rate less than five and four-tenths percent (5.4%) with respect to
451 any tax year, who has failed to file any two (2) quarterly reports
452 within the qualifying period by September 30 following the
453 computation date. No employer or employing unit shall be eligible
454 for a contribution rate of less than five and four-tenths percent
455 (5.4%) for the tax year in which the employing unit is found by
456 the department to be in violation of Section 71-5-19(2) or (3) and



457 for the next two (2) succeeding tax years. No representative of
458 such employing unit who was a party to a violation as described in
459 Section 71-5-19(2) or (3), if such representative was or is an
460 employing unit in this state, shall be eligible for a contribution
461 rate of less than five and four-tenths percent (5.4%) for the tax
462 year in which such violation was detected by the department and
463 for the next two (2) succeeding tax years.

464 (f) With respect to any tax year, "reserve ratio" means
465 the ratio which the total amount available for the payment of
466 benefits in the Unemployment Compensation Fund, excluding any
467 amount which has been credited to the account of this state under
468 Section 903 of the Social Security Act, as amended, and which has
469 been appropriated for the expenses of administration pursuant to
470 Section 71-5-457 whether or not withdrawn from such account, on
471 October 31 (close of business) of each calendar year bears to the
472 aggregate of the taxable payrolls of all employers for the twelve
473 (12) calendar months ending on June 30 next preceding.

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

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



482 chargeable with benefits; except that with respect to any eligible
483 employer who has not been subject to this article for a period of
484 time sufficient to meet the thirty-six (36) consecutive
485 calendar-month requirement, "qualifying period" means the period
486 ending on the computation date throughout which his
487 experience-rating record has been chargeable with benefits, but in
488 no event less than the twelve (12) consecutive calendar-month
489 period ending on the computation date throughout which his
490 experience-rating record has been so chargeable.

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

501 (j) The "cost rate criterion" (CRC) is defined as
502 follows: Beginning with January 1974, the benefits paid for the
503 twelve-month period ending December 1974 are summed and divided by
504 the total wages for the twelve-month period ending on June 30,
505 1975. Similar ratios are computed by subtracting the earliest
506 month's benefit payments and adding the benefits of the next month



507 in the sequence and dividing each sum of twelve (12) months'
508 benefits by the total wages for the twelve-month period ending on
509 the June 30 which is nearest to the final month of the period used
510 to compute the numerator. If December is the final month of the
511 period used to compute the numerator, then the twelve-month period
512 ending the following June 30 will be used for the denominator.
513 Benefits and total wages used in the computation of the cost rate
514 criterion shall exclude all benefits and total wages applicable to
515 state agencies, political subdivisions, reimbursable nonprofit
516 corporations, and tax-exempt PSE employment.

517 The CRC shall be computed as the average for the highest
518 monthly value of the cost rate criterion computations during each
519 of the economic cycles since the calendar year 1974 as defined by
520 the National Bureau of Economic Research. The CRC shall be
521 computed to four (4) decimal places and any remainder shall be
522 rounded up.

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

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



532 current year and the preceding year divided by the average cost
533 rate criterion) equals 1.0 or the average IUR falls to four and
534 five-tenths percent (4.5%) or less for any period July to June.
535 However, if the IUR falls below two and five-tenths percent (2.5%)
536 for any period July to June the target SOFI shall be 1.2 until
537 such time as the computed SOFI is equal to or greater than 1.0 or
538 the IUR is equal to or greater than two and five-tenths percent
539 (2.5%), at which point the target SOFI shall return to 1.0.

540 (1) No employer's unemployment contribution general
541 experience rate plus individual unemployment experience rate shall
542 exceed five and four-tenths percent (5.4%) * * *. Accrual rules
543 shall apply for purposes of computing contribution rates including
544 associated functions.

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

547 (2) Modified rates:

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

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



556 (i) The department shall maintain an
557 experience-rating record for each employer. Nothing in this
558 chapter shall be construed to grant any employer or individuals
559 performing services for him any prior claim or rights to the
560 amounts paid by the employer into the fund.

561 (ii) Benefits paid to an eligible individual shall
562 be charged against the experience-rating record of his base period
563 employers in the proportion to which the wages paid by each base
564 period employer bears to the total wages paid to the individual by
565 all the base period employers, provided that benefits shall not be
566 charged to an employer's experience-rating record if the
567 department finds that the individual:

568 1. Voluntarily left the employ of such
569 employer without good cause attributable to the employer or to
570 accept other work;

571 2. Was discharged by such employer for
572 misconduct connected with his work;

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

578 4. Had base period wages which included wages
579 for previously uncovered services as defined in Section
580 71-5-511(e) to the extent that the Unemployment Compensation Fund



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

583 5. Extended benefits paid under the
584 provisions of Section 71-5-541 which are not reimbursable from
585 federal funds shall be charged to the experience-rating record of
586 base period employers;

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

592 7. Was hired to replace a United States
593 serviceman or servicewoman called into active duty and was laid
594 off upon the return to work by that serviceman or servicewoman,
595 unless such employer is a state agency or other political
596 subdivision or instrumentality of the state;

597 8. Was paid benefits during any week while in
598 training with the approval of the department, under the provisions
599 of Section 71-5-513B, or for any week while in training approved
600 under Section 236(a) (1) of the Trade Act of 1974, under the
601 provisions of Section 71-5-513C; * * *

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



606 10. Was paid benefits as a result of a
607 fraudulent claim, provided notification was made to the
608 Mississippi Department of Employment Security in writing or by
609 e-mail by the employer, within ten (10) days of the mailing of the
610 notice of claim filed to the employer's last-known address.

611 (iii) Notwithstanding any other provision
612 contained herein, an employer shall not be noncharged when the
613 department finds that the employer or the employer's agent of
614 record was at fault for failing to respond timely or adequately to
615 the request of the department for information relating to an
616 unemployment claim that was subsequently determined to be
617 improperly paid, unless the employer or the employer's agent of
618 record shows good cause for having failed to respond timely or
619 adequately to the request of the department for information. For
620 purposes of this subparagraph "good cause" means an event that
621 prevents the employer or employer's agent of record from timely
622 responding, and includes a natural disaster, emergency or similar
623 event, or an illness on the part of the employer, the employer's
624 agent of record, or their staff charged with responding to such
625 inquiries when there is no other individual who has the knowledge
626 or ability to respond. Any agency error that resulted in a delay
627 in, or the failure to deliver notice to, the employer or the
628 employer's agent of record shall also be considered good cause for
629 purposes of this subparagraph.



630 (iv) The department shall compute a benefit ratio
631 for each eligible employer, which shall be the quotient obtained
632 by dividing the total benefits charged to his experience-rating
633 record during the period his experience-rating record has been
634 chargeable, but not less than the twelve (12) consecutive
635 calendar-month period nor more than the thirty-six (36)
636 consecutive calendar-month period ending on the computation date,
637 by his total taxable payroll for the same period on which all
638 unemployment insurance contributions due have been paid on or
639 before the September 30 immediately following the computation
640 date. Such benefit ratio shall be computed to the tenth of a
641 percent (.1%), rounding any remainder to the next higher tenth.

642 (v) 1. The unemployment insurance contribution
643 rate for each eligible employer shall be the sum of two (2) rates:
644 his individual experience rate in the range from zero percent (0%)
645 to five and four-tenths percent (5.4%), plus a general experience
646 rate. In no event shall the resulting unemployment insurance rate
647 be in excess of five and four-tenths percent (5.4%), however, it
648 is the intent of this section to provide the ability for employers
649 to have a tax rate, the general experience rate plus the
650 individual experience rate, of up to five and four-tenths percent
651 (5.4%).

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



655 3. The general experience rate shall be
656 determined in the following manner: The department shall
657 determine annually, for the thirty-six (36) consecutive
658 calendar-month period ending on the computation date, the amount
659 of benefits which were not charged to the record of any employer
660 and of benefits which were ineffectively charged to the employer's
661 experience-rating record. For the purposes of this item 3, the
662 term "ineffectively charged benefits" shall include:

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

667 b. The total of the amounts of benefits
668 charged to the experience-rating records of all ineligible
669 employers which would cause their benefit ratios to exceed five
670 and four-tenths percent (5.4%) if they were eligible employers;
671 and

672 c. The total of the amounts of benefits
673 charged or chargeable to the experience-rating record of any
674 employer who has discontinued his business or whose coverage has
675 been terminated within such period; provided, that solely for the
676 purposes of determining the amounts of ineffectively charged
677 benefits as herein defined, a "benefit ratio" shall be computed
678 for each ineligible employer, which shall be the quotient obtained
679 by dividing the total benefits charged to his experience-rating



680 record throughout the period ending on the computation date,
681 during which his experience-rating record has been chargeable with
682 benefits, by his total taxable payroll for the same period on
683 which all unemployment insurance contributions due have been paid
684 on or before the September 30 immediately following the
685 computation date; and provided further, that such benefit ratio
686 shall be computed to the tenth of one percent (.1%) and any
687 remainder shall be rounded to the next higher tenth.

688 The ratio of the sum of these amounts (subsection
689 (2) (b) (v) 3a, b and c) to the taxable wages paid during the same
690 period divided by all eligible employers whose benefit ratio did
691 not exceed five and four-tenths percent (5.4%), computed to the
692 next higher tenth of one percent (.1%), shall be the general
693 experience rate; however, the general experience rate for rate
694 year 2014 shall be two tenths of one percent (.2%) and to that
695 will be added the employer's individual experience rate for the
696 total unemployment insurance rate.

697 4. a. Except as otherwise provided in this
698 item 4, the general experience rate shall be adjusted by use of
699 the size of fund index factor. This factor may be positive or
700 negative, and shall be determined as follows: From the target
701 SOFI, as defined in subsection (1) (k) of this section, subtract
702 the simple average of the current and preceding years' exposure
703 criteria divided by the cost rate criterion, as defined in
704 subsection (1) (j) of this section. The result is then multiplied



705 by the product of the CRC, as defined in subsection (1)(j) of this
706 section, and total wages for the twelve-month period ending June
707 30 divided by the taxable wages for the twelve-month period ending
708 June 30. This is the percentage positive or negative added to the
709 general experience rate. The sum of the general experience rate
710 and the trust fund adjustment factor shall be multiplied by fifty
711 percent (50%) and this product shall be computed to one (1)
712 decimal place, and rounded to the next higher tenth.

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

717 5. * * * The general experience rate shall be
718 zero percent (0%) unless the general experience ratio for any tax
719 year as computed and adjusted on the basis of the trust fund
720 adjustment factor and reduced by fifty percent (50%) is an amount
721 equal to or greater than two-tenths of one percent (.2%), then the
722 general experience rate shall be the computed general experience
723 ratio and adjusted on the basis of the trust fund adjustment
724 factor and reduced by fifty percent (50%); however, in no case
725 shall the sum of the general experience plus the individual
726 experience unemployment insurance rate exceed five and four-tenths
727 percent (5.4%). For rate years subsequent to 2014, Mississippi
728 Workforce Enhancement Training * * * contribution rate, and/or
729 State Workforce Investment contribution rate, and/or Mississippi



730 Works contribution rate, when in effect, shall be added to the
731 unemployment contribution rate, regardless of whether the addition
732 of this contribution rate causes the total contribution rate for
733 the employer to exceed five and four-tenths percent (5.4%).

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

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

753 (vii) When any employing unit succeeds to or
754 acquires a distinct and severable portion of an organization,



755 trade or business, the experience-rating and payroll records of
756 such portion, if separately identifiable, shall be transferred to
757 the successor upon:

758 1. The mutual consent of the predecessor and
759 the successor;

760 2. Approval of the department;

761 3. Continued operation of the transferred
762 portion by the successor after transfer; and

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

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



780 businesses of two (2) or more employers to whom different rates of
781 unemployment insurance contributions are applicable, it shall pay
782 unemployment insurance contributions from the date of the
783 acquisition until the end of the current tax year at a rate
784 computed on the basis of the combined experience-rating and
785 payroll records of the predecessors as of the computation date for
786 such tax year. In all cases the rate of unemployment insurance
787 contributions applicable to such successor for each succeeding tax
788 year shall be computed on the basis of the combined
789 experience-rating and payroll records of the successor and the
790 predecessor or predecessors.

791 (ix) The department shall notify each employer
792 quarterly of the benefits paid and charged to his
793 experience-rating record; and such notification, in the absence of
794 an application for redetermination filed within thirty (30) days
795 after the date of such notice, shall be final, conclusive and
796 binding upon the employer for all purposes. A redetermination,
797 made after notice and opportunity for a fair hearing, by a hearing
798 officer designated by the department who shall consider and decide
799 these and related applications and protests; and the finding of
800 fact in connection therewith may be introduced into any subsequent
801 administrative or judicial proceedings involving the determination
802 of the rate of unemployment insurance contributions of any
803 employer for any tax year, and shall be entitled to the same
804 finality as is provided in this subsection with respect to the



805 findings of fact in proceedings to redetermine the contribution
806 rate of an employer.

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



830 determined. The employer shall be promptly notified of the denial
831 of this application or of the redetermination, both of which shall
832 become final unless, within ten (10) days after the date of notice
833 thereof, there shall be an appeal to the department itself. Any
834 such appeal shall be on the record before said designated hearing
835 officer, and the decision of said department shall become final
836 unless, within thirty (30) days after the date of notice thereof
837 to the employer's last-known address, there shall be an appeal to
838 the Circuit Court of the First Judicial District of Hinds County,
839 Mississippi, in accordance with the provisions of law with respect
840 to review of civil causes by certiorari.

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

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

853 (ii) If, following a transfer of experience under
854 subparagraph (i) of this paragraph (a), the department determines



855 that a substantial purpose of the transfer of trade or business
856 was to obtain a reduced liability of unemployment insurance
857 contributions, then the experience-rating accounts of the
858 employers involved shall be combined into a single account and a
859 single rate assigned to such account.

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

877 (c) (i) If a person knowingly violates or attempts to
878 violate paragraph (a) or (b) of this subsection or any other
879 provision of this chapter related to determining the assignment of



880 a contribution rate, or if a person knowingly advises another
881 person in a way that results in a violation of such provision, the
882 person shall be subject to the following penalties:

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

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



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

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

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

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

921 (e) For purposes of this subsection:

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

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

926 (f) This subsection shall be interpreted and applied in
927 such a manner as to meet the minimum requirements contained in any



928 guidance or regulations issued by the United States Department of
929 Labor.

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

932 71-5-453. The department shall be the treasurer and
933 custodian of the fund, and shall administer such fund in
934 accordance with the directions of the department, and shall issue
935 its warrants upon it in accordance with such regulations as the
936 department shall prescribe. The department shall maintain within
937 the fund three (3) separate accounts: (a) a clearing account, (b)
938 an unemployment trust fund account, and (c) a benefit payment
939 account. All monies payable to the fund, upon receipt thereof by
940 the department, shall be immediately deposited in the clearing
941 account. Refunds payable pursuant to Section 71-5-383 may be paid
942 from the clearing account by the department. Transfers pursuant
943 to Section 71-5-114 of all interest, penalties and damages
944 collected shall be made to the Special Employment Security
945 Administration Fund as soon as practicable after the end of each
946 calendar quarter. Workforce Enhancement Training * * *
947 contributions, State Workforce Investment contributions and
948 Mississippi Works contributions shall be deposited into the
949 Workforce Investment and Training Holding Account as described in
950 this section. All other monies in the clearing account shall be
951 immediately deposited with the Secretary of the Treasury of the
952 United States of America to the Unemployment Trust Fund account



953 for the State of Mississippi, established and maintained pursuant
954 to Section 904 of the Social Security Act, as amended, any
955 provisions of law in this state relating to the deposit,
956 administration, release or disbursement of monies in the
957 possession or custody of this state to the contrary
958 notwithstanding. The benefit account shall consist of all monies
959 requisitioned from this state's account in the Unemployment Trust
960 Fund. Except as herein otherwise provided, monies in the clearing
961 and benefit accounts may be deposited by the department, in any
962 bank or public depository in which general funds of the state may
963 be deposited, but no public deposit insurance charge or premium
964 shall be paid out of the fund. The department shall be liable for
965 the faithful performance of its duties in connection with the
966 Unemployment Compensation Fund under this chapter. A Workforce
967 Investment and Training Holding Account shall be established by
968 and maintained under the control of the Mississippi Department of
969 Employment Security. Contributions collected pursuant to the
970 provisions in this chapter for the Workforce Enhancement
971 Training * * * Fund, State Workforce Investment * * * Fund and the
972 Mississippi Works Fund shall be transferred from the clearing
973 account into the Workforce Investment and Training Holding Account
974 on the same schedule and under the same conditions as funds
975 transferred to the Unemployment Compensation Fund. Such funds
976 shall remain on deposit in the holding account for a period of
977 thirty (30) days. After such period, Workforce Enhancement



978 Training contributions shall be transferred to the appropriate
979 Mississippi Community College Board Treasury Account by the
980 department. The State Workforce Investment contributions shall be
981 transferred to the State Workforce Investment Board bank account
982 established by the department, and the department shall have the
983 authority to deposit and disburse funds from the State Workforce
984 Investment Board bank account as directed by the State Workforce
985 Investment Board. The Mississippi Works contributions shall be
986 transferred to the Mississippi Department of Employment Security
987 Treasury Account for the Mississippi Works Fund. Such transfers
988 shall occur within fifteen (15) days after the funds have resided
989 in the Workforce Investment and Training Holding Account for
990 thirty (30) days. One (1) such transfer shall be made monthly,
991 but the department, in its discretion, may make additional
992 transfers in any month. In the event such funds transferred are
993 subsequently determined to be erroneously paid or collected, or if
994 deposit of such funds is denied or rejected by the banking
995 institution for any reason, or deposits are unable to clear
996 drawer's account for any reason, the funds must be reimbursed by
997 the recipient of such funds within thirty (30) days of mailing of
998 notice by the department demanding such refund, unless funds are
999 available in the Workforce Investment and Training Holding
1000 Account. In that event such amounts shall be immediately
1001 withdrawn from the Workforce Investment and Training Holding



1002 Account by the department and re-deposited into the clearing
1003 account.

1004 **SECTION 4.** Section 37-153-7, Mississippi Code of 1972, is
1005 amended as follows:

1006 37-153-7. (1) There is created the Mississippi State
1007 Workforce Investment Board. The Mississippi State Workforce
1008 Investment Board shall be composed of * * * forty-one (41) voting
1009 members, of which a majority shall be representatives of business
1010 and industry in accordance with the federal Workforce Investment
1011 Act.

1012 (a) The Governor shall appoint the following members of
1013 the board to serve a term of four (4) years:

1014 (i) The Executive Director of the Mississippi
1015 Association of Supervisors, or his/her designee;

1016 (ii) The Executive Director of the Mississippi
1017 Municipal League;

1018 (iii) One (1) elected mayor;

1019 (iv) One (1) * * * representative of an
1020 apprenticeship program in the state;

1021 (v) * * * One (1) representative of labor
1022 organizations, who * * * has been nominated by state labor
1023 federations;

1024 (vi) * * * One (1) representative of individuals
1025 and organizations that * * * has experience with respect to youth
1026 activities;



1027 (vii) One (1) representative of the Mississippi
1028 Association of Planning and Development Districts;

1029 (viii) One (1) representative from each of the
1030 four (4) workforce areas in the state, who has been nominated by
1031 the community colleges in each respective area, with the consent
1032 of the elected county supervisors within the respective workforce
1033 area; * * *

1034 (ix) The chair of the Mississippi Association of
1035 Community and Junior Colleges; and

1036 (* * *x) * * * Twenty-one (21) representatives of
1037 business owners nominated by business and industry organizations,
1038 which may include representatives of the various planning and
1039 development districts in Mississippi.

1040 (b) The following state officials shall be members of
1041 the board:

1042 (i) The Executive Director of the Mississippi
1043 Department of Employment Security;

1044 (ii) The Executive Director of the Department of
1045 Rehabilitation Services;

1046 (iii) The State Superintendent of Public
1047 Education;

1048 (iv) The Executive Director of the Mississippi
1049 Development Authority;

1050 (v) The Executive Director of the Mississippi
1051 Department of Human Services;



1052 (vi) The Executive Director of the Mississippi
1053 Community College Board * * *; and

1054 (vii) The Commissioner of the Institutions of
1055 Higher Learning.

1056 (c) The Governor, or his designee, shall serve as a
1057 member.

1058 (d) Four (4) legislators, who shall serve in a
1059 nonvoting capacity, two (2) of whom shall be appointed by the
1060 Lieutenant Governor from the membership of the Mississippi Senate,
1061 and two (2) of whom shall be appointed by the Speaker of the House
1062 from the membership of the Mississippi House of Representatives.

1063 (e) The membership of the board shall reflect the
1064 diversity of the State of Mississippi.

1065 (f) The Governor shall designate the Chairman of the
1066 Mississippi State Workforce Investment Board from among the voting
1067 members of the board, and a quorum of the board shall consist of a
1068 majority of the voting members of the board.

1069 (g) The voting members of the board who are not state
1070 employees shall be entitled to reimbursement of their reasonable
1071 expenses incurred in carrying out their duties under this chapter,
1072 from any funds available for that purpose.

1073 * * *

1074 (2) The Mississippi Department of Employment Security shall
1075 establish limits on administrative costs for each portion of
1076 Mississippi's workforce development system consistent with the



1077 federal Workforce Investment Act or any future federal workforce
1078 legislation.

1079 (3) The Mississippi State Workforce Investment Board shall
1080 have the following duties:

1081 (a) Develop and submit to the Governor a strategic plan
1082 for an integrated state workforce development system that aligns
1083 resources and structures the system to more effectively and
1084 efficiently meet the demands of Mississippi's employers and job
1085 seekers. This plan will comply with the federal Workforce
1086 Investment Act of 1998, as amended, the federal Workforce
1087 Innovation and Opportunity Act of 2014 and amendments and
1088 successor legislation to these acts;

1089 (b) Assist the Governor in the development and
1090 continuous improvement of the statewide workforce investment
1091 system that shall include:

1092 (i) Development of linkages in order to assure
1093 coordination and nonduplication among programs and activities; and

1094 (ii) Review local workforce development plans that
1095 reflect the use of funds from the federal Workforce Investment
1096 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
1097 Act and the amendment or successor legislation to the acts, and
1098 the Mississippi Comprehensive Workforce Training and Education
1099 Consolidation Act;

1100 (c) Recommend the designation of local workforce
1101 investment areas as required in Section 116 of the federal



1102 Workforce Investment Act of 1998 and the Workforce Innovation and
1103 Opportunity Act of 2014. There shall be four (4) workforce
1104 investment areas that are generally aligned with the planning and
1105 development district structure in Mississippi. Planning and
1106 development districts will serve as the fiscal agents to manage
1107 Workforce Investment Act funds, oversee and support the local
1108 workforce investment boards aligned with the area and the local
1109 programs and activities as delivered by the one-stop employment
1110 and training system. The planning and development districts will
1111 perform this function through the provisions of the county
1112 cooperative service districts created under Sections 19-3-101
1113 through 19-3-115; however, planning and development districts
1114 currently performing this function under the Interlocal
1115 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
1116 continue to do so;

1117 (d) Assist the Governor in the development of an
1118 allocation formula for the distribution of funds for adult
1119 employment and training activities and youth activities to local
1120 workforce investment areas;

1121 (e) Recommend comprehensive, results-oriented measures
1122 that shall be applied to all of Mississippi's workforce
1123 development system programs;

1124 (f) Assist the Governor in the establishment and
1125 management of a one-stop employment and training system conforming
1126 to the requirements of the federal Workforce Investment Act of



1127 1998 and the Workforce Innovation and Opportunity Act of 2014, as
1128 amended, recommending policy for implementing the Governor's
1129 approved plan for employment and training activities and services
1130 within the state. In developing this one-stop career operating
1131 system, the Mississippi State Workforce Investment Board, in
1132 conjunction with local workforce investment boards, shall:

1133 (i) Design broad guidelines for the delivery of
1134 workforce development programs;

1135 (ii) Identify all existing delivery agencies and
1136 other resources;

1137 (iii) Define appropriate roles of the various
1138 agencies to include an analysis of service providers' strengths
1139 and weaknesses;

1140 (iv) Determine the best way to utilize the various
1141 agencies to deliver services to recipients; and

1142 (v) Develop a financial plan to support the
1143 delivery system that shall, at a minimum, include an
1144 accountability system;

1145 (g) Assist the Governor in reducing duplication of
1146 services by urging the local workforce investment boards to
1147 designate the local community/junior college as the operator of
1148 the WIN Job Center. Incentive grants of Two Hundred Thousand
1149 Dollars (\$200,000.00) from federal Workforce Investment Act funds
1150 may be awarded to the local workforce boards where the
1151 community/junior college district is designated as the WIN Job



1152 Center. These grants must be provided to the community and junior
1153 colleges for the extraordinary costs of coordinating with the
1154 Workforce Investment Act, advanced technology centers and advanced
1155 skills centers. In no case shall these funds be used to supplant
1156 state resources being used for operation of workforce development
1157 programs;

1158 (h) To provide authority, in accordance with any
1159 executive order of the Governor, for developing the necessary
1160 collaboration among state agencies at the highest level for
1161 accomplishing the purposes of this chapter;

1162 (i) To monitor the effectiveness of the workforce
1163 development centers and WIN job centers;

1164 (j) To advise the Governor, public schools,
1165 community/junior colleges and institutions of higher learning on
1166 effective school-to-work transition policies and programs that
1167 link students moving from high school to higher education and
1168 students moving between community colleges and four-year
1169 institutions in pursuit of academic and technical skills training;

1170 (k) To work with industry to identify barriers that
1171 inhibit the delivery of quality workforce education and the
1172 responsiveness of educational institutions to the needs of
1173 industry;

1174 (l) To provide periodic assessments on effectiveness
1175 and results of the overall Mississippi comprehensive workforce
1176 development system and district councils; and



1177 (m) To assist the Governor in carrying out any other
1178 responsibility required by the federal Workforce Investment Act of
1179 1998, as amended and the Workforce Innovation and Opportunity Act,
1180 successor legislation and amendments.

1181 (4) The Mississippi State Workforce Investment Board shall
1182 coordinate all training programs and funds in the State of
1183 Mississippi.

1184 Each state agency director responsible for workforce training
1185 activities shall advise the Mississippi State Workforce Investment
1186 Board of appropriate federal and state requirements. Each such
1187 state agency director shall remain responsible for the actions of
1188 his agency; however, each state agency and director shall work
1189 cooperatively, and shall be individually and collectively
1190 responsible to the Governor for the successful implementation of
1191 the statewide workforce investment system. The Governor, as the
1192 Chief Executive Officer of the state, shall have complete
1193 authority to enforce cooperation among all entities within the
1194 state that utilize federal or state funding for the conduct of
1195 workforce development activities.

1196 (5) The State Workforce Investment Board shall establish a
1197 Rules Committee. The Rules Committee, in consultation with the
1198 full board, shall be designated as the body with the sole
1199 authority to promulgate rules and regulations for distribution of
1200 Mississippi Works Funds created in Section 71-5-353. The State
1201 Workforce Investment Board Rules Committee shall develop and



1202 submit rules and regulations in accordance with the Mississippi
1203 Administrative Procedures Act, within sixty (60) days of the
1204 effective date of this act. The State Workforce Investment Board
1205 Rules Committee shall consist of the following State Workforce
1206 Investment Board members:

1207 (a) The Executive Director of the Mississippi
1208 Development Authority;

1209 (b) The Executive Director of the Mississippi
1210 Department of Employment Security;

1211 (c) The Executive Director of the Mississippi Community
1212 College Board;

1213 (d) The Chair of the Mississippi Association of
1214 Community and Junior Colleges;

1215 (e) The Chair of the State Workforce Investment Board;

1216 (f) A representative from the workforce areas selected
1217 by the Mississippi Association of Workforce Areas, Inc.;

1218 (g) A business representative currently serving on the
1219 board, selected by the Chairman of the State Workforce Investment
1220 Board; and

1221 (h) Two (2) legislators, who shall serve in a nonvoting
1222 capacity, one (1) of whom shall be appointed by the Lieutenant
1223 Governor from the membership of the Mississippi Senate and one (1)
1224 of whom shall be appointed by the Speaker of the House of
1225 Representatives from the membership of the Mississippi House of
1226 Representatives.



1227 (6) The Mississippi State Workforce Investment Board shall
1228 create and implement performance metrics for the Mississippi Works
1229 Fund to determine the added value to the local and state economy
1230 and the contribution to the future growth of the state economy. A
1231 report on the performance of the fund shall be made to the
1232 Governor, Lieutenant Governor and Speaker of the House of
1233 Representatives annually, throughout the life of the fund.

1234 **SECTION 5.** This act shall take effect and be in force from
1235 and after its passage.

