

By: Senator(s) Fillingane

To: Finance

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2808

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 cost 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 * * *, 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 the training of unemployed persons, for immediate training needs
231 for the net new jobs created by an employer, for the retention of
232 jobs or to create a work-ready applicant pool of Mississippians
233 with credentials and/or postsecondary education in accordance with
234 the state's Workforce Investment and Opportunity Act plan. The
235 executive director shall give priority to the training of



236 unemployed persons. Not more than twenty-five percent (25%) of
237 the funds may be allocated for the retention of jobs and/or
238 creation of a work-ready applicant pool. Not more than Five
239 Hundred Thousand Dollars (\$500,000.00) may be allocated annually
240 for the training needs of any one (1) employer. The Mississippi
241 Public Community College System and its partners shall be the
242 primary entities to facilitate training. In no case shall these
243 funds be used to supplant workforce funds available from any other
244 sources, including, but not limited to, local, state or federal
245 sources that are available for workforce training and development.
246 Training conducted utilizing these Mississippi Works funds may be
247 subject to a minimal administrative fee to be paid from the
248 Mississippi Works Fund as authorized by the Mississippi Department
249 of Employment Security. All costs associated with the
250 administration of these funds shall be reimbursed to the
251 Mississippi Department of Employment Security from the Mississippi
252 Works Fund.

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

257 2. In managing the State Workforce Investment
258 Board bank account, the department shall ensure that any funds
259 expended for contractual services rendered to the State Workforce
260 Investment Board shall be paid only to service providers who have



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

273 3. Any commodities procured for the board
274 shall be procured in accordance with the provisions of Section
275 31-7-13.

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

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



285 a. The current and projected workforce
286 training needs of existing and identified potential Mississippi
287 industries, with priority given to assessing the needs of existing
288 in-state industry and business. Where possible, the analysis
289 should include a verification and expansion of existing
290 information previously developed by workforce training and service
291 providers, as well as analysis of existing workforce data, such as
292 the data collected through the Statewide Longitudinal Data System.

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

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

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

307 a. Development of a list of
308 strengths/weaknesses/opportunities/threats (SWOT) of the current



309 workforce development delivery system relative to the identified
310 needs;

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

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

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

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

328 a. The development of promotion
329 strategies for workforce development programs;

330 b. Initiatives designed to reduce the
331 state's dropout rate including the development of a statewide
332 career awareness program * * *;



333 c. The long-term monitoring of the
334 state's workforce development programs to determine whether they
335 are addressing the needs of business, industry, and the workers of
336 the state; and

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

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

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

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

355 (ii) * * * Mississippi Workforce Enhancement
356 Training contributions, State Workforce Investment contributions



357 and Mississippi Works contributions shall be collected at the
358 following rates:

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

366 2. For calendar years subsequent to calendar
367 year 2016, at a rate of twenty one-hundredths percent (.20%),
368 based upon taxable wages, of which fifteen one-hundredths percent
369 (.15%) shall be the Workforce Enhancement Training contribution,
370 one-hundredths of one percent (.01%) shall be the State Workforce
371 Investment contribution and four one-hundredths percent (.04%)
372 shall be the Mississippi Works contribution. The Mississippi
373 Works contribution shall be collected for calendar years in which
374 the general experience ratio, adjusted on the basis of the trust
375 fund adjustment factor and reduced by fifty percent (50%), results
376 in a general experience rate of less than two-tenths percent
377 (.2%). In all other years the Mississippi Works contribution
378 shall not be in effect.

379 (iii) The Mississippi Workforce Enhancement
380 Training Fund contribution * * *, the State Workforce Investment
381 contribution and the Mississippi Works contribution shall be in



382 addition to the general experience rate plus the individual
383 experience rate of all employers but shall not be charged to
384 reimbursing or rate-paying political subdivisions or institutions
385 of higher learning, or reimbursing nonprofit organizations, as
386 described in Sections 71-5-357 and 71-5-359.

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

404 (c) Suspension of the Workforce Enhancement Training
405 Fund contributions required pursuant to this chapter shall occur
406 if the insured unemployment rate exceeds an average of five and



407 five-tenths percent (5.5%) for the three (3) consecutive months
408 immediately preceding the effective date of the new rate year
409 following such occurrence and shall remain suspended throughout
410 the duration of that rate year. Such suspension shall continue
411 until such time as the three (3) consecutive months immediately
412 preceding the effective date of * * * the next rate year that has
413 an insured unemployment rate of less than an average of four and
414 five-tenths percent (4.5%). Upon such occurrence, reactivation
415 shall be effective upon the first day of the rate year following
416 the event that lifts suspension and shall be in effect for that
417 year and shall continue until such time as a subsequent suspension
418 event as described in this chapter occurs.

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

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

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

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



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

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

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

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



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

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

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



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

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

503 (j) The "cost rate criterion" (CRC) is defined as
504 follows: Beginning with January 1974, the benefits paid for the



505 twelve-month period ending December 1974 are summed and divided by
506 the total wages for the twelve-month period ending on June 30,
507 1975. Similar ratios are computed by subtracting the earliest
508 month's benefit payments and adding the benefits of the next month
509 in the sequence and dividing each sum of twelve (12) months'
510 benefits by the total wages for the twelve-month period ending on
511 the June 30 which is nearest to the final month of the period used
512 to compute the numerator. If December is the final month of the
513 period used to compute the numerator, then the twelve-month period
514 ending the following June 30 will be used for the denominator.
515 Benefits and total wages used in the computation of the cost rate
516 criterion shall exclude all benefits and total wages applicable to
517 state agencies, political subdivisions, reimbursable nonprofit
518 corporations, and tax-exempt PSE employment.

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

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

527 (k) "Size of fund index" (SOFI) is defined as the ratio
528 of the exposure criterion (EC) to the cost rate criterion (CRC).
529 The target size of fund index will be fixed at 1.0. If the



530 insured unemployment rate (IUR) exceeds a four and five-tenths
531 percent (4.5%) average for the most recent completed July to June
532 period, the target SOFI will be .8 and will remain at that level
533 until the computed SOFI (the average exposure criterion of the
534 current year and the preceding year divided by the average cost
535 rate criterion) equals 1.0 or the average IUR falls to four and
536 five-tenths percent (4.5%) or less for any period July to June.
537 However, if the IUR falls below two and five-tenths percent (2.5%)
538 for any period July to June the target SOFI shall be 1.2 until
539 such time as the computed SOFI is equal to or greater than 1.0 or
540 the IUR is equal to or greater than two and five-tenths percent
541 (2.5%), at which point the target SOFI shall return to 1.0.

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

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

549 (2) Modified rates:

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



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

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

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

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

573 2. Was discharged by such employer for
574 misconduct connected with his work;

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



580 4. Had base period wages which included wages
581 for previously uncovered services as defined in Section
582 71-5-511(e) to the extent that the Unemployment Compensation Fund
583 is reimbursed for such benefits pursuant to Section 121 of Public
584 Law 94-566;

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

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

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

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



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

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

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



629 in, or the failure to deliver notice to, the employer or the
630 employer's agent of record shall also be considered good cause for
631 purposes of this subparagraph.

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

644 (v) 1. The unemployment insurance contribution
645 rate for each eligible employer shall be the sum of two (2) rates:
646 his individual experience rate in the range from zero percent (0%)
647 to five and four-tenths percent (5.4%), plus a general experience
648 rate. In no event shall the resulting unemployment insurance rate
649 be in excess of five and four-tenths percent (5.4%), however, it
650 is the intent of this section to provide the ability for employers
651 to have a tax rate, the general experience rate plus the
652 individual experience rate, of up to five and four-tenths percent
653 (5.4%).



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

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

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

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

674 c. The total of the amounts of benefits
675 charged or chargeable to the experience-rating record of any
676 employer who has discontinued his business or whose coverage has
677 been terminated within such period; provided, that solely for the
678 purposes of determining the amounts of ineffectively charged



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

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

699 4. a. Except as otherwise provided in this
700 item 4, the general experience rate shall be adjusted by use of
701 the size of fund index factor. This factor may be positive or
702 negative, and shall be determined as follows: From the target
703 SOFI, as defined in subsection (1) (k) of this section, subtract



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

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

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



729 percent (5.4%). For rate years subsequent to 2014, Mississippi
730 Workforce Enhancement Training * * * contribution rate, and/or
731 State Workforce Investment contribution rate, and/or Mississippi
732 Works contribution rate, when in effect, shall be added to the
733 unemployment contribution rate, regardless of whether the addition
734 of this contribution rate causes the total contribution rate for
735 the 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 * * *
949 contributions, State Workforce Investment contributions and
950 Mississippi Works contributions shall be deposited into the



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



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



1001 available in the Workforce Investment and Training Holding
1002 Account. In that event such amounts shall be immediately
1003 withdrawn from the Workforce Investment and Training Holding
1004 Account by the department and re-deposited into the clearing
1005 account.

1006 **SECTION 4.** Section 37-153-7, Mississippi Code of 1972, is
1007 amended as follows:

1008 37-153-7. (1) There is created the Mississippi State
1009 Workforce Investment Board. The Mississippi State Workforce
1010 Investment Board shall be composed of * * * forty-one (41) voting
1011 members, of which a majority shall be representatives of business
1012 and industry in accordance with the federal Workforce Investment
1013 Act.

1014 (a) The Governor shall appoint the following members of
1015 the board to serve a term of four (4) years:

1016 (i) The Executive Director of the Mississippi
1017 Association of Supervisors, or his/her designee;

1018 (ii) The Executive Director of the Mississippi
1019 Municipal League;

1020 (iii) One (1) elected mayor;

1021 (iv) One (1) * * * representative of an
1022 apprenticeship program in the state;

1023 (v) * * * One (1) representative of labor
1024 organizations, who * * * has been nominated by state labor
1025 federations;



1026 (vi) * * * One (1) representative of individuals
1027 and organizations that * * * has experience with respect to youth
1028 activities;

1029 (vii) One (1) representative of the Mississippi
1030 Association of Planning and Development Districts;

1031 (viii) One (1) representative from each of the
1032 four (4) workforce areas in the state, who has been nominated by
1033 the community colleges in each respective area, with the consent
1034 of the elected county supervisors within the respective workforce
1035 area; * * *

1036 (ix) The chair of the Mississippi Association of
1037 Community and Junior Colleges; and

1038 (* * *x) * * * Twenty-one (21) representatives of
1039 business owners nominated by business and industry organizations,
1040 which may include representatives of the various planning and
1041 development districts in Mississippi.

1042 (b) The following state officials shall be members of
1043 the board:

1044 (i) The Executive Director of the Mississippi
1045 Department of Employment Security;

1046 (ii) The Executive Director of the Department of
1047 Rehabilitation Services;

1048 (iii) The State Superintendent of Public
1049 Education;



1050 (iv) The Executive Director of the Mississippi
1051 Development Authority;

1052 (v) The Executive Director of the Mississippi
1053 Department of Human Services;

1054 (vi) The Executive Director of the Mississippi
1055 Community College Board * * *; and

1056 (vii) The Commissioner of the Institutions of
1057 Higher Learning.

1058 (c) The Governor, or his designee, shall serve as a
1059 member.

1060 (d) Four (4) legislators, who shall serve in a
1061 nonvoting capacity, two (2) of whom shall be appointed by the
1062 Lieutenant Governor from the membership of the Mississippi Senate,
1063 and two (2) of whom shall be appointed by the Speaker of the House
1064 from the membership of the Mississippi House of Representatives.

1065 (e) The membership of the board shall reflect the
1066 diversity of the State of Mississippi.

1067 (f) The Governor shall designate the Chairman of the
1068 Mississippi State Workforce Investment Board from among the voting
1069 members of the board, and a quorum of the board shall consist of a
1070 majority of the voting members of the board.

1071 (g) The voting members of the board who are not state
1072 employees shall be entitled to reimbursement of their reasonable
1073 expenses incurred in carrying out their duties under this chapter,
1074 from any funds available for that purpose.



1075 * * *

1076 (2) The Mississippi Department of Employment Security shall
1077 establish limits on administrative costs for each portion of
1078 Mississippi's workforce development system consistent with the
1079 federal Workforce Investment Act or any future federal workforce
1080 legislation.

1081 (3) The Mississippi State Workforce Investment Board shall
1082 have the following duties:

1083 (a) Develop and submit to the Governor a strategic plan
1084 for an integrated state workforce development system that aligns
1085 resources and structures the system to more effectively and
1086 efficiently meet the demands of Mississippi's employers and job
1087 seekers. This plan will comply with the federal Workforce
1088 Investment Act of 1998, as amended, the federal Workforce
1089 Innovation and Opportunity Act of 2014 and amendments and
1090 successor legislation to these acts;

1091 (b) Assist the Governor in the development and
1092 continuous improvement of the statewide workforce investment
1093 system that shall include:

1094 (i) Development of linkages in order to assure
1095 coordination and nonduplication among programs and activities; and

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



1100 the Mississippi Comprehensive Workforce Training and Education
1101 Consolidation Act;

1102 (c) Recommend the designation of local workforce
1103 investment areas as required in Section 116 of the federal
1104 Workforce Investment Act of 1998 and the Workforce Innovation and
1105 Opportunity Act of 2014. There shall be four (4) workforce
1106 investment areas that are generally aligned with the planning and
1107 development district structure in Mississippi. Planning and
1108 development districts will serve as the fiscal agents to manage
1109 Workforce Investment Act funds, oversee and support the local
1110 workforce investment boards aligned with the area and the local
1111 programs and activities as delivered by the one-stop employment
1112 and training system. The planning and development districts will
1113 perform this function through the provisions of the county
1114 cooperative service districts created under Sections 19-3-101
1115 through 19-3-115; however, planning and development districts
1116 currently performing this function under the Interlocal
1117 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
1118 continue to do so;

1119 (d) Assist the Governor in the development of an
1120 allocation formula for the distribution of funds for adult
1121 employment and training activities and youth activities to local
1122 workforce investment areas;



1123 (e) Recommend comprehensive, results-oriented measures
1124 that shall be applied to all of Mississippi's workforce
1125 development system programs;

1126 (f) Assist the Governor in the establishment and
1127 management of a one-stop employment and training system conforming
1128 to the requirements of the federal Workforce Investment Act of
1129 1998 and the Workforce Innovation and Opportunity Act of 2014, as
1130 amended, recommending policy for implementing the Governor's
1131 approved plan for employment and training activities and services
1132 within the state. In developing this one-stop career operating
1133 system, the Mississippi State Workforce Investment Board, in
1134 conjunction with local workforce investment boards, shall:

1135 (i) Design broad guidelines for the delivery of
1136 workforce development programs;

1137 (ii) Identify all existing delivery agencies and
1138 other resources;

1139 (iii) Define appropriate roles of the various
1140 agencies to include an analysis of service providers' strengths
1141 and weaknesses;

1142 (iv) Determine the best way to utilize the various
1143 agencies to deliver services to recipients; and

1144 (v) Develop a financial plan to support the
1145 delivery system that shall, at a minimum, include an
1146 accountability system;



1147 (g) Assist the Governor in reducing duplication of
1148 services by urging the local workforce investment boards to
1149 designate the local community/junior college as the operator of
1150 the WIN Job Center. Incentive grants of Two Hundred Thousand
1151 Dollars (\$200,000.00) from federal Workforce Investment Act funds
1152 may be awarded to the local workforce boards where the
1153 community/junior college district is designated as the WIN Job
1154 Center. These grants must be provided to the community and junior
1155 colleges for the extraordinary costs of coordinating with the
1156 Workforce Investment Act, advanced technology centers and advanced
1157 skills centers. In no case shall these funds be used to supplant
1158 state resources being used for operation of workforce development
1159 programs;

1160 (h) To provide authority, in accordance with any
1161 executive order of the Governor, for developing the necessary
1162 collaboration among state agencies at the highest level for
1163 accomplishing the purposes of this chapter;

1164 (i) To monitor the effectiveness of the workforce
1165 development centers and WIN job centers;

1166 (j) To advise the Governor, public schools,
1167 community/junior colleges and institutions of higher learning on
1168 effective school-to-work transition policies and programs that
1169 link students moving from high school to higher education and
1170 students moving between community colleges and four-year
1171 institutions in pursuit of academic and technical skills training;



1172 (k) To work with industry to identify barriers that
1173 inhibit the delivery of quality workforce education and the
1174 responsiveness of educational institutions to the needs of
1175 industry;

1176 (l) To provide periodic assessments on effectiveness
1177 and results of the overall Mississippi comprehensive workforce
1178 development system and district councils; and

1179 (m) To assist the Governor in carrying out any other
1180 responsibility required by the federal Workforce Investment Act of
1181 1998, as amended and the Workforce Innovation and Opportunity Act,
1182 successor legislation and amendments.

1183 (4) The Mississippi State Workforce Investment Board shall
1184 coordinate all training programs and funds in the State of
1185 Mississippi.

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



1196 state that utilize federal or state funding for the conduct of
1197 workforce development activities.

1198 (5) The State Workforce Investment Board shall establish a
1199 Rules Committee. The Rules Committee, in consultation with the
1200 full board, shall be designated as the body with the sole
1201 authority to promulgate rules and regulations for distribution of
1202 Mississippi Works Funds created in Section 71-5-353. The State
1203 Workforce Investment Board Rules Committee shall develop and
1204 submit rules and regulations in accordance with the Mississippi
1205 Administrative Procedures Act, within sixty (60) days of the
1206 effective date of this act. The State Workforce Investment Board
1207 Rules Committee shall consist of the following State Workforce
1208 Investment Board members:

1209 (a) The Executive Director of the Mississippi
1210 Development Authority;

1211 (b) The Executive Director of the Mississippi
1212 Department of Employment Security;

1213 (c) The Executive Director of the Mississippi Community
1214 College Board;

1215 (d) The Chair of the Mississippi Association of
1216 Community and Junior Colleges;

1217 (e) The Chair of the State Workforce Investment Board;

1218 (f) A representative from the workforce areas selected
1219 by the Mississippi Association of Workforce Areas, Inc.;



1220 (g) A business representative currently serving on the
1221 board, selected by the Chairman of the State Workforce Investment
1222 Board; and

1223 (h) Two (2) legislators, who shall serve in a nonvoting
1224 capacity, one (1) of whom shall be appointed by the Lieutenant
1225 Governor from the membership of the Mississippi Senate and one (1)
1226 of whom shall be appointed by the Speaker of the House of
1227 Representatives from the membership of the Mississippi House of
1228 Representatives.

1229 (6) The Mississippi State Workforce Investment Board shall
1230 create and implement performance metrics for the Mississippi Works
1231 Fund to determine the added value to the local and state economy
1232 and the contribution to the future growth of the state economy. A
1233 report on the performance of the fund shall be made to the
1234 Governor, Lieutenant Governor and Speaker of the House of
1235 Representatives annually, throughout the life of the fund.

1236 **SECTION 5.** This act shall take effect and be in force from
1237 and after its passage.

