

By: Senator(s) Parker, England, Blount,
Jackson (11th)

To: Economic and Workforce
Development

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2723

1 AN ACT TO AMEND SECTION 37-153-7, MISSISSIPPI CODE OF 1972,
2 TO REVISE CERTAIN APPOINTMENTS TO THE STATE WORKFORCE INVESTMENT
3 BOARD; TO AMEND SECTIONS 71-5-353, 71-5-355 AND 71-5-453,
4 MISSISSIPPI CODE OF 1972, TO REPLACE THE MISSISSIPPI WORKFORCE
5 ENHANCEMENT TRAINING FUND, THE STATE WORKFORCE INVESTMENT FUND AND
6 THE MISSISSIPPI WORKS FUND WITH THE ACCELERATE MISSISSIPPI
7 WORKFORCE DEVELOPMENT FUND, AND TO DESIGNATE DECEMBER 31 AS THE
8 DATE FOR CALCULATING THE EXPOSURE CRITERION FOR CALENDAR YEARS
9 2020 AND 2021; TO AMEND SECTION 43-17-1, MISSISSIPPI CODE OF 1972,
10 TO REQUIRE THE DEPARTMENT OF HUMAN SERVICES TO COLLABORATE WITH
11 THE OFFICE OF WORKFORCE DEVELOPMENT ON TEMPORARY ASSISTANCE TO
12 NEEDY FAMILIES (TANF) PROGRAMS RELATED TO JOB PLACEMENT, JOB
13 TRAINING AND JOB RETENTION; TO AMEND SECTION 47-5-541, MISSISSIPPI
14 CODE OF 1972, TO REQUIRE THE CHIEF EXECUTIVE OFFICER OF THE
15 CORPORATION FORMED UNDER THE MISSISSIPPI PRISON INDUSTRIES ACT OF
16 1990 TO ESTABLISH EDUCATION, TRAINING AND WORKFORCE DEVELOPMENT
17 PROGRAMS IN COLLABORATION WITH THE OFFICE OF WORKFORCE DEVELOPMENT
18 AND OTHER RELEVANT STATE AND FEDERAL AGENCIES; AND FOR RELATED
19 PURPOSES.

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

21 **SECTION 1.** Section 37-153-7, Mississippi Code of 1972, is
22 amended as follows:

23 37-153-7. (1) There is created the Mississippi Office of
24 Workforce Development and the Mississippi State Workforce
25 Investment Board, which shall serve as the advisory board for the
26 office. The Mississippi State Workforce Investment Board shall be



27 composed of thirty-one (31) voting members, of which a majority
28 shall be representatives of business and industry in accordance
29 with the federal Workforce Innovation and Opportunity Act, or any
30 successive acts.

31 (2) The members of the State Workforce Investment Board
32 shall include:

33 (a) The Governor, or his designee;

34 (b) Nineteen (19) members, appointed by the Governor,
35 of whom:

36 (i) A majority shall be representatives of
37 businesses in the state, who:

38 1. Are owners of businesses, chief executives
39 or operating officers of businesses, or other business executives
40 or employers with optimum policymaking or hiring authority, and
41 who, in addition, may be members of a local board described in
42 Section 3122(b)(2)(A)(i) of the federal Workforce Innovation and
43 Opportunity Act. At least two (2) of the members appointed under
44 this item 1. shall be small business owners, chief executives or
45 operating officers of businesses with less than fifty (50)
46 employees;

47 2. Represent businesses, including small
48 businesses, or organizations representing businesses, which
49 provide employment opportunities that, at a minimum, include
50 high-quality, work-relevant training and development in
51 high-demand industry sectors or occupations in the state; and



52 3. Are appointed from among individuals
53 nominated by state business organizations and business trade
54 associations;

55 (ii) Not less than twenty percent (20%) shall
56 consist of representatives of the workforce within the state,
57 which:

58 1. Includes labor organization
59 representatives who have been nominated by state labor
60 federations;

61 2. Includes a labor organization member or
62 training director from an apprenticeship program in the state,
63 which shall be a joint labor-management apprenticeship program if
64 such a program exists in the state;

65 3. May include representatives of
66 community-based organizations, including organizations serving
67 veterans or providing or supporting competitive, integrated
68 employment for individuals with disabilities, who have
69 demonstrated experience and expertise in addressing employment,
70 training or education needs of individuals with barriers to
71 employment; and

72 4. May include representatives of
73 organizations, including organizations serving out-of-school
74 youth, who have demonstrated experience or expertise in addressing
75 the employment, training or education needs of eligible youth;



76 (iii) The balance shall include government
77 representatives, including the lead state officials with primary
78 responsibility for core programs, and chief elected officials
79 (collectively representing both cities and counties, where
80 appropriate);

81 (c) * * * Four (4) representatives of businesses in the
82 state appointed by the Lieutenant Governor;

83 * * *

84 (* * * d) The following state officials:

85 (i) The Executive Director of the Mississippi
86 Department of Employment Security;

87 (ii) The Executive Director of the Department of
88 Rehabilitation Services;

89 (iii) The State Superintendent of Public
90 Education;

91 (iv) The Executive Director of the Mississippi
92 Development Authority;

93 (v) The Executive Director of the Mississippi
94 Community College Board;

95 (vi) The President of the Community College
96 Association; and

97 (vii) The Commissioner of the Institutions of
98 Higher Learning.



99 (* * *e) One (1) senator, appointed by the Lieutenant
100 Governor, and one (1) representative, appointed by the Speaker of
101 the House, shall serve on the state board in a nonvoting capacity.

102 (* * *f) The Governor may appoint additional members
103 if required by the federal Workforce Innovation and Opportunity
104 Act, or any successive acts.

105 (* * *g) Members of the board shall serve a term of
106 four (4) years, and shall not serve more than three (3)
107 consecutive terms.

108 (* * *h) The membership of the board shall reflect the
109 diversity of the State of Mississippi.

110 (* * *i) The Governor shall designate the Chairman of
111 the Mississippi State Workforce Investment Board from among the
112 business and industry voting members of the board, and a quorum of
113 the board shall consist of a majority of the voting members of the
114 board.

115 (* * *j) The voting members of the board who are not
116 state employees shall be entitled to reimbursement of their
117 reasonable expenses in the manner and amount specified in Section
118 25-3-41 and shall be entitled to receive per diem compensation as
119 authorized in Section 25-3-69.

120 (3) Members of the state board may be recalled by their
121 appointing authority for cause, including a felony conviction,
122 fraudulent or dishonest acts or gross abuse of discretion, failure



123 to meet board member qualifications, or chronic failure to attend
124 board meetings.

125 (4) The Mississippi Department of Employment Security shall
126 establish limits on administrative costs for each portion of
127 Mississippi's workforce development system consistent with the
128 federal Workforce Investment Act or any future federal workforce
129 legislation.

130 (5) The Mississippi State Workforce Investment Board shall
131 have the following duties. These duties are intended to be
132 consistent with the scope of duties provided in the federal
133 Workforce Innovation and Opportunity Act, amendments and successor
134 legislation to this act, and other relevant federal law:

135 (a) Through the office, develop and submit to the
136 Governor, Lieutenant Governor and Speaker of the House a strategic
137 plan for an integrated state workforce development system that
138 aligns resources and structures the system to more effectively and
139 efficiently meet the demands of Mississippi's employers and job
140 seekers. This plan will comply with the federal Workforce
141 Investment Act of 1998, as amended, the federal Workforce
142 Innovation and Opportunity Act of 2014 and amendments and
143 successor legislation to these acts;

144 (b) Assist the Governor, Lieutenant Governor and
145 Speaker of the House in the development and continuous improvement
146 of the statewide workforce investment system that shall include:



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

149 (ii) Review local workforce development plans that
150 reflect the use of funds from the federal Workforce Investment
151 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
152 Act and the amendment or successor legislation to the acts, and
153 the Mississippi Comprehensive Workforce Training and Education
154 Consolidation Act;

155 (c) Recommend to the office the designation of local
156 workforce investment areas as required in Section 116 of the
157 federal Workforce Investment Act of 1998 and the Workforce
158 Innovation and Opportunity Act of 2014. There shall be four (4)
159 workforce investment areas that are generally aligned with the
160 planning and development district structure in Mississippi.
161 Planning and development districts will serve as the fiscal agents
162 to manage Workforce Investment Act funds, oversee and support the
163 local workforce investment boards aligned with the area and the
164 local programs and activities as delivered by the one-stop
165 employment and training system. The planning and development
166 districts will perform this function through the provisions of the
167 county cooperative service districts created under Sections
168 19-3-101 through 19-3-115; however, planning and development
169 districts currently performing this function under the Interlocal
170 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
171 continue to do so;



172 (d) Assist the Governor in the development of an
173 allocation formula for the distribution of funds for adult
174 employment and training activities and youth activities to local
175 workforce investment areas;

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

179 (f) Assist the Governor in the establishment and
180 management of a one-stop employment and training system conforming
181 to the requirements of the federal Workforce Investment Act of
182 1998 and the Workforce Innovation and Opportunity Act of 2014, as
183 amended, recommending policy for implementing the Governor's
184 approved plan for employment and training activities and services
185 within the state. In developing this one-stop career operating
186 system, the Mississippi State Workforce Investment Board, in
187 conjunction with local workforce investment boards, shall:

188 (i) Design broad guidelines for the delivery of
189 workforce development programs;

190 (ii) Identify all existing delivery agencies and
191 other resources;

192 (iii) Define appropriate roles of the various
193 agencies to include an analysis of service providers' strengths
194 and weaknesses;

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



197 (v) Develop a financial plan to support the
198 delivery system that shall, at a minimum, include an
199 accountability system;

200 (g) To provide authority, in accordance with any
201 executive order of the Governor, for developing the necessary
202 collaboration among state agencies at the highest level for
203 accomplishing the purposes of this chapter;

204 (h) To monitor the effectiveness of the workforce
205 development centers and WIN job centers;

206 (i) To advise the Governor, public schools,
207 community/junior colleges and institutions of higher learning on
208 effective school-to-work transition policies and programs that
209 link students moving from high school to higher education and
210 students moving between community colleges and four-year
211 institutions in pursuit of academic and technical skills training;

212 (j) To work with industry to identify barriers that
213 inhibit the delivery of quality workforce education and the
214 responsiveness of educational institutions to the needs of
215 industry;

216 (k) To provide periodic assessments on effectiveness
217 and results of the overall Mississippi comprehensive workforce
218 development system and district councils;

219 (l) Develop broad statewide development goals,
220 including a goal to raise the state's labor force participation
221 rate;



222 (m) Perform a comprehensive review of Mississippi's
223 workforce development efforts, including the amount spent and
224 effectiveness of programs supported by state or federal money; and

225 (n) To assist the Governor in carrying out any other
226 responsibility required by the federal Workforce Investment Act of
227 1998, as amended and the Workforce Innovation and Opportunity Act,
228 successor legislation and amendments.

229 (6) The Mississippi State Workforce Investment Board shall
230 coordinate all training programs and funds within its purview,
231 consistent with the federal Workforce Investment Act, Workforce
232 Innovation and Opportunity Act, amendments and successor
233 legislation to these acts, and other relevant federal law.

234 Each state agency director responsible for workforce training
235 activities shall advise the Mississippi Office of Workforce
236 Development and the State Workforce Investment Board of
237 appropriate federal and state requirements. Each state agency,
238 department and institution shall report any monies received for
239 workforce training activities or career and technical education
240 and a detailed itemization of how those monies were spent to the
241 state board. The board shall compile the data and provide a
242 report of the monies and expenditures to the Chairs of the House
243 and Senate Appropriations Committee, the Chair of the House
244 Workforce Development Committee and the Chair of the Senate
245 Economic and Workforce Development Committee by October 1 of each
246 year. Each such state agency director shall remain responsible



247 for the actions of his agency; however, each state agency and
248 director shall work cooperatively to fulfill the state's goals.

249 (7) The State Workforce Investment Board shall establish an
250 executive committee, which shall consist of the following State
251 Workforce Investment Board members:

252 (a) The Chair of the State Workforce Investment Board;

253 (b) Two (2) business representatives currently serving
254 on the state board selected by the Governor;

255 (c) The * * * four (4) business representatives
256 currently serving on the state board appointed by the Lieutenant
257 Governor;

258 * * *

259 (* * * d) The two (2) legislators, who shall serve in a
260 nonvoting capacity, one (1) of whom shall be appointed by the
261 Lieutenant Governor from the membership of the Mississippi Senate
262 and one (1) of whom shall be appointed by the Speaker of the House
263 of Representatives from the membership of the Mississippi House of
264 Representatives.

265 (8) The executive committee shall select an executive
266 director of the Office of Workforce Development, with the advice
267 and consent of a majority of the State Workforce Investment Board.
268 The executive committee shall seek input from economic development
269 organizations across the state when selecting the executive
270 director. The executive director shall:



271 (a) Be a person with extensive experience in
272 development of economic, human and physical resources, and
273 promotion of industrial and commercial development. The executive
274 director shall have a bachelor's degree from a state-accredited
275 institution and no less than eight (8) years of professional
276 experience related to workforce or economic development;

277 (b) Perform the functions necessary for the daily
278 operation and administration of the office, with oversight from
279 the executive committee and the State Workforce Investment Board,
280 to fulfill the duties of the state board as described in Chapter
281 476, Laws of 2020;

282 (c) Hire staff needed for the performance of his or her
283 duties under Chapter 476, Laws of 2020. The executive director,
284 with approval from the executive committee, shall set the
285 compensation of any hired employees from any funds made available
286 for that purpose;

287 (d) Enter any part of the Mississippi Community College
288 Board, individual community and junior colleges, or other
289 workforce training facilities operated by the state or its
290 subdivisions;

291 (e) Serve at the will and pleasure of the executive
292 committee;

293 (f) Promulgate rules and regulations, subject to
294 oversight by the executive committee, not inconsistent with this



295 chapter, as may be necessary to enforce the provisions in Chapter
296 476, Laws of 2020; and

297 (g) Perform any other actions he or she, in
298 consultation with the executive committee, deems necessary to
299 fulfill the duties under Chapter 476, Laws of 2020.

300 (9) The Office of Workforce Development * * * shall
301 administer and oversee the Accelerate Mississippi Workforce
302 Development Fund, as described in Section 71-5-353. The executive
303 director shall maintain complete and exclusive operational control
304 of the office's functions.

305 (10) The office shall file an annual report with the
306 Governor, Secretary of State, President of the Senate, Secretary
307 of the Senate, Speaker of the House, and Clerk of the House not
308 later than October 1 of each year regarding all funds approved by
309 the office to be expended on workforce training during the prior
310 calendar year. The report shall include:

311 (a) Information on the performance of the * * *
312 Accelerate Mississippi Workforce Development Fund, in terms of
313 adding value to the local and state economy, the contribution to
314 future growth of the state economy, and movement toward state
315 goals, including increasing the labor force participation rate;
316 and

317 (b) With respect to specific workforce training
318 projects:

319 (i) The location of the training;



320 (ii) The amount allocated to the project;
321 (iii) The purpose of the project;
322 (iv) The specific business entity that is the
323 beneficiary of the project; and
324 (v) The number of employees intended to be trained
325 and actually trained, if applicable, in the course of the project.

326 (c) All information concerning a proposed project which
327 is provided to the executive director shall be kept confidential.
328 Such confidentiality shall not limit disclosure under the
329 Mississippi Public Records Act of 1983 of records describing the
330 nature, quantity, cost or other pertinent information related to
331 the activities of, or services performed using, the * * *
332 Accelerate Mississippi Workforce Development Fund.

333 (11) Nothing in Chapter 476, Laws of 2020 [Senate Bill No.
334 2564] shall void or otherwise interrupt any contract, lease, grant
335 or other agreement previously entered into by the State Workforce
336 Investment Board, Mississippi Community College Board, individual
337 community or junior colleges, or other entities.

338 **SECTION 2.** Section 71-5-353, Mississippi Code of 1972, is
339 amended as follows:

340 71-5-353. (1) (a) Each employer shall pay unemployment
341 insurance contributions equal to five and four-tenths percent
342 (5.4%) of taxable wages paid by him each calendar year, except as
343 may be otherwise provided in Section 71-5-361 and except that each
344 newly subject employer shall pay unemployment insurance



345 contributions at the rate of one percent (1%) of taxable wages,
346 for his first year of liability, one and one-tenth percent (1.1%)
347 of taxable wages for his second year of liability, and one and
348 two-tenths percent (1.2%) of taxable wages for his third and
349 subsequent years of liability unless the employer's
350 experience-rating record has been chargeable throughout at least
351 the twelve (12) consecutive calendar months ending on the most
352 recent computation date at the time the rate for a year is
353 determined; thereafter the employer's contribution rate shall be
354 determined in accordance with the provisions of Section 71-5-355.

355 (b) Notwithstanding the newly subject employer
356 contribution rate provided for in paragraph (a) of this
357 subsection, the contribution rate of all newly subject employers
358 shall be reduced by seven one-hundredths of one percent (.07%) for
359 calendar year 2013 only. The contribution rate of all newly
360 subject employers shall be reduced by three one-hundredths of one
361 percent (.03%) for calendar year 2014 only. For purposes of this
362 chapter, "newly subject employers" means employers whose
363 unemployment insurance experience-rating record has not been
364 chargeable throughout at least the twelve (12) consecutive
365 calendar months ending on the most recent computation date at the
366 time the contribution rate for a year is determined.

367 (2) (a) (i) There is hereby created in the Treasury of the
368 State of Mississippi a special * * * fund to be known as the
369 "* * * Accelerate Mississippi Workforce Development Fund" which



370 consist of funds collected pursuant to subsection (3) of this
371 section.

372 (ii) Funds collected shall initially be deposited
373 into the Mississippi Department of Employment Security bank
374 account for clearing contribution collections and
375 subsequently * * * transferred to the * * * Accelerate Mississippi
376 Workforce Development Holding Bank Account described in Section
377 71-5-453. In the event any employer pays an amount insufficient
378 to cover the total contributions due, the amounts due shall be
379 satisfied in the following order:

- 380 1. Unemployment contributions;
- 381 2. * * * Accelerate Mississippi Workforce
382 Development contributions * * *;
- 383 3. Interest and damages; then
- 384 4. Legal and processing costs.

385 The amount of unemployment insurance contributions due for
386 any period will be the amount due according to the actual
387 computations unless the employer is participating in the MLPP. In
388 that event, the amount due is the MLPP amount computed by the
389 department.

390 The cost of collection and administration of the * * *
391 Accelerate Mississippi Workforce Development contributions shall
392 be allocated based on a plan approved by the United States
393 Department of Labor (USDOL). The * * * Office of Workforce
394 Development shall pay the cost of collecting the * * * Accelerate



395 Mississippi Workforce Development contributions. Payments shall
396 be made semiannually with the cost allocated to each based on a
397 USDOL approved plan on a pro rata basis, for periods ending in
398 June and December of each year. Payment shall be made by each
399 organization to the department no later than sixty (60) days after
400 the billing date. Cost shall be allocated under the USDOL's
401 approved plan and in the same ratio as each contribution type
402 represents to the total authorized by subparagraph (ii)2 of this
403 paragraph to be collected for the period.

404 * * *

405 (* * *b) All contributions collected for the * * *
406 Accelerate Mississippi Workforce Development Fund will be
407 initially deposited into the Mississippi Department of Employment
408 Security bank account for clearing contribution collections and
409 subsequently transferred to the * * * Accelerate Mississippi
410 Workforce Development Holding Bank Account and will be held by the
411 Mississippi Department of Employment Security in such account for
412 a period of not less than thirty (30) days. After such period,
413 the * * * Accelerate Mississippi Workforce Development
414 contributions shall be transferred to the * * * Accelerate
415 Mississippi Workforce Development Fund Treasury Account * * *. In
416 cases of extraordinary circumstances, these funds shall be
417 transferred within fifteen (15) days. Interest earnings or
418 interest credits on deposit amounts in the * * * Accelerate
419 Mississippi Workforce Development Holding Bank Account shall be



420 retained in the account to pay the banking costs of the account.
421 If after the period of twelve (12) months interest earnings less
422 banking costs exceeds Ten Thousand Dollars (\$10,000.00), such
423 excess amounts shall be transferred to the respective accounts
424 within thirty (30) days following the end of each calendar year on
425 the basis described in paragraph (b) of this subsection. Interest
426 earnings and/or interest credits for the * * * Accelerate
427 Mississippi Workforce Development funds shall be used for the
428 payment of banking costs and excess amounts shall be used in
429 accordance with the rules and regulations of the State Workforce
430 Investment Board expenditure policies.

431 (* * * c) All enforcement * * * for the collection of
432 delinquent unemployment contributions * * * shall be the
433 responsibility of the department pursuant to Sections 71-5-363
434 through 71-5-383 which shall be applicable in all respects for
435 collections of delinquent unemployment insurance
436 contributions * * * and the Accelerate Mississippi Workforce
437 Development Fund.

438 (* * * d) (i) Except as otherwise provided for in this
439 subparagraph (i), all monies deposited into the * * * Accelerate
440 Mississippi Workforce Development Fund Treasury Account shall be
441 directed by the Mississippi Office of Workforce Development * * *
442 in accordance with the Workforce Training Act of 1994 (Section
443 37-153-1 et seq.) and under policies approved by the Mississippi
444 Office of Workforce Development for the following purposes: to



445 provide training in collaboration with * * * individual community
446 and junior colleges to employers and employees in order to enhance
447 employee productivity, recruit individuals into training programs,
448 improve job retention in the state, raise the labor participation
449 rate of the state and otherwise create a work-ready applicant pool
450 of individuals with credentials or post-secondary education, as
451 determined by the Office of Workforce Development. Such training
452 may be subject to a minimal administrative fee to be paid from
453 the * * * Accelerate Mississippi Workforce Development Fund as
454 established by the Office of Workforce Development. The initial
455 priority of these funds shall be for the benefit of existing
456 businesses located within the state. Employers may request
457 training for existing employees and/or newly hired employees from
458 the Mississippi Office of Workforce Development. The office * * *
459 will be responsible for approving the training. A portion of the
460 funds collected for the * * * Accelerate Mississippi Workforce
461 Development Fund shall be used for the development of performance
462 measures to measure the effectiveness of the use of the * * *
463 Accelerate Mississippi Workforce Development Fund dollars. These
464 performance measures shall be uniform for all training projects
465 and shall be reported to the Governor, Lieutenant Governor,
466 Speaker of the House, and members of the Legislature. Nothing in
467 this section or elsewhere in law shall be interpreted as giving
468 the Office of Workforce Development or State Workforce Investment
469 Board authority to direct the Mississippi Community College Board



470 or individual community or junior colleges on how to expend other
471 funds, aside from funds appropriated to the * * * Accelerate
472 Mississippi Workforce Development Fund, appropriated or received
473 for workforce training. The Mississippi Office of Workforce
474 Development, Mississippi Community College Board, individual
475 community or junior colleges, State Workforce Investment Board and
476 other agencies implementing or coordinating state-funded workforce
477 development programs under state law shall cooperate with each
478 other to promote effective workforce training in Mississippi,
479 under the direction of the office. Any subsequent changes to
480 these performance measures shall also be reported to the Governor,
481 Lieutenant Governor, Speaker of the House, and members of the
482 Legislature. A performance report for each training project and
483 community college, based upon these measures, shall be submitted
484 annually to the Governor, Lieutenant Governor, Speaker of the
485 House, and members of the Legislature.

486 (ii) * * * The amount appropriated by the
487 Legislature out of the Accelerate Mississippi Workforce
488 Development Fund Treasury Account shall be transferred to the
489 Accelerate Mississippi Workforce Development Administrative Bank
490 Account for administration of State Workforce Investment Board
491 business * * * and the Office of Workforce Development * * *.

492 (iii) * * * In no case shall * * * Accelerate
493 Mississippi Workforce Development Funds be used to supplant
494 workforce funds available from any other sources, including, but



495 not limited to, local, state or federal sources that are available
496 for workforce training and development. * * *

497 (iv) 1. The Department of Employment Security
498 shall be the fiscal agent for the receipt and disbursement of all
499 Accelerate Mississippi Workforce Development Funds * * *, subject
500 to the administrative oversight of the Office of Workforce
501 Development. On the effective date of this act, all funds
502 existing in the Mississippi Workforce Enhancement Training Fund,
503 the State Workforce Investment Board Account and the Mississippi
504 Works Fund shall be transferred to the Accelerate Mississippi
505 Workforce Development Treasury Fund. All existing agreements and
506 obligations due through these three (3) funds shall be transferred
507 to the Accelerate Mississippi Workforce Development Fund and shall
508 be honored as agreed upon.

509 2. In managing the * * * Accelerate
510 Mississippi Workforce Development Administrative Bank Account, the
511 Office of Workforce Development, in coordination with the
512 Mississippi Department of Employment Security as fiscal agent,
513 shall ensure that any funds expended for contractual services
514 rendered to the Office of Workforce Development shall be paid only
515 to service providers who have been selected on a competitive
516 basis. Any contract for services entered into using funds from
517 the * * * Accelerate Mississippi Workforce Development
518 Administrative Bank Account shall contain the deliverables stated
519 in terms that allow for the assessment of work performance against



520 measurable performance standards and shall include milestones for
521 completion of each deliverable under the contract. For each
522 contract for services entered into by the Office of Workforce
523 Development, the office shall develop a quality assurance
524 surveillance plan that specifies quality control obligations of
525 the contractor as well as measurable inspection and acceptance
526 criteria corresponding to the performance standards contained in
527 the contract's statement of work.

528 3. Any commodities procured for the office
529 shall be procured in accordance with the provisions of Section
530 31-7-13.

531 * * *

532 (3) (a) (i) * * * Accelerate Mississippi Workforce
533 Development contributions shall be collected * * * at a rate of
534 twenty one-hundredths percent (.20%), based upon taxable
535 wages * * *.

536 (* * * ii) The * * * Accelerate Mississippi
537 Workforce Development contribution shall be in addition to the
538 general experience rate plus the individual experience rate of all
539 employers but shall not be charged to reimbursing or rate-paying
540 political subdivisions or institutions of higher learning, or
541 reimbursing nonprofit organizations, as described in Sections
542 71-5-357 and 71-5-359.

543 (b) All * * * Accelerate Mississippi Workforce
544 Development contributions collected shall be deposited initially



545 into the Mississippi Department of Employment Security bank
546 account for clearing contribution collections and shall within two
547 (2) business days be transferred to the * * * Accelerate
548 Mississippi Workforce Development Holding Bank Account. Any * * *
549 Accelerate Mississippi Workforce Development Fund transactions
550 from the Mississippi Department of Employment Security bank
551 account for clearing contribution collections that are deposited
552 into the * * * Accelerate Mississippi Workforce Development
553 Holding Bank Account and are not honored by a financial
554 institution will be transferred back to the Mississippi Department
555 of Employment Security bank account for clearing contribution
556 collections out of funds in the * * * Accelerate Mississippi
557 Workforce Development Holding Bank Account.

558 (c) Suspension of the * * * Accelerate Mississippi
559 Workforce Development Fund contributions required pursuant to this
560 chapter shall occur if the insured unemployment rate exceeds an
561 average of five and five-tenths percent (5.5%) for the three (3)
562 consecutive months immediately preceding the effective date of the
563 new rate year following such occurrence and shall remain suspended
564 throughout the duration of that rate year. Such suspension shall
565 continue until such time as the three (3) consecutive months
566 immediately preceding the effective date of the next rate year
567 that has an insured unemployment rate of less than an average of
568 four and five-tenths percent (4.5%). Upon such occurrence,
569 reactivation shall be effective upon the first day of the rate



570 year following the event that lifts suspension and shall be in
571 effect for that year and shall continue until such time as a
572 subsequent suspension event as described in this chapter occurs.

573 (d) Notwithstanding any other provision contained
574 herein, contribution collections for the * * * Accelerate
575 Mississippi Workforce Development Fund shall not be suspended,
576 under any circumstances, for tax rate year 2021, and the resulting
577 contribution rate of twenty one-hundredths percent (.20%) shall be
578 added to the employer's general and individual experience rate to
579 obtain the total unemployment insurance rate for 2021.

580 (4) All collections due or accrued prior to any suspension
581 of the * * * Accelerate Mississippi Workforce Development Fund
582 will be collected based upon the law at the time the contributions
583 accrued, regardless of when they are actually collected.

584 **SECTION 3.** Section 71-5-355, Mississippi Code of 1972, is
585 amended as follows:

586 71-5-355. (1) As used in this section, the following words
587 and phrases shall have the following meanings, unless the context
588 clearly requires otherwise:

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

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

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



595 (d) Except as hereinafter provided, "payroll" means the
596 total of all wages paid for employment by an employer as defined
597 in Section 71-5-11, subsection H, plus the total of all
598 remuneration paid by such employer excluded from the definition of
599 wages by Section 71-5-351. For the computation of modified rates,
600 "payroll" means the total of all wages paid for employment by an
601 employer as defined in Section 71-5-11, subsection H.

602 (e) For the computation of modified rates, "eligible
603 employer" means an employer whose experience-rating record has
604 been chargeable with benefits throughout the thirty-six (36)
605 consecutive calendar-month period ending on the computation date,
606 except that any employer who has not been subject to the
607 Mississippi Employment Security Law for a period of time
608 sufficient to meet the thirty-six (36) consecutive calendar-month
609 requirement shall be an eligible employer if his or her
610 experience-rating record has been chargeable throughout not less
611 than the twelve (12) consecutive calendar-month period ending on
612 the computation date. No employer shall be considered eligible
613 for a contribution rate less than five and four-tenths percent
614 (5.4%) with respect to any tax year, who has failed to file any
615 two (2) quarterly reports within the qualifying period by
616 September 30 following the computation date. No employer or
617 employing unit shall be eligible for a contribution rate of less
618 than five and four-tenths percent (5.4%) for the tax year in which
619 the employing unit is found by the department to be in violation



620 of Section 71-5-19(2) or (3) and for the next two (2) succeeding
621 tax years. No representative of such employing unit who was a
622 party to a violation as described in Section 71-5-19(2) or (3), if
623 such representative was or is an employing unit in this state,
624 shall be eligible for a contribution rate of less than five and
625 four-tenths percent (5.4%) for the tax year in which such
626 violation was detected by the department and for the next two (2)
627 succeeding tax years.

628 (f) With respect to any tax year, "reserve ratio" means
629 the ratio which the total amount available for the payment of
630 benefits in the Unemployment Compensation Fund, excluding any
631 amount which has been credited to the account of this state under
632 Section 903 of the Social Security Act, as amended, and which has
633 been appropriated for the expenses of administration pursuant to
634 Section 71-5-457 whether or not withdrawn from such account, on
635 October 31 (close of business) of each calendar year bears to the
636 aggregate of the taxable payrolls of all employers for the twelve
637 (12) calendar months ending on June 30 next preceding.

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

642 (h) For the computation of modified rates, "qualifying
643 period" means a period of not less than the thirty-six (36)
644 consecutive calendar months ending on the computation date



645 throughout which an employer's experience-rating record has been
646 chargeable with benefits; except that with respect to any eligible
647 employer who has not been subject to this article for a period of
648 time sufficient to meet the thirty-six (36) consecutive
649 calendar-month requirement, "qualifying period" means the period
650 ending on the computation date throughout which his or her
651 experience-rating record has been chargeable with benefits, but in
652 no event less than the twelve (12) consecutive calendar-month
653 period ending on the computation date throughout which his or her
654 experience-rating record has been so chargeable.

655 (i) The "exposure criterion" (EC) is defined as the
656 cash balance of the Unemployment Compensation Fund which is
657 available for the payment of benefits as of November 16 of each
658 calendar year or the next working day if November 16 falls on a
659 holiday or a weekend, divided by the total wages, exclusive of
660 wages paid by all state agencies, all political subdivisions,
661 reimbursable nonprofit corporations, and tax-exempt public service
662 employment, for the twelve-month period ending June 30 immediately
663 preceding such date. The EC shall be computed to four (4) decimal
664 places and rounded up if any fraction remains. Notwithstanding
665 any other provision contained herein, the date for determining the
666 cash balance of the Unemployment Compensation Fund which is
667 available for the payment of benefits for the calendar years 2020
668 and 2021 shall be December 31.



669 (j) The "cost rate criterion" (CRC) is defined as
670 follows: Beginning with January 1974, the benefits paid for the
671 twelve-month period ending December 1974 are summed and divided by
672 the total wages for the twelve-month period ending on June 30,
673 1975. Similar ratios are computed by subtracting the earliest
674 month's benefit payments and adding the benefits of the next month
675 in the sequence and dividing each sum of twelve (12) months'
676 benefits by the total wages for the twelve-month period ending on
677 the June 30 which is nearest to the final month of the period used
678 to compute the numerator. If December is the final month of the
679 period used to compute the numerator, then the twelve-month period
680 ending the following June 30 will be used for the denominator.
681 Benefits and total wages used in the computation of the cost rate
682 criterion shall exclude all benefits and total wages applicable to
683 state agencies, political subdivisions, reimbursable nonprofit
684 corporations, and tax-exempt PSE employment.

685 The CRC shall be computed as the average for the highest
686 monthly value of the cost rate criterion computations during each
687 of the economic cycles since the calendar year 1974 as defined by
688 the National Bureau of Economic Research. The CRC shall be
689 computed to four (4) decimal places and any remainder shall be
690 rounded up.

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



693 (k) "Size of fund index" (SOFI) is defined as the ratio
694 of the exposure criterion (EC) to the cost rate criterion (CRC).
695 The target size of fund index will be fixed at 1.0. If the
696 insured unemployment rate (IUR) exceeds a four and five-tenths
697 percent (4.5%) average for the most recent completed July to June
698 period, the target SOFI will be .8 and will remain at that level
699 until the computed SOFI (the average exposure criterion of the
700 current year and the preceding year divided by the average cost
701 rate criterion) equals 1.0 or the average IUR falls to four and
702 five-tenths percent (4.5%) or less for any period July to June.
703 However, if the IUR falls below two and five-tenths percent (2.5%)
704 for any period July to June the target SOFI shall be 1.2 until
705 such time as the computed SOFI is equal to or greater than 1.0 or
706 the IUR is equal to or greater than two and five-tenths percent
707 (2.5%), at which point the target SOFI shall return to 1.0.

708 (1) No employer's unemployment contribution general
709 experience rate plus individual unemployment experience rate shall
710 exceed five and four-tenths percent (5.4%). Accrual rules shall
711 apply for purposes of computing contribution rates including
712 associated functions.

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

715 (2) Modified rates:

716 (a) For any tax year, when the reserve ratio on the
717 preceding November 16, in the case of any tax year, equals or



718 exceeds three percent (3%), the modified rates, as hereinafter
719 prescribed, shall be in effect. In computation of this reserve
720 ratio, any remainder shall be rounded down.

721 (b) Modified rates shall be determined for the tax year
722 for each eligible employer on the basis of his or her
723 experience-rating record in the following manner:

724 (i) The department shall maintain an
725 experience-rating record for each employer. Nothing in this
726 chapter shall be construed to grant any employer or individuals
727 performing services for him or her any prior claim or rights to
728 the amounts paid by the employer into the fund.

729 (ii) Benefits paid to an eligible individual shall
730 be charged against the experience-rating record of his or her base
731 period employers in the proportion to which the wages paid by each
732 base period employer bears to the total wages paid to the
733 individual by all the base period employers, provided that
734 benefits shall not be charged to an employer's experience-rating
735 record if the department finds that the individual:

736 1. Voluntarily left the employ of such
737 employer without good cause attributable to the employer or to
738 accept other work;

739 2. Was discharged by such employer for
740 misconduct connected with his or her work;

741 3. Refused an offer of suitable work by such
742 employer without good cause, and the department further finds that



743 such benefits are based on wages for employment for such employer
744 prior to such voluntary leaving, discharge or refusal of suitable
745 work, as the case may be;

746 4. Had base period wages which included wages
747 for previously uncovered services as defined in Section
748 71-5-511(e) to the extent that the Unemployment Compensation Fund
749 is reimbursed for such benefits pursuant to Section 121 of Public
750 Law 94-566;

751 5. Extended benefits paid under the
752 provisions of Section 71-5-541 which are not reimbursable from
753 federal funds shall be charged to the experience-rating record of
754 base period employers;

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

760 7. Was hired to replace a United States
761 serviceman or servicewoman called into active duty and was laid
762 off upon the return to work by that serviceman or servicewoman,
763 unless such employer is a state agency or other political
764 subdivision or instrumentality of the state;

765 8. Was paid benefits during any week while in
766 training with the approval of the department, under the provisions
767 of Section 71-5-513B, or for any week while in training approved



768 under Section 236(a)(1) of the Trade Act of 1974, under the
769 provisions of Section 71-5-513C;

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

774 10. Was paid benefits as a result of a
775 fraudulent claim, provided notification was made to the
776 Mississippi Department of Employment Security in writing or by
777 email by the employer, within ten (10) days of the mailing of the
778 notice of claim filed to the employer's last-known address.

779 (iii) Notwithstanding any other provision
780 contained herein, an employer shall not be noncharged when the
781 department finds that the employer or the employer's agent of
782 record was at fault for failing to respond timely or adequately to
783 the request of the department for information relating to an
784 unemployment claim that was subsequently determined to be
785 improperly paid, unless the employer or the employer's agent of
786 record shows good cause for having failed to respond timely or
787 adequately to the request of the department for information. For
788 purposes of this subparagraph "good cause" means an event that
789 prevents the employer or employer's agent of record from timely
790 responding, and includes a natural disaster, emergency or similar
791 event, or an illness on the part of the employer, the employer's
792 agent of record, or their staff charged with responding to such



793 inquiries when there is no other individual who has the knowledge
794 or ability to respond. Any agency error that resulted in a delay
795 in, or the failure to deliver notice to, the employer or the
796 employer's agent of record shall also be considered good cause for
797 purposes of this subparagraph.

798 (iv) The department shall compute a benefit ratio
799 for each eligible employer, which shall be the quotient obtained
800 by dividing the total benefits charged to his or her
801 experience-rating record during the period his or her
802 experience-rating record has been chargeable, but not less than
803 the twelve (12) consecutive calendar-month period nor more than
804 the thirty-six (36) consecutive calendar-month period ending on
805 the computation date, by his or her total taxable payroll for the
806 same period on which all unemployment insurance contributions due
807 have been paid on or before the September 30 immediately following
808 the computation date. Such benefit ratio shall be computed to the
809 tenth of a percent (.1%), rounding any remainder to the next
810 higher tenth.

811 (v) 1. The unemployment insurance contribution
812 rate for each eligible employer shall be the sum of two (2) rates:
813 his or her individual experience rate in the range from zero
814 percent (0%) to five and four-tenths percent (5.4%), plus a
815 general experience rate. In no event shall the resulting
816 unemployment insurance rate be in excess of five and four-tenths
817 percent (5.4%), however, it is the intent of this section to



818 provide the ability for employers to have a tax rate, the general
819 experience rate plus the individual experience rate, of up to five
820 and four-tenths percent (5.4%).

821 2. The employer's individual experience rate
822 shall be equal to his or her benefit ratio as computed under
823 paragraph (b)(iv) of this subsection (2).

824 3. The general experience rate shall be
825 determined in the following manner: The department shall
826 determine annually, for the thirty-six (36) consecutive
827 calendar-month period ending on the computation date, the amount
828 of benefits which were not charged to the record of any employer
829 and of benefits which were ineffectively charged to the employer's
830 experience-rating record. For the purposes of this item 3, the
831 term "ineffectively charged benefits" shall include:

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

836 b. The total of the amounts of benefits
837 charged to the experience-rating records of all ineligible
838 employers which would cause their benefit ratios to exceed five
839 and four-tenths percent (5.4%) if they were eligible employers;
840 and

841 c. The total of the amounts of benefits
842 charged or chargeable to the experience-rating record of any



843 employer who has discontinued his or her business or whose
844 coverage has been terminated within such period; provided, that
845 solely for the purposes of determining the amounts of
846 ineffectively charged benefits as herein defined, a "benefit
847 ratio" shall be computed for each ineligible employer, which shall
848 be the quotient obtained by dividing the total benefits charged to
849 his or her experience-rating record throughout the period ending
850 on the computation date, during which his or her experience-rating
851 record has been chargeable with benefits, by his or her total
852 taxable payroll for the same period on which all unemployment
853 insurance contributions due have been paid on or before the
854 September 30 immediately following the computation date; and
855 provided further, that such benefit ratio shall be computed to the
856 tenth of one percent (.1%) and any remainder shall be rounded to
857 the next higher tenth.

858 The ratio of the sum of these amounts (subsection
859 (2) (b) (v) 3a, b and c) to the taxable wages paid during the same
860 period divided by all eligible employers whose benefit ratio did
861 not exceed five and four-tenths percent (5.4%), computed to the
862 next higher tenth of one percent (.1%), shall be the general
863 experience rate; however, the general experience rate for rate
864 year 2014 shall be two tenths of one percent (.2%) and to that
865 will be added the employer's individual experience rate for the
866 total unemployment insurance rate.



867 4. a. Except as otherwise provided in this
868 item 4, the general experience rate shall be adjusted by use of
869 the size of fund index factor. This factor may be positive or
870 negative, and shall be determined as follows: From the target
871 SOFI, as defined in subsection (1)(k) of this section, subtract
872 the simple average of the current and preceding years' exposure
873 criteria divided by the cost rate criterion, as defined in
874 subsection (1)(j) of this section. The result is then multiplied
875 by the product of the CRC, as defined in subsection (1)(j) of this
876 section, and total wages for the twelve-month period ending June
877 30 divided by the taxable wages for the twelve-month period ending
878 June 30. This is the percentage positive or negative added to the
879 general experience rate. The sum of the general experience rate
880 and the trust fund adjustment factor shall be multiplied by fifty
881 percent (50%) and this product shall be computed to one (1)
882 decimal place, and rounded to the next higher tenth.

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

887 5. The general experience rate shall be zero
888 percent (0%) unless the general experience ratio for any tax year
889 as computed and adjusted on the basis of the trust fund adjustment
890 factor and reduced by fifty percent (50%) is an amount equal to or
891 greater than two-tenths of one percent (.2%), then the general



892 experience rate shall be the computed general experience ratio and
893 adjusted on the basis of the trust fund adjustment factor and
894 reduced by fifty percent (50%); however, in no case shall the sum
895 of the general experience plus the individual experience
896 unemployment insurance rate exceed five and four-tenths percent
897 (5.4%). For rate years subsequent to 2014, * * * Accelerate
898 Mississippi Workforce Development contribution rate, when in
899 effect, shall be added to the unemployment contribution rate,
900 regardless of whether the addition of this contribution rate
901 causes the total contribution rate for the employer to exceed five
902 and four-tenths percent (5.4%).

903 6. The department shall include in its annual
904 rate notice to employers a brief explanation of the elements of
905 the general experience rate, and shall include in its regular
906 publications an annual analysis of benefits not charged to the
907 record of any employer, and of the benefit experience of employers
908 by industry group whose benefit ratio exceeds four percent (4%),
909 and of any other factors which may affect the size of the general
910 experience rate.

911 7. Notwithstanding any other provision
912 contained herein, the general experience rate for calendar year
913 2021 shall be zero percent (0%). Charges attributed to each
914 employer's individual experience rate for the period March 8,
915 2020, through June 30, 2020, will not impact the employer's
916 individual experience rate calculations for purposes of



917 calculating the total unemployment insurance rate for 2021 and the
918 two (2) subsequent tax rate years. Moreover, charges attributed
919 to each employer's individual experience rate for the period July
920 1, 2020, through December 31, 2020, will not impact the employer's
921 individual experience rate calculations for purposes of
922 calculating the total unemployment insurance rate for 2022 and the
923 two (2) subsequent tax rate years.

924 (vi) When any employing unit in any manner
925 succeeds to or acquires the organization, trade, business or
926 substantially all the assets thereof of an employer, excepting any
927 assets retained by such employer incident to the liquidation of
928 his or her obligations, whether or not such acquiring employing
929 unit was an employer within the meaning of Section 71-5-11,
930 subsection H, prior to such acquisition, and continues such
931 organization, trade or business, the experience-rating and payroll
932 records of the predecessor employer shall be transferred as of the
933 date of acquisition to the successor employer for the purpose of
934 rate determination.

935 (vii) When any employing unit succeeds to or
936 acquires a distinct and severable portion of an organization,
937 trade or business, the experience-rating and payroll records of
938 such portion, if separately identifiable, shall be transferred to
939 the successor upon:

940 1. The mutual consent of the predecessor and
941 the successor;



942 2. Approval of the department;
943 3. Continued operation of the transferred
944 portion by the successor after transfer; and
945 4. The execution and the filing with the
946 department by the predecessor employer of a waiver relinquishing
947 all rights to have the experience-rating and payroll records of
948 the transferred portion used for the purpose of determining
949 modified rates of contribution for such predecessor.

950 (viii) If the successor was an employer subject to
951 this chapter prior to the date of acquisition, it shall continue
952 to pay unemployment insurance contributions at the rate applicable
953 to it from the date the acquisition occurred until the end of the
954 then current tax year. If the successor was not an employer prior
955 to the date of acquisition, it shall pay unemployment insurance
956 contributions at the rate applicable to the predecessor or, if
957 more than one (1) predecessor and the same rate is applicable to
958 both, the rate applicable to the predecessor or predecessors, from
959 the date the acquisition occurred until the end of the then
960 current tax year. If the successor was not an employer prior to
961 the date the acquisition occurred and simultaneously acquires the
962 businesses of two (2) or more employers to whom different rates of
963 unemployment insurance contributions are applicable, it shall pay
964 unemployment insurance contributions from the date of the
965 acquisition until the end of the current tax year at a rate
966 computed on the basis of the combined experience-rating and



967 payroll records of the predecessors as of the computation date for
968 such tax year. In all cases the rate of unemployment insurance
969 contributions applicable to such successor for each succeeding tax
970 year shall be computed on the basis of the combined
971 experience-rating and payroll records of the successor and the
972 predecessor or predecessors.

973 (ix) The department shall notify each employer
974 quarterly of the benefits paid and charged to his or her
975 experience-rating record; and such notification, in the absence of
976 an application for redetermination filed within thirty (30) days
977 after the date of such notice, shall be final, conclusive and
978 binding upon the employer for all purposes. A redetermination,
979 made after notice and opportunity for a fair hearing, by a hearing
980 officer designated by the department who shall consider and decide
981 these and related applications and protests; and the finding of
982 fact in connection therewith may be introduced into any subsequent
983 administrative or judicial proceedings involving the determination
984 of the rate of unemployment insurance contributions of any
985 employer for any tax year, and shall be entitled to the same
986 finality as is provided in this subsection with respect to the
987 findings of fact in proceedings to redetermine the contribution
988 rate of an employer.

989 (x) The department shall notify each employer of
990 his or her rate of contribution as determined for any tax year as
991 soon as reasonably possible after September 1 of the preceding



992 year. Such determination shall be final, conclusive and binding
993 upon such employer unless, within thirty (30) days after the date
994 of such notice to his or her last-known address, the employer
995 files with the department an application for review and
996 redetermination of his or her contribution rate, setting forth his
997 or her reasons therefor. If the department grants such review,
998 the employer shall be promptly notified thereof and shall be
999 afforded an opportunity for a fair hearing by a hearing officer
1000 designated by the department who shall consider and decide these
1001 and related applications and protests; but no employer shall be
1002 allowed, in any proceeding involving his or her rate of
1003 unemployment insurance contributions or contribution liability, to
1004 contest the chargeability to his or her account of any benefits
1005 paid in accordance with a determination, redetermination or
1006 decision pursuant to Sections 71-5-515 through 71-5-533 except
1007 upon the ground that the services on the basis of which such
1008 benefits were found to be chargeable did not constitute services
1009 performed in employment for him or her, and then only in the event
1010 that he or she was not a party to such determination,
1011 redetermination, decision or to any other proceedings provided in
1012 this chapter in which the character of such services was
1013 determined. The employer shall be promptly notified of the denial
1014 of this application or of the redetermination, both of which shall
1015 become final unless, within ten (10) days after the date of notice
1016 thereof, there shall be an appeal to the department itself. Any



1017 such appeal shall be on the record before said designated hearing
1018 officer, and the decision of said department shall become final
1019 unless, within thirty (30) days after the date of notice thereof
1020 to the employer's last-known address, there shall be an appeal to
1021 the Circuit Court of the First Judicial District of Hinds County,
1022 Mississippi, in accordance with the provisions of law with respect
1023 to review of civil causes by certiorari.

1024 (3) Notwithstanding any other provision of law, the
1025 following shall apply regarding assignment of rates and transfers
1026 of experience:

1027 (a) (i) If an employer transfers its trade or
1028 business, or a portion thereof, to another employer and, at the
1029 time of the transfer, there is substantially common ownership,
1030 management or control of the two (2) employers, then the
1031 unemployment experience attributable to the transferred trade or
1032 business shall be transferred to the employer to whom such
1033 business is so transferred. The rates of both employers shall be
1034 recalculated and made effective on January 1 of the year following
1035 the year the transfer occurred.

1036 (ii) If, following a transfer of experience under
1037 subparagraph (i) of this paragraph (a), the department determines
1038 that a substantial purpose of the transfer of trade or business
1039 was to obtain a reduced liability of unemployment insurance
1040 contributions, then the experience-rating accounts of the



1041 employers involved shall be combined into a single account and a
1042 single rate assigned to such account.

1043 (b) Whenever a person who is not an employer or an
1044 employing unit under this chapter at the time it acquires the
1045 trade or business of an employer, the unemployment experience of
1046 the acquired business shall not be transferred to such person if
1047 the department finds that such person acquired the business solely
1048 or primarily for the purpose of obtaining a lower rate of
1049 unemployment insurance contributions. Instead, such person shall
1050 be assigned the new employer rate under Section 71-5-353, unless
1051 assignment of the new employer rate results in an increase of less
1052 than two percent (2%), in which case such person would be assigned
1053 the new employer rate plus an additional two percent (2%) penalty
1054 for the rate year. In determining whether the business was
1055 acquired solely or primarily for the purpose of obtaining a lower
1056 rate of unemployment insurance contributions, the department shall
1057 use objective factors which may include the cost of acquiring the
1058 business, whether the person continued the business enterprise of
1059 the acquired business, how long such business enterprise was
1060 continued, or whether a substantial number of new employees were
1061 hired for performance of duties unrelated to the business activity
1062 conducted prior to acquisition.

1063 (c) (i) If a person knowingly violates or attempts to
1064 violate paragraph (a) or (b) of this subsection or any other
1065 provision of this chapter related to determining the assignment of



1066 a contribution rate, or if a person knowingly advises another
1067 person in a way that results in a violation of such provision, the
1068 person shall be subject to the following penalties:

1069 1. If the person is an employer, then such
1070 employer shall be assigned the highest rate assignable under this
1071 chapter for the rate year during which such violation or attempted
1072 violation occurred and the three (3) rate years immediately
1073 following this rate year. However, if the person's business is
1074 already at such highest rate for any year, or if the amount of
1075 increase in the person's rate would be less than two percent (2%)
1076 for such year, then the person's tax rate shall be increased by
1077 two percent (2%) for such year. The penalty rate will apply to
1078 the successor business as well as the related entity from which
1079 the employees were transferred in an effort to obtain a lower rate
1080 of unemployment insurance contributions.

1081 2. If the person is not an employer, such
1082 person shall be subject to a civil money penalty of not more than
1083 Five Thousand Dollars (\$5,000.00). Each such transaction for
1084 which advice was given and each occurrence or reoccurrence after
1085 notification being given by the department shall be a separate
1086 offense and punishable by a separate penalty. Any such fine shall
1087 be deposited in the penalty and interest account established under
1088 Section 71-5-114.

1089 (ii) For purposes of this paragraph (c), the term
1090 "knowingly" means having actual knowledge of or acting with



1091 deliberate ignorance or reckless disregard for the prohibition
1092 involved.

1093 (iii) For purposes of this paragraph (c), the term
1094 "violates or attempts to violate" includes, but is not limited to,
1095 intent to evade, misrepresentation or willful nondisclosure.

1096 (iv) In addition to the penalty imposed by
1097 subparagraph (i) of this paragraph (c), any violation of this
1098 subsection may be punishable by a fine of not more than Ten
1099 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1100 five (5) years, or by both such fine and imprisonment. This
1101 subsection shall prohibit prosecution under any other criminal
1102 statute of this state.

1103 (d) The department shall establish procedures to
1104 identify the transfer or acquisition of a business for purposes of
1105 this subsection.

1106 (e) For purposes of this subsection:

1107 (i) "Person" has the meaning given such term by
1108 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

1109 (ii) "Employing unit" has the meaning as set forth
1110 in Section 71-5-11.

1111 (f) This subsection shall be interpreted and applied in
1112 such a manner as to meet the minimum requirements contained in any
1113 guidance or regulations issued by the United States Department of
1114 Labor.



1115 **SECTION 4.** Section 71-5-453, Mississippi Code of 1972, is
1116 amended as follows:

1117 71-5-453. The department shall be the treasurer and
1118 custodian of the fund, and shall administer such fund in
1119 accordance with the directions of the department, and shall issue
1120 its warrants upon it in accordance with such regulations as the
1121 department shall prescribe. The department shall maintain within
1122 the fund three (3) separate accounts: (a) a clearing account, (b)
1123 an unemployment trust fund account, and (c) a benefit payment
1124 account. All monies payable to the fund, upon receipt thereof by
1125 the department, shall be immediately deposited in the clearing
1126 account. Refunds payable pursuant to Section 71-5-383 may be paid
1127 from the clearing account by the department. Transfers pursuant
1128 to Section 71-5-114 of all interest, penalties and damages
1129 collected shall be made to the Special Employment Security
1130 Administration Fund as soon as practicable after the end of each
1131 calendar quarter. * * * Accelerate Mississippi Workforce
1132 Development contributions shall be deposited into the * * *
1133 Accelerate Mississippi Workforce Development Holding Bank Account
1134 as described in this section. All other monies in the clearing
1135 account shall be immediately deposited with the Secretary of the
1136 Treasury of the United States of America to the Unemployment Trust
1137 Fund account for the State of Mississippi, established and
1138 maintained pursuant to Section 904 of the Social Security Act, as
1139 amended, any provisions of law in this state relating to the



1140 deposit, administration, release or disbursement of monies in the
1141 possession or custody of this state to the contrary
1142 notwithstanding. The benefit account shall consist of all monies
1143 requisitioned from this state's account in the Unemployment Trust
1144 Fund. Except as herein otherwise provided, monies in the clearing
1145 and benefit accounts may be deposited by the department, in any
1146 bank or public depository in which general funds of the state may
1147 be deposited, but no public deposit insurance charge or premium
1148 shall be paid out of the fund. The department shall be liable for
1149 the faithful performance of its duties in connection with the
1150 Unemployment Compensation Fund under this chapter. An * * *
1151 Accelerate Mississippi Workforce Development Holding Bank Account
1152 shall be established by and maintained under the fiscal control of
1153 the Mississippi Department of Employment Security. Contributions
1154 collected pursuant to the provisions in this chapter for the * * *
1155 Accelerate Mississippi Workforce Development Fund shall be
1156 transferred from the clearing account into the * * * Accelerate
1157 Mississippi Workforce Development Holding Bank Account on the same
1158 schedule and under the same conditions as funds transferred to the
1159 Unemployment Compensation Fund. Such funds shall remain on
1160 deposit in the holding bank account for a period of thirty (30)
1161 days. After such period, * * * Accelerate Mississippi Workforce
1162 Development contributions shall be transferred to the * * *
1163 Accelerate Mississippi Workforce Development Fund Treasury
1164 Account, with oversight provided by the Mississippi Office of



1165 Workforce Development * * *. Such transfers shall occur within
1166 fifteen (15) days after the funds have resided in the * * *
1167 Accelerate Mississippi Workforce Development Holding Bank Account
1168 for thirty (30) days. One (1) such transfer shall be made
1169 monthly, but the department, in its discretion, may make
1170 additional transfers in any month. In the event such funds
1171 transferred are subsequently determined to be erroneously paid or
1172 collected, or if deposit of such funds is denied or rejected by
1173 the banking institution for any reason, or deposits are unable to
1174 clear drawer's account for any reason, the funds must be
1175 reimbursed by the recipient of such funds within thirty (30) days
1176 of mailing of notice by the department demanding such refund,
1177 unless funds are available in the * * * Accelerate Mississippi
1178 Workforce Development Holding Bank Account. In that event such
1179 amounts shall be immediately withdrawn from the * * * Accelerate
1180 Mississippi Workforce Development Holding Bank Account by the
1181 department and redeposited into the clearing account.

1182 **SECTION 5.** Section 43-17-1, Mississippi Code of 1972, is
1183 amended as follows:

1184 43-17-1. (1) The State of Mississippi hereby accepts all of
1185 the mandatory provisions and benefits, with the exception of those
1186 provisions under which the state may exercise its options, of
1187 Title I of an act passed by the Senate and House of
1188 Representatives of the United States of America, in Congress
1189 assembled, entitled: "The Personal Responsibility and Work



1190 Opportunity Reconciliation Act of 1996 (Public Law 104-193)," and
1191 known as the Temporary Assistance to Needy Families (TANF)
1192 program.

1193 (2) The Department of Human Services shall have all
1194 necessary authority to cooperate with the federal government in
1195 the administration of Public Law 104-193 and all subsequent
1196 federal amendments thereto, to administer any legislation pursuant
1197 thereto enacted by the State of Mississippi, and to administer the
1198 funds provided by the federal government and the State of
1199 Mississippi under the provisions of Section 43-17-1 et seq., for
1200 providing temporary assistance for needy families with minor
1201 children. The Department of Human Services shall have full
1202 authority to formulate state plans consistent with state law as
1203 necessary to administer and operate federal grant funds which
1204 provide temporary assistance for needy families with minor
1205 children under Title IV-A of the federal Social Security Act. The
1206 Department of Human Services shall identify in any state plan
1207 submitted to implement the TANF program those requirements or
1208 restrictions, including persons excluded from program
1209 participation which are required under federal law, and those
1210 program requirements or restrictions which the federal law
1211 authorizes but does not require.

1212 (3) Any funds received by the State of Mississippi under the
1213 provisions of Public Law 104-193 shall be subject to appropriation



1214 by the Legislature and consistent with the terms and conditions
1215 required under such appropriation.

1216 (4) The purpose of the Mississippi Temporary Assistance to
1217 Needy Families (TANF) program shall be to:

1218 (a) Provide assistance to needy families so that
1219 children may be cared for in their own homes or in the homes of
1220 relatives when such care is beneficial and may be monitored on a
1221 random basis by the Department of Human Services or the State
1222 Department of Health;

1223 (b) End the dependence of needy families on government
1224 benefits by promoting job preparation, work and marriage through,
1225 among other things, job placement, job training and job retention;

1226 (c) Prevent and reduce the incidence of out-of-wedlock
1227 pregnancies and establish annual numerical goals for preventing
1228 and reducing the incidence of these pregnancies;

1229 (d) Encourage the formation and maintenance of
1230 two-parent families; and

1231 (e) Prevent program fraud and abuse.

1232 (5) The Department of Human Services shall develop outcome
1233 and output indicators for each program established under the
1234 authority of this section. These measures shall provide
1235 legislators and administrators with information which measures the
1236 success or failure of the department in implementing the programs
1237 implemented under the authority of this section. The department
1238 shall annually report to the Legislature the outputs and outcomes



1239 of these programs, with the first report due by December 15, 1997.
1240 Such reports shall include recommendations for making programs
1241 more effective or efficient which can be effected in accordance
1242 with federal law.

1243 (6) Assistance may be granted under this chapter to any
1244 dependent child and a caretaker relative who are living in a
1245 suitable family home meeting the standards of care and health and
1246 work requirements fixed by the laws of this state, and the rules
1247 and regulations of the State Department of Human Services.

1248 (7) The Department of Human Services shall collaborate with
1249 the Office of Workforce Development on TANF programs related to
1250 job placement, job training and job retention.

1251 **SECTION 6.** Section 47-5-541, Mississippi Code of 1972, is
1252 amended as follows:

1253 47-5-541. (1) The corporation shall be governed by a board
1254 of directors. The board of directors of the nonprofit corporation
1255 shall be composed of the following eleven (11) members who shall
1256 be appointed by the Governor with the advice and consent of the
1257 Senate: one (1) representative of the manufacturing industry, one
1258 (1) representative of the agriculture industry, one (1)
1259 representative of the banking and finance industry, one (1)
1260 representative of the labor industry, one (1) representative from
1261 the marketing industry and six (6) members from the state at
1262 large. In addition, the State Commissioner of Corrections and the
1263 President of Mississippi Delta Community College shall be ex



1264 officio members of the board of directors with full voting
1265 privileges. In making initial appointments, three (3) members
1266 shall be appointed for a term of two (2) years; four (4) members
1267 shall be appointed for a term of three (3) years; and four (4)
1268 members shall be appointed for a term of four (4) years; to be
1269 designated by the Governor at the time of appointment; and all
1270 succeeding terms shall be for four (4) years from the expiration
1271 date of the previous term. Initial appointments shall be made
1272 within thirty (30) days after passage of Sections 47-5-531 through
1273 47-5-575. Any vacancy shall be filled by the Governor, with the
1274 advice and consent of the Senate. The officers of the corporation
1275 shall consist of a chairman, vice chairman and a
1276 secretary-treasurer. The officers shall be selected by the
1277 members of the board. However, the Commissioner of Corrections
1278 and the President of Mississippi Delta Community College shall not
1279 be eligible to serve as an officer of the corporation.

1280 (2) The board of directors shall select and employ a chief
1281 executive officer of the corporation who shall serve at the
1282 pleasure of the board. The board shall set the compensation of
1283 the chief executive officer. The chief executive officer shall be
1284 responsible for the general business and entire operations of the
1285 corporation, and shall be responsible for operating the
1286 corporation in compliance with the bylaws of the corporation and
1287 in compliance with any provision of law. The board shall be
1288 authorized and empowered to do only those acts provided by law and



1289 by the bylaws of the corporation. Except as otherwise
1290 specifically provided by law, such board shall have the authority
1291 to establish prison industries, to cease the operation of any
1292 industry which it deems unsuitable or unprofitable, to enter into
1293 any lease or contract for the corporation and it shall have the
1294 full authority to establish prices for any industry good.

1295 (3) No member of the board of directors shall vote on any
1296 matter that comes before the board that could result in pecuniary
1297 benefit for himself or for any entity in which such member has an
1298 interest.

1299 (4) In addition to the board of directors, an advisory board
1300 may be set up for the benefit of each industry which is
1301 established pursuant to the provisions of Sections 47-5-531
1302 through 47-5-575. Such boards shall be advisory only, and may be
1303 set up in the discretion of the board of directors of the
1304 corporation.

1305 (5) Each member of the board of directors of the corporation
1306 shall receive per diem as provided in Section 25-3-69 for each day
1307 or fraction thereof spent in actual discharge of his official
1308 duties and shall be reimbursed for mileage and actual expenses
1309 incurred in the performance of his official duties in accordance
1310 with the requirements of Section 25-3-41, Mississippi Code of
1311 1972.

1312 (6) The board of directors shall make and publish policies,
1313 rules and regulations governing all business functions, including



1314 but not limited to accounting, marketing, purchasing and
1315 personnel, not inconsistent with the terms of Sections 47-5-531
1316 through 47-5-575, as may be necessary for the efficient
1317 administration and operation of the corporation.

1318 (7) The chief executive officer of the corporation shall:

1319 (a) Employ all necessary employees of the corporation
1320 and dismiss them as is necessary;

1321 (b) Administer the daily operations of the corporation,
1322 including establishing education, training and workforce
1323 development programs in collaboration with the Office of Workforce
1324 Development and other relevant state and federal agencies;

1325 (c) Upon approval of the board of directors, execute
1326 any contracts on behalf of the corporation; and

1327 (d) Take any further actions which are necessary and
1328 proper toward the achievement of the corporation purposes.

1329 (8) A member of the board of directors of the corporation
1330 shall not be liable for any civil damages for any personal injury
1331 or property damage caused to a person as a result of any acts or
1332 omissions committed in good faith in the exercise of their duties
1333 as members of the board of directors of the corporation, except
1334 where a member of the board engages in acts or omissions which are
1335 intentional, willful, wanton, reckless or grossly negligent.

1336 **SECTION 7.** This act shall take effect and be in force from
1337 and after its passage.

