

By: Senator(s) Parker

To: Economic and Workforce
Development

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



395 Development contributions. Payments shall be made semiannually
396 with the cost allocated to each based on a USDOL approved plan on
397 a pro rata basis, for periods ending in June and December of each
398 year. Payment shall be made by each organization to the
399 department no later than sixty (60) days after the billing date.
400 Cost shall be allocated under the USDOL's approved plan and in the
401 same ratio as each contribution type represents to the total
402 authorized by subparagraph (ii)2 of this paragraph to be collected
403 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 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 * * * appropriate
415 Department of Employment Security Treasury Account, with oversight
416 provided by the Mississippi Office of Workforce Development * * *
417 In cases of extraordinary circumstances, these funds shall be
418 transferred within fifteen (15) days. Interest earnings or
419 interest credits on deposit amounts in the * * * Accelerate



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

432 (* * * c) All enforcement procedures for the collection
433 of delinquent unemployment contributions contained in Sections
434 71-5-363 through 71-5-383 shall be applicable in all respects for
435 collections of delinquent unemployment insurance contributions
436 designated for the Unemployment Compensation Fund * * * and the
437 Accelerate Mississippi Workforce 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 the * * * and individual
446 community and junior colleges to employers and employees in order
447 to enhance employee productivity, recruit individuals into
448 training programs, improve job retention in the state, raise the
449 labor participation rate of the state and otherwise create a
450 work-ready applicant pool of individuals with credentials or
451 post-secondary education, as determined by the Office of Workforce
452 Development. Such training may be subject to a minimal
453 administrative fee to be paid from the * * * Accelerate
454 Mississippi Workforce Development Fund as established by the
455 Office of Workforce Development. The initial priority of these
456 funds shall be for the benefit of existing businesses located
457 within the state. Employers may request training for existing
458 employees and/or newly hired employees from the Mississippi Office
459 of Workforce Development. The office * * * will be responsible
460 for approving the training. A portion of the funds collected for
461 the * * * Accelerate Mississippi Workforce Development Fund shall
462 be used for the development of performance measures to measure the
463 effectiveness of the use of the * * * Accelerate Mississippi
464 Workforce Development Fund dollars. These performance measures
465 shall be uniform for all training projects and shall be reported
466 to the Governor, Lieutenant Governor, Speaker of the House, and
467 members of the Legislature. Nothing in this section or elsewhere
468 in law shall be interpreted as giving the Office of Workforce
469 Development or State Workforce Investment Board authority to



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

487 (ii) Except as otherwise provided in this
488 paragraph (* * * d), a maximum of ten percent (10%) of all funds
489 deposited into the * * * Accelerate Mississippi Workforce
490 Development bank account shall be used for administration of State
491 Workforce Investment Board business * * * and the Office of
492 Workforce Development, * * * subject to the approval of the State
493 Workforce Investment Board.



494 (iii) * * * In no case shall * * * Accelerate
495 Mississippi Workforce Development funds be used to supplant
496 workforce funds available from any other sources, including, but
497 not limited to, local, state or federal sources that are available
498 for workforce training and development. * * *

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

511 2. In managing the * * * Accelerate
512 Mississippi Workforce Development bank account, the Office of
513 Workforce Development, in coordination with the Mississippi
514 Department of Employment Security as fiscal agent, shall ensure
515 that any funds expended for contractual services rendered to the
516 Office of Workforce Development shall be paid only to service
517 providers who have been selected on a competitive basis. Any
518 contract for services entered into using funds from the * * *



519 Accelerate Mississippi Workforce Development Fund bank account
520 shall contain the deliverables stated in terms that allow for the
521 assessment of work performance against measurable performance
522 standards and shall include milestones for completion of each
523 deliverable under the contract. For each contract for services
524 entered into by the Office of Workforce Development, the office
525 shall develop a quality assurance surveillance plan that specifies
526 quality control obligations of the contractor as well as
527 measurable inspection and acceptance criteria corresponding to the
528 performance standards contained in the contract's statement of
529 work.

530 3. Any commodities procured for the office
531 shall be procured in accordance with the provisions of Section
532 31-7-13.

533 * * *

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

538 (* * * ii) The * * * Accelerate Mississippi
539 Workforce Development contribution shall be in addition to the
540 general experience rate plus the individual experience rate of all
541 employers but shall not be charged to reimbursing or rate-paying
542 political subdivisions or institutions of higher learning, or



543 reimbursing nonprofit organizations, as described in Sections
544 71-5-357 and 71-5-359.

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

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



568 immediately preceding the effective date of the next rate year
569 that has an insured unemployment rate of less than an average of
570 four and five-tenths percent (4.5%). Upon such occurrence,
571 reactivation shall be effective upon the first day of the rate
572 year following the event that lifts suspension and shall be in
573 effect for that year and shall continue until such time as a
574 subsequent suspension event as described in this chapter occurs.

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

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

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

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

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



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

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

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

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



618 September 30 following the computation date. No employer or
619 employing unit shall be eligible for a contribution rate of less
620 than five and four-tenths percent (5.4%) for the tax year in which
621 the employing unit is found by the department to be in violation
622 of Section 71-5-19(2) or (3) and for the next two (2) succeeding
623 tax years. No representative of such employing unit who was a
624 party to a violation as described in Section 71-5-19(2) or (3), if
625 such representative was or is an employing unit in this state,
626 shall be eligible for a contribution rate of less than five and
627 four-tenths percent (5.4%) for the tax year in which such
628 violation was detected by the department and for the next two (2)
629 succeeding tax years.

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

640 (g) "Modified rates" means the rates of employer
641 unemployment insurance contributions determined under the



642 provisions of this chapter and the rates of newly subject
643 employers, as provided in Section 71-5-353.

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

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



667 any other provision contained herein, the date for determining the
668 cash balance of the Unemployment Compensation Fund which is
669 available for the payment of benefits for the calendar years 2020
670 and 2021 shall be December 31.

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

687 The CRC shall be computed as the average for the highest
688 monthly value of the cost rate criterion computations during each
689 of the economic cycles since the calendar year 1974 as defined by
690 the National Bureau of Economic Research. The CRC shall be



691 computed to four (4) decimal places and any remainder shall be
692 rounded up.

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

695 (k) "Size of fund index" (SOFI) is defined as the ratio
696 of the exposure criterion (EC) to the cost rate criterion (CRC).
697 The target size of fund index will be fixed at 1.0. If the
698 insured unemployment rate (IUR) exceeds a four and five-tenths
699 percent (4.5%) average for the most recent completed July to June
700 period, the target SOFI will be .8 and will remain at that level
701 until the computed SOFI (the average exposure criterion of the
702 current year and the preceding year divided by the average cost
703 rate criterion) equals 1.0 or the average IUR falls to four and
704 five-tenths percent (4.5%) or less for any period July to June.
705 However, if the IUR falls below two and five-tenths percent (2.5%)
706 for any period July to June the target SOFI shall be 1.2 until
707 such time as the computed SOFI is equal to or greater than 1.0 or
708 the IUR is equal to or greater than two and five-tenths percent
709 (2.5%), at which point the target SOFI shall return to 1.0.

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



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

717 (2) Modified rates:

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

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

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

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



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

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

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

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

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

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



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

767 8. Was paid benefits during any week while in
768 training with the approval of the department, under the provisions
769 of Section 71-5-513B, or for any week while in training approved
770 under Section 236(a) (1) of the Trade Act of 1974, under the
771 provisions of Section 71-5-513C;

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

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

781 (iii) Notwithstanding any other provision
782 contained herein, an employer shall not be noncharged when the
783 department finds that the employer or the employer's agent of
784 record was at fault for failing to respond timely or adequately to
785 the request of the department for information relating to an
786 unemployment claim that was subsequently determined to be



787 improperly paid, unless the employer or the employer's agent of
788 record shows good cause for having failed to respond timely or
789 adequately to the request of the department for information. For
790 purposes of this subparagraph "good cause" means an event that
791 prevents the employer or employer's agent of record from timely
792 responding, and includes a natural disaster, emergency or similar
793 event, or an illness on the part of the employer, the employer's
794 agent of record, or their staff charged with responding to such
795 inquiries when there is no other individual who has the knowledge
796 or ability to respond. Any agency error that resulted in a delay
797 in, or the failure to deliver notice to, the employer or the
798 employer's agent of record shall also be considered good cause for
799 purposes of this subparagraph.

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



811 tenth of a percent (.1%), rounding any remainder to the next
812 higher tenth.

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

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

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

834 a. The total of the amounts of benefits
835 charged to the experience-rating records of all eligible employers



836 which caused their benefit ratios to exceed five and four-tenths
837 percent (5.4%);

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

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



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

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



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

889 5. The general experience rate shall be zero
890 percent (0%) unless the general experience ratio for any tax year
891 as computed and adjusted on the basis of the trust fund adjustment
892 factor and reduced by fifty percent (50%) is an amount equal to or
893 greater than two-tenths of one percent (.2%), then the general
894 experience rate shall be the computed general experience ratio and
895 adjusted on the basis of the trust fund adjustment factor and
896 reduced by fifty percent (50%); however, in no case shall the sum
897 of the general experience plus the individual experience
898 unemployment insurance rate exceed five and four-tenths percent
899 (5.4%). For rate years subsequent to 2014, * * * Accelerate
900 Mississippi Workforce Development contribution rate, when in
901 effect, shall be added to the unemployment contribution rate,
902 regardless of whether the addition of this contribution rate
903 causes the total contribution rate for the employer to exceed five
904 and four-tenths percent (5.4%).

905 6. The department shall include in its annual
906 rate notice to employers a brief explanation of the elements of
907 the general experience rate, and shall include in its regular
908 publications an annual analysis of benefits not charged to the
909 record of any employer, and of the benefit experience of employers



910 by industry group whose benefit ratio exceeds four percent (4%),
911 and of any other factors which may affect the size of the general
912 experience rate.

913 7. Notwithstanding any other provision
914 contained herein, the general experience rate for calendar year
915 2021 shall be zero percent (0%). Charges attributed to each
916 employer's individual experience rate for the period March 8,
917 2020, through June 30, 2020, will not impact the employer's
918 individual experience rate calculations for purposes of
919 calculating the total unemployment insurance rate for 2021 and the
920 two (2) subsequent tax rate years. Moreover, charges attributed
921 to each employer's individual experience rate for the period July
922 1, 2020, through December 31, 2020, will not impact the employer's
923 individual experience rate calculations for purposes of
924 calculating the total unemployment insurance rate for 2022 and the
925 two (2) subsequent tax rate years.

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



935 date of acquisition to the successor employer for the purpose of
936 rate determination.

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

942 1. The mutual consent of the predecessor and
943 the successor;

944 2. Approval of the department;

945 3. Continued operation of the transferred
946 portion by the successor after transfer; and

947 4. The execution and the filing with the
948 department by the predecessor employer of a waiver relinquishing
949 all rights to have the experience-rating and payroll records of
950 the transferred portion used for the purpose of determining
951 modified rates of contribution for such predecessor.

952 (viii) If the successor was an employer subject to
953 this chapter prior to the date of acquisition, it shall continue
954 to pay unemployment insurance contributions at the rate applicable
955 to it from the date the acquisition occurred until the end of the
956 then current tax year. If the successor was not an employer prior
957 to the date of acquisition, it shall pay unemployment insurance
958 contributions at the rate applicable to the predecessor or, if
959 more than one (1) predecessor and the same rate is applicable to



960 both, the rate applicable to the predecessor or predecessors, from
961 the date the acquisition occurred until the end of the then
962 current tax year. If the successor was not an employer prior to
963 the date the acquisition occurred and simultaneously acquires the
964 businesses of two (2) or more employers to whom different rates of
965 unemployment insurance contributions are applicable, it shall pay
966 unemployment insurance contributions from the date of the
967 acquisition until the end of the current tax year at a rate
968 computed on the basis of the combined experience-rating and
969 payroll records of the predecessors as of the computation date for
970 such tax year. In all cases the rate of unemployment insurance
971 contributions applicable to such successor for each succeeding tax
972 year shall be computed on the basis of the combined
973 experience-rating and payroll records of the successor and the
974 predecessor or predecessors.

975 (ix) The department shall notify each employer
976 quarterly of the benefits paid and charged to his or her
977 experience-rating record; and such notification, in the absence of
978 an application for redetermination filed within thirty (30) days
979 after the date of such notice, shall be final, conclusive and
980 binding upon the employer for all purposes. A redetermination,
981 made after notice and opportunity for a fair hearing, by a hearing
982 officer designated by the department who shall consider and decide
983 these and related applications and protests; and the finding of
984 fact in connection therewith may be introduced into any subsequent



985 administrative or judicial proceedings involving the determination
986 of the rate of unemployment insurance contributions of any
987 employer for any tax year, and shall be entitled to the same
988 finality as is provided in this subsection with respect to the
989 findings of fact in proceedings to redetermine the contribution
990 rate of an employer.

991 (x) The department shall notify each employer of
992 his or her rate of contribution as determined for any tax year as
993 soon as reasonably possible after September 1 of the preceding
994 year. Such determination shall be final, conclusive and binding
995 upon such employer unless, within thirty (30) days after the date
996 of such notice to his or her last-known address, the employer
997 files with the department an application for review and
998 redetermination of his or her contribution rate, setting forth his
999 or her reasons therefor. If the department grants such review,
1000 the employer shall be promptly notified thereof and shall be
1001 afforded an opportunity for a fair hearing by a hearing officer
1002 designated by the department who shall consider and decide these
1003 and related applications and protests; but no employer shall be
1004 allowed, in any proceeding involving his or her rate of
1005 unemployment insurance contributions or contribution liability, to
1006 contest the chargeability to his or her account of any benefits
1007 paid in accordance with a determination, redetermination or
1008 decision pursuant to Sections 71-5-515 through 71-5-533 except
1009 upon the ground that the services on the basis of which such



1010 benefits were found to be chargeable did not constitute services
1011 performed in employment for him or her, and then only in the event
1012 that he or she was not a party to such determination,
1013 redetermination, decision or to any other proceedings provided in
1014 this chapter in which the character of such services was
1015 determined. The employer shall be promptly notified of the denial
1016 of this application or of the redetermination, both of which shall
1017 become final unless, within ten (10) days after the date of notice
1018 thereof, there shall be an appeal to the department itself. Any
1019 such appeal shall be on the record before said designated hearing
1020 officer, and the decision of said department shall become final
1021 unless, within thirty (30) days after the date of notice thereof
1022 to the employer's last-known address, there shall be an appeal to
1023 the Circuit Court of the First Judicial District of Hinds County,
1024 Mississippi, in accordance with the provisions of law with respect
1025 to review of civil causes by certiorari.

1026 (3) Notwithstanding any other provision of law, the
1027 following shall apply regarding assignment of rates and transfers
1028 of experience:

1029 (a) (i) If an employer transfers its trade or
1030 business, or a portion thereof, to another employer and, at the
1031 time of the transfer, there is substantially common ownership,
1032 management or control of the two (2) employers, then the
1033 unemployment experience attributable to the transferred trade or
1034 business shall be transferred to the employer to whom such



1035 business is so transferred. The rates of both employers shall be
1036 recalculated and made effective on January 1 of the year following
1037 the year the transfer occurred.

1038 (ii) If, following a transfer of experience under
1039 subparagraph (i) of this paragraph (a), the department determines
1040 that a substantial purpose of the transfer of trade or business
1041 was to obtain a reduced liability of unemployment insurance
1042 contributions, then the experience-rating accounts of the
1043 employers involved shall be combined into a single account and a
1044 single rate assigned to such account.

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



1060 business, whether the person continued the business enterprise of
1061 the acquired business, how long such business enterprise was
1062 continued, or whether a substantial number of new employees were
1063 hired for performance of duties unrelated to the business activity
1064 conducted prior to acquisition.

1065 (c) (i) If a person knowingly violates or attempts to
1066 violate paragraph (a) or (b) of this subsection or any other
1067 provision of this chapter related to determining the assignment of
1068 a contribution rate, or if a person knowingly advises another
1069 person in a way that results in a violation of such provision, the
1070 person shall be subject to the following penalties:

1071 1. If the person is an employer, then such
1072 employer shall be assigned the highest rate assignable under this
1073 chapter for the rate year during which such violation or attempted
1074 violation occurred and the three (3) rate years immediately
1075 following this rate year. However, if the person's business is
1076 already at such highest rate for any year, or if the amount of
1077 increase in the person's rate would be less than two percent (2%)
1078 for such year, then the person's tax rate shall be increased by
1079 two percent (2%) for such year. The penalty rate will apply to
1080 the successor business as well as the related entity from which
1081 the employees were transferred in an effort to obtain a lower rate
1082 of unemployment insurance contributions.

1083 2. If the person is not an employer, such
1084 person shall be subject to a civil money penalty of not more than



1085 Five Thousand Dollars (\$5,000.00). Each such transaction for
1086 which advice was given and each occurrence or reoccurrence after
1087 notification being given by the department shall be a separate
1088 offense and punishable by a separate penalty. Any such fine shall
1089 be deposited in the penalty and interest account established under
1090 Section 71-5-114.

1091 (ii) For purposes of this paragraph (c), the term
1092 "knowingly" means having actual knowledge of or acting with
1093 deliberate ignorance or reckless disregard for the prohibition
1094 involved.

1095 (iii) For purposes of this paragraph (c), the term
1096 "violates or attempts to violate" includes, but is not limited to,
1097 intent to evade, misrepresentation or willful nondisclosure.

1098 (iv) In addition to the penalty imposed by
1099 subparagraph (i) of this paragraph (c), any violation of this
1100 subsection may be punishable by a fine of not more than Ten
1101 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1102 five (5) years, or by both such fine and imprisonment. This
1103 subsection shall prohibit prosecution under any other criminal
1104 statute of this state.

1105 (d) The department shall establish procedures to
1106 identify the transfer or acquisition of a business for purposes of
1107 this subsection.

1108 (e) For purposes of this subsection:



1109 (i) "Person" has the meaning given such term by
1110 Section 7701(a) (1) of the Internal Revenue Code of 1986; and

1111 (ii) "Employing unit" has the meaning as set forth
1112 in Section 71-5-11.

1113 (f) This subsection shall be interpreted and applied in
1114 such a manner as to meet the minimum requirements contained in any
1115 guidance or regulations issued by the United States Department of
1116 Labor.

1117 **SECTION 4.** Section 71-5-453, Mississippi Code of 1972, is
1118 amended as follows:

1119 71-5-453. The department shall be the treasurer and
1120 custodian of the fund, and shall administer such fund in
1121 accordance with the directions of the department, and shall issue
1122 its warrants upon it in accordance with such regulations as the
1123 department shall prescribe. The department shall maintain within
1124 the fund three (3) separate accounts: (a) a clearing account, (b)
1125 an unemployment trust fund account, and (c) a benefit payment
1126 account. All monies payable to the fund, upon receipt thereof by
1127 the department, shall be immediately deposited in the clearing
1128 account. Refunds payable pursuant to Section 71-5-383 may be paid
1129 from the clearing account by the department. Transfers pursuant
1130 to Section 71-5-114 of all interest, penalties and damages
1131 collected shall be made to the Special Employment Security
1132 Administration Fund as soon as practicable after the end of each
1133 calendar quarter. * * * Accelerate Mississippi Workforce



1134 Development contributions shall be deposited into the * * *
1135 Accelerate Mississippi Workforce Development Holding Account as
1136 described in this section. All other monies in the clearing
1137 account shall be immediately deposited with the Secretary of the
1138 Treasury of the United States of America to the Unemployment Trust
1139 Fund account for the State of Mississippi, established and
1140 maintained pursuant to Section 904 of the Social Security Act, as
1141 amended, any provisions of law in this state relating to the
1142 deposit, administration, release or disbursement of monies in the
1143 possession or custody of this state to the contrary
1144 notwithstanding. The benefit account shall consist of all monies
1145 requisitioned from this state's account in the Unemployment Trust
1146 Fund. Except as herein otherwise provided, monies in the clearing
1147 and benefit accounts may be deposited by the department, in any
1148 bank or public depository in which general funds of the state may
1149 be deposited, but no public deposit insurance charge or premium
1150 shall be paid out of the fund. The department shall be liable for
1151 the faithful performance of its duties in connection with the
1152 Unemployment Compensation Fund under this chapter. An * * *
1153 Accelerate Mississippi Workforce Development Holding Account shall
1154 be established by and maintained under the control of the
1155 Mississippi Department of Employment Security. Contributions
1156 collected pursuant to the provisions in this chapter for the * * *
1157 Accelerate Mississippi Workforce Development Fund shall be
1158 transferred from the clearing account into the * * * Accelerate



1159 Mississippi Workforce Development Holding Account on the same
1160 schedule and under the same conditions as funds transferred to the
1161 Unemployment Compensation Fund. Such funds shall remain on
1162 deposit in the holding account for a period of thirty (30) days.
1163 After such period, * * * Accelerate Mississippi Workforce
1164 Development contributions shall be transferred to the
1165 appropriate * * * Department of Employment Security Treasury
1166 Account, with oversight provided by the Mississippi Office of
1167 Workforce Development * * *. Such transfers shall occur within
1168 fifteen (15) days after the funds have resided in the * * *
1169 Accelerate Mississippi Workforce Development Holding Account for
1170 thirty (30) days. One (1) such transfer shall be made monthly,
1171 but the department, in its discretion, may make additional
1172 transfers in any month. In the event such funds transferred are
1173 subsequently determined to be erroneously paid or collected, or if
1174 deposit of such funds is denied or rejected by the banking
1175 institution for any reason, or deposits are unable to clear
1176 drawer's account for any reason, the funds must be reimbursed by
1177 the recipient of such funds within thirty (30) days of mailing of
1178 notice by the department demanding such refund, unless funds are
1179 available in the * * * Accelerate Mississippi Workforce
1180 Development Holding Account. In that event such amounts shall be
1181 immediately withdrawn from the * * * Accelerate Mississippi
1182 Workforce Development Holding Account by the department and
1183 redeposited into the clearing account.



1184 **SECTION 5.** Section 43-17-1, Mississippi Code of 1972, is
1185 amended as follows:

1186 43-17-1. (1) The State of Mississippi hereby accepts all of
1187 the mandatory provisions and benefits, with the exception of those
1188 provisions under which the state may exercise its options, of
1189 Title I of an act passed by the Senate and House of
1190 Representatives of the United States of America, in Congress
1191 assembled, entitled: "The Personal Responsibility and Work
1192 Opportunity Reconciliation Act of 1996 (Public Law 104-193)," and
1193 known as the Temporary Assistance to Needy Families (TANF)
1194 program.

1195 (2) The Department of Human Services shall have all
1196 necessary authority to cooperate with the federal government in
1197 the administration of Public Law 104-193 and all subsequent
1198 federal amendments thereto, to administer any legislation pursuant
1199 thereto enacted by the State of Mississippi, and to administer the
1200 funds provided by the federal government and the State of
1201 Mississippi under the provisions of Section 43-17-1 et seq., for
1202 providing temporary assistance for needy families with minor
1203 children. The Department of Human Services shall have full
1204 authority to formulate state plans consistent with state law as
1205 necessary to administer and operate federal grant funds which
1206 provide temporary assistance for needy families with minor
1207 children under Title IV-A of the federal Social Security Act. The
1208 Department of Human Services shall identify in any state plan



1209 submitted to implement the TANF program those requirements or
1210 restrictions, including persons excluded from program
1211 participation which are required under federal law, and those
1212 program requirements or restrictions which the federal law
1213 authorizes but does not require.

1214 (3) Any funds received by the State of Mississippi under the
1215 provisions of Public Law 104-193 shall be subject to appropriation
1216 by the Legislature and consistent with the terms and conditions
1217 required under such appropriation.

1218 (4) The purpose of the Mississippi Temporary Assistance to
1219 Needy Families (TANF) program shall be to:

1220 (a) Provide assistance to needy families so that
1221 children may be cared for in their own homes or in the homes of
1222 relatives when such care is beneficial and may be monitored on a
1223 random basis by the Department of Human Services or the State
1224 Department of Health;

1225 (b) End the dependence of needy families on government
1226 benefits by promoting job preparation, work and marriage through,
1227 among other things, job placement, job training and job retention;

1228 (c) Prevent and reduce the incidence of out-of-wedlock
1229 pregnancies and establish annual numerical goals for preventing
1230 and reducing the incidence of these pregnancies;

1231 (d) Encourage the formation and maintenance of
1232 two-parent families; and

1233 (e) Prevent program fraud and abuse.



1234 (5) The Department of Human Services shall develop outcome
1235 and output indicators for each program established under the
1236 authority of this section. These measures shall provide
1237 legislators and administrators with information which measures the
1238 success or failure of the department in implementing the programs
1239 implemented under the authority of this section. The department
1240 shall annually report to the Legislature the outputs and outcomes
1241 of these programs, with the first report due by December 15, 1997.
1242 Such reports shall include recommendations for making programs
1243 more effective or efficient which can be effected in accordance
1244 with federal law.

1245 (6) Assistance may be granted under this chapter to any
1246 dependent child and a caretaker relative who are living in a
1247 suitable family home meeting the standards of care and health and
1248 work requirements fixed by the laws of this state, and the rules
1249 and regulations of the State Department of Human Services.

1250 (7) The Department of Human Services shall collaborate with
1251 the Office of Workforce Development on TANF programs related to
1252 job placement, job training and job retention.

1253 **SECTION 6.** Section 47-5-541, Mississippi Code of 1972, is
1254 amended as follows:

1255 47-5-541. (1) The corporation shall be governed by a board
1256 of directors. The board of directors of the nonprofit corporation
1257 shall be composed of the following eleven (11) members who shall
1258 be appointed by the Governor with the advice and consent of the



1259 Senate: one (1) representative of the manufacturing industry, one
1260 (1) representative of the agriculture industry, one (1)
1261 representative of the banking and finance industry, one (1)
1262 representative of the labor industry, one (1) representative from
1263 the marketing industry and six (6) members from the state at
1264 large. In addition, the State Commissioner of Corrections and the
1265 President of Mississippi Delta Community College shall be ex
1266 officio members of the board of directors with full voting
1267 privileges. In making initial appointments, three (3) members
1268 shall be appointed for a term of two (2) years; four (4) members
1269 shall be appointed for a term of three (3) years; and four (4)
1270 members shall be appointed for a term of four (4) years; to be
1271 designated by the Governor at the time of appointment; and all
1272 succeeding terms shall be for four (4) years from the expiration
1273 date of the previous term. Initial appointments shall be made
1274 within thirty (30) days after passage of Sections 47-5-531 through
1275 47-5-575. Any vacancy shall be filled by the Governor, with the
1276 advice and consent of the Senate. The officers of the corporation
1277 shall consist of a chairman, vice chairman and a
1278 secretary-treasurer. The officers shall be selected by the
1279 members of the board. However, the Commissioner of Corrections
1280 and the President of Mississippi Delta Community College shall not
1281 be eligible to serve as an officer of the corporation.

1282 (2) The board of directors shall select and employ a chief
1283 executive officer of the corporation who shall serve at the



1284 pleasure of the board. The board shall set the compensation of
1285 the chief executive officer. The chief executive officer shall be
1286 responsible for the general business and entire operations of the
1287 corporation, and shall be responsible for operating the
1288 corporation in compliance with the bylaws of the corporation and
1289 in compliance with any provision of law. The board shall be
1290 authorized and empowered to do only those acts provided by law and
1291 by the bylaws of the corporation. Except as otherwise
1292 specifically provided by law, such board shall have the authority
1293 to establish prison industries, to cease the operation of any
1294 industry which it deems unsuitable or unprofitable, to enter into
1295 any lease or contract for the corporation and it shall have the
1296 full authority to establish prices for any industry good.

1297 (3) No member of the board of directors shall vote on any
1298 matter that comes before the board that could result in pecuniary
1299 benefit for himself or for any entity in which such member has an
1300 interest.

1301 (4) In addition to the board of directors, an advisory board
1302 may be set up for the benefit of each industry which is
1303 established pursuant to the provisions of Sections 47-5-531
1304 through 47-5-575. Such boards shall be advisory only, and may be
1305 set up in the discretion of the board of directors of the
1306 corporation.

1307 (5) Each member of the board of directors of the corporation
1308 shall receive per diem as provided in Section 25-3-69 for each day



1309 or fraction thereof spent in actual discharge of his official
1310 duties and shall be reimbursed for mileage and actual expenses
1311 incurred in the performance of his official duties in accordance
1312 with the requirements of Section 25-3-41, Mississippi Code of
1313 1972.

1314 (6) The board of directors shall make and publish policies,
1315 rules and regulations governing all business functions, including
1316 but not limited to accounting, marketing, purchasing and
1317 personnel, not inconsistent with the terms of Sections 47-5-531
1318 through 47-5-575, as may be necessary for the efficient
1319 administration and operation of the corporation.

1320 (7) The chief executive officer of the corporation shall:

1321 (a) Employ all necessary employees of the corporation
1322 and dismiss them as is necessary;

1323 (b) Administer the daily operations of the corporation,
1324 including establishing education, training and workforce
1325 development programs in collaboration with the Office of Workforce
1326 Development and other relevant state and federal agencies;

1327 (c) Upon approval of the board of directors, execute
1328 any contracts on behalf of the corporation; and

1329 (d) Take any further actions which are necessary and
1330 proper toward the achievement of the corporation purposes.

1331 (8) A member of the board of directors of the corporation
1332 shall not be liable for any civil damages for any personal injury
1333 or property damage caused to a person as a result of any acts or



1334 omissions committed in good faith in the exercise of their duties
1335 as members of the board of directors of the corporation, except
1336 where a member of the board engages in acts or omissions which are
1337 intentional, willful, wanton, reckless or grossly negligent.

1338 **SECTION 7.** This act shall take effect and be in force from
1339 and after its passage.

