

House Amendments to Senate Bill No. 2723

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

30 37-153-7. (1) There is created the Mississippi Office of
31 Workforce Development (also known as "Accelerate Mississippi") and
32 the Mississippi State Workforce Investment Board, which shall
33 serve as the advisory board for the office. The Mississippi State
34 Workforce Investment Board shall be composed of thirty-one (31)
35 voting members, of which a majority shall be representatives of
36 business and industry in accordance with the federal Workforce
37 Innovation and Opportunity Act, or any successive acts.

38 (2) The members of the State Workforce Investment Board
39 shall include:

40 (a) The Governor, or his designee;

41 (b) Nineteen (19) members, appointed by the Governor,
42 of whom:

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

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

54 2. Represent businesses, including small
55 businesses, or organizations representing businesses, which
56 provide employment opportunities that, at a minimum, include
57 high-quality, work-relevant training and development in
58 high-demand industry sectors or occupations in the state; and

59 3. Are appointed from among individuals
60 nominated by state business organizations and business trade
61 associations;

62 (ii) Not less than twenty percent (20%) shall
63 consist of representatives of the workforce within the state,
64 which:

65 1. Includes labor organization
66 representatives who have been nominated by state labor
67 federations;

68 2. Includes a labor organization member or
69 training director from an apprenticeship program in the state,

70 which shall be a joint labor-management apprenticeship program if
71 such a program exists in the state;

72 3. May include representatives of
73 community-based organizations, including organizations serving
74 veterans or providing or supporting competitive, integrated
75 employment for individuals with disabilities, who have
76 demonstrated experience and expertise in addressing employment,
77 training or education needs of individuals with barriers to
78 employment; and

79 4. May include representatives of
80 organizations, including organizations serving out-of-school
81 youth, who have demonstrated experience or expertise in addressing
82 the employment, training or education needs of eligible youth;

83 (iii) The balance shall include government
84 representatives, including the lead state officials with primary
85 responsibility for core programs, and chief elected officials
86 (collectively representing both cities and counties, where
87 appropriate);

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

90 * * *

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

92 (i) The Executive Director of the Mississippi
93 Department of Employment Security;

94 (ii) The Executive Director of the Department of
95 Rehabilitation Services;

96 (iii) The State Superintendent of Public
97 Education;

98 (iv) The Executive Director of the Mississippi
99 Development Authority;

100 (v) The Executive Director of the Mississippi
101 Community College Board;

102 (vi) The President of the Community College
103 Association; and

104 (vii) The Commissioner of the Institutions of
105 Higher Learning.

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

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

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

115 (* * *h) The membership of the board shall reflect the
116 diversity of the State of Mississippi.

117 (* * *i) The Governor shall designate the Chairman of
118 the Mississippi State Workforce Investment Board from among the
119 business and industry voting members of the board, and a quorum of
120 the board shall consist of a majority of the voting members of the
121 board.

122 (* * *j) The voting members of the board who are not
123 state employees shall be entitled to reimbursement of their
124 reasonable expenses in the manner and amount specified in Section
125 25-3-41 and shall be entitled to receive per diem compensation as
126 authorized in Section 25-3-69.

127 (3) Members of the state board may be recalled by their
128 appointing authority for cause, including a felony conviction,
129 fraudulent or dishonest acts or gross abuse of discretion, failure
130 to meet board member qualifications, or chronic failure to attend
131 board meetings.

132 (4) The Mississippi Department of Employment Security shall
133 establish limits on administrative costs for each portion of
134 Mississippi's workforce development system consistent with the
135 federal Workforce Investment Act or any future federal workforce
136 legislation.

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

142 (a) Through the office, develop and submit to the
143 Governor, Lieutenant Governor and Speaker of the House a strategic
144 plan for an integrated state workforce development system that
145 aligns resources and structures the system to more effectively and
146 efficiently meet the demands of Mississippi's employers and job
147 seekers. This plan will comply with the federal Workforce

148 Investment Act of 1998, as amended, the federal Workforce
149 Innovation and Opportunity Act of 2014 and amendments and
150 successor legislation to these acts;

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

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

156 (ii) Review local workforce development plans that
157 reflect the use of funds from the federal Workforce Investment
158 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
159 Act and the amendment or successor legislation to the acts, and
160 the Mississippi Comprehensive Workforce Training and Education
161 Consolidation Act;

162 (c) Recommend to the office the designation of local
163 workforce investment areas as required in Section 116 of the
164 federal Workforce Investment Act of 1998 and the Workforce
165 Innovation and Opportunity Act of 2014. There shall be four (4)
166 workforce investment areas that are generally aligned with the
167 planning and development district structure in Mississippi.
168 Planning and development districts will serve as the fiscal agents
169 to manage Workforce Investment Act funds, oversee and support the
170 local workforce investment boards aligned with the area and the
171 local programs and activities as delivered by the one-stop
172 employment and training system. The planning and development
173 districts will perform this function through the provisions of the

174 county cooperative service districts created under Sections
175 19-3-101 through 19-3-115; however, planning and development
176 districts currently performing this function under the Interlocal
177 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
178 continue to do so;

179 (d) Assist the Governor in the development of an
180 allocation formula for the distribution of funds for adult
181 employment and training activities and youth activities to local
182 workforce investment areas;

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

186 (f) Assist the Governor in the establishment and
187 management of a one-stop employment and training system conforming
188 to the requirements of the federal Workforce Investment Act of
189 1998 and the Workforce Innovation and Opportunity Act of 2014, as
190 amended, recommending policy for implementing the Governor's
191 approved plan for employment and training activities and services
192 within the state. In developing this one-stop career operating
193 system, the Mississippi State Workforce Investment Board, in
194 conjunction with local workforce investment boards, shall:

195 (i) Design broad guidelines for the delivery of
196 workforce development programs;

197 (ii) Identify all existing delivery agencies and
198 other resources;

199 (iii) Define appropriate roles of the various
200 agencies to include an analysis of service providers' strengths
201 and weaknesses;

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

204 (v) Develop a financial plan to support the
205 delivery system that shall, at a minimum, include an
206 accountability system;

207 (g) To provide authority, in accordance with any
208 executive order of the Governor, for developing the necessary
209 collaboration among state agencies at the highest level for
210 accomplishing the purposes of this chapter;

211 (h) To monitor the effectiveness of the workforce
212 development centers and WIN job centers;

213 (i) To advise the Governor, public schools,
214 community/junior colleges and institutions of higher learning on
215 effective school-to-work transition policies and programs that
216 link students moving from high school to higher education and
217 students moving between community colleges and four-year
218 institutions in pursuit of academic and technical skills training;

219 (j) To work with industry to identify barriers that
220 inhibit the delivery of quality workforce education and the
221 responsiveness of educational institutions to the needs of
222 industry;

223 (k) To provide periodic assessments on effectiveness
224 and results of the overall Mississippi comprehensive workforce
225 development system and district councils;

226 (l) Develop broad statewide development goals,
227 including a goal to raise the state's labor force participation
228 rate;

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

232 (n) To assist the Governor in carrying out any other
233 responsibility required by the federal Workforce Investment Act of
234 1998, as amended and the Workforce Innovation and Opportunity Act,
235 successor legislation and amendments.

236 (6) The Mississippi State Workforce Investment Board shall
237 coordinate all training programs and funds within its purview,
238 consistent with the federal Workforce Investment Act, Workforce
239 Innovation and Opportunity Act, amendments and successor
240 legislation to these acts, and other relevant federal law.

241 Each state agency director responsible for workforce training
242 activities shall advise the Mississippi Office of Workforce
243 Development and the State Workforce Investment Board of
244 appropriate federal and state requirements. Each state agency,
245 department and institution shall report any monies received for
246 workforce training activities or career and technical education
247 and a detailed itemization of how those monies were spent to the
248 state board. The board shall compile the data and provide a

249 report of the monies and expenditures to the Chairs of the House
250 and Senate Appropriations Committee, the Chair of the House
251 Workforce Development Committee and the Chair of the Senate
252 Economic and Workforce Development Committee by October 1 of each
253 year. Each such state agency director shall remain responsible
254 for the actions of his agency; however, each state agency and
255 director shall work cooperatively to fulfill the state's goals.

256 (7) The State Workforce Investment Board shall establish an
257 executive committee, which shall consist of the following State
258 Workforce Investment Board members:

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

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

262 (c) The * * * four (4) business representatives
263 currently serving on the state board appointed by the Lieutenant
264 Governor;

265 * * *

266 (* * * d) The two (2) legislators, who shall serve in a
267 nonvoting capacity, one (1) of whom shall be appointed by the
268 Lieutenant Governor from the membership of the Mississippi Senate
269 and one (1) of whom shall be appointed by the Speaker of the House
270 of Representatives from the membership of the Mississippi House of
271 Representatives.

272 (8) The executive committee shall select an executive
273 director of the Office of Workforce Development, with the advice
274 and consent of a majority of the State Workforce Investment Board.

275 The executive committee shall seek input from economic development
276 organizations across the state when selecting the executive
277 director. The executive director shall:

278 (a) Be a person with extensive experience in
279 development of economic, human and physical resources, and
280 promotion of industrial and commercial development. The executive
281 director shall have a bachelor's degree from a state-accredited
282 institution and no less than eight (8) years of professional
283 experience related to workforce or economic development;

284 (b) Perform the functions necessary for the daily
285 operation and administration of the office, with oversight from
286 the executive committee and the State Workforce Investment Board,
287 to fulfill the duties of the state board as described in Chapter
288 476, Laws of 2020;

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

294 (d) Enter any part of the Mississippi Community College
295 Board, individual community and junior colleges, or other
296 workforce training facilities operated by the state or its
297 subdivisions;

298 (e) Serve at the will and pleasure of the executive
299 committee;

300 (f) Promulgate rules and regulations, subject to
301 oversight by the executive committee, not inconsistent with this
302 chapter, as may be necessary to enforce the provisions in Chapter
303 476, Laws of 2020; and

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

307 (9) The Office of Workforce Development * * * shall * * *
308 administer and oversee the Mississippi Workforce Enhancement
309 Training Fund and Mississippi Works Fund, as described in Section
310 71-5-353. The executive director shall maintain complete and
311 exclusive operational control of the office's functions.

312 (10) The office shall file an annual report with the
313 Governor, Secretary of State, President of the Senate, Secretary
314 of the Senate, Speaker of the House, and Clerk of the House not
315 later than October 1 of each year regarding all funds approved by
316 the office to be expended on workforce training during the prior
317 calendar year. The report shall include:

318 (a) Information on the performance of the Mississippi
319 Workforce Enhancement Training Fund and the Mississippi Works
320 Fund, in terms of adding value to the local and state economy, the
321 contribution to future growth of the state economy, and movement
322 toward state goals, including increasing the labor force
323 participation rate; and

324 (b) With respect to specific workforce training
325 projects:

326 (i) The location of the training;
327 (ii) The amount allocated to the project;
328 (iii) The purpose of the project;
329 (iv) The specific business entity that is the
330 beneficiary of the project; and
331 (v) The number of employees intended to be trained
332 and actually trained, if applicable, in the course of the project.

333 (c) All information concerning a proposed project which
334 is provided to the executive director shall be kept confidential.
335 Such confidentiality shall not limit disclosure under the
336 Mississippi Public Records Act of 1983 of records describing the
337 nature, quantity, cost or other pertinent information related to
338 the activities of, or services performed using, the Mississippi
339 Workforce Enhancement Training Fund or the Mississippi Works Fund.

340 (11) Nothing in Chapter 476, Laws of 2020 [Senate Bill No.
341 2564] shall void or otherwise interrupt any contract, lease, grant
342 or other agreement previously entered into by the State Workforce
343 Investment Board, Mississippi Community College Board, individual
344 community or junior colleges, or other entities.

345 (12) The Office of Workforce Development shall be required
346 to submit a separate program budget with the budget request for
347 the Mississippi Department of Employment Security as provided in
348 Section 27-103-129, and the office shall have a separate line-item
349 budget in the appropriation bill for the Mississippi Department of
350 Employment Security.

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

353 71-5-353. (1) (a) Each employer shall pay unemployment
354 insurance contributions equal to five and four-tenths percent
355 (5.4%) of taxable wages paid by him each calendar year, except as
356 may be otherwise provided in Section 71-5-361 and except that each
357 newly subject employer shall pay unemployment insurance
358 contributions at the rate of one percent (1%) of taxable wages,
359 for his first year of liability, one and one-tenth percent (1.1%)
360 of taxable wages for his second year of liability, and one and
361 two-tenths percent (1.2%) of taxable wages for his third and
362 subsequent years of liability unless the employer's
363 experience-rating record has been chargeable throughout at least
364 the twelve (12) consecutive calendar months ending on the most
365 recent computation date at the time the rate for a year is
366 determined; thereafter the employer's contribution rate shall be
367 determined in accordance with the provisions of Section 71-5-355.

368 (b) Notwithstanding the newly subject employer
369 contribution rate provided for in paragraph (a) of this
370 subsection, the contribution rate of all newly subject employers
371 shall be reduced by seven one-hundredths of one percent (.07%) for
372 calendar year 2013 only. The contribution rate of all newly
373 subject employers shall be reduced by three one-hundredths of one
374 percent (.03%) for calendar year 2014 only. For purposes of this
375 chapter, "newly subject employers" means employers whose
376 unemployment insurance experience-rating record has not been

377 chargeable throughout at least the twelve (12) consecutive
378 calendar months ending on the most recent computation date at the
379 time the contribution rate for a year is determined.

380 (2) (a) (i) There is hereby created in the Treasury of the
381 State of Mississippi special funds to be known as the "Mississippi
382 Workforce Enhancement Training Fund," * * * the "Mississippi Works
383 Fund" and the "Accelerate Mississippi Administration Fund" which
384 consist of funds collected pursuant to subsection (3) of this
385 section. Monies in each of the special funds shall be expended
386 only upon appropriation by the Legislature.

387 (ii) Funds collected shall initially be deposited
388 into the Mississippi Department of Employment Security bank
389 account for clearing contribution collections and * * * later
390 appropriate amounts shall be transferred to the Mississippi
391 Workforce Investment and Training Fund Holding Account described
392 in Section 71-5-453. In the event any employer pays an amount
393 insufficient to cover the total contributions due, the amounts due
394 shall be satisfied in the following order:

- 395 1. Unemployment contributions;
- 396 2. Mississippi Workforce Enhancement Training
397 contributions, * * * Accelerate Mississippi contributions
398 and * * * Mississippi Works contributions, known collectively as
399 the Mississippi Workforce Investment and Training contributions,
400 on a pro rata basis;
- 401 3. Interest and damages; then
- 402 4. Legal and processing costs.

403 The amount of unemployment insurance contributions due for
404 any period will be the amount due according to the actual
405 computations unless the employer is participating in the MLPP. In
406 that event, the amount due is the MLPP amount computed by the
407 department.

408 The cost of collection and administration of the Mississippi
409 Workforce Enhancement Training contribution, the * * * Accelerate
410 Mississippi contribution and the Mississippi Works contribution
411 shall be allocated based on a plan approved by the United States
412 Department of Labor (USDOL). The * * * Office of Workforce
413 Development shall pay the cost of collecting the Mississippi
414 Workforce Enhancement Training contributions, * * * the * * *
415 Accelerate Mississippi contributions and * * * the Mississippi
416 Works contributions. Payments shall be made semiannually with the
417 cost allocated to each based on a USDOL approved plan on a pro
418 rata basis, for periods ending in June and December of each year.
419 Payment shall be made by each organization to the department no
420 later than sixty (60) days after the billing date. Cost shall be
421 allocated under the USDOL's approved plan and in the same ratio as
422 each contribution type represents to the total authorized by
423 subparagraph (ii)2 of this paragraph to be collected for the
424 period.

425 (b) Mississippi Workforce Enhancement Training
426 contributions and * * * Accelerate Mississippi contributions shall
427 be distributed * * * for calendar years * * * after 2014 as
428 follows, ninety-three and seventy-five one-hundredths percent

429 (93.75%) shall be distributed to the Mississippi Workforce
430 Enhancement Training Fund and the remainder shall be distributed
431 to the * * * Accelerate Mississippi Administration Fund.

432 * * *

433 (c) All contributions collected for the State Workforce
434 Enhancement Training Fund, the * * * Accelerate Mississippi
435 Administration Fund and the Mississippi Works Fund will be
436 initially deposited into the Mississippi Department of Employment
437 Security bank account for clearing contribution collections
438 and * * * later transferred to the Workforce Investment and
439 Training Holding Account and will be held by the Mississippi
440 Department of Employment Security in such account for a period of
441 not less than thirty (30) days. After such period, the
442 Mississippi Workforce Enhancement Training contributions shall be
443 transferred to the * * * Mississippi Workforce Enhancement
444 Training Fund, * * * the * * * Accelerate Mississippi
445 contributions shall be transferred to the Accelerate Mississippi
446 Administration Fund, and the Mississippi Works contributions shall
447 be transferred to the * * * Mississippi Works * * * Fund in the
448 same ratio as each contribution type represents to the total
449 authorized by paragraph (a)(ii)2 of this subsection to be
450 collected for the period and within the time frame determined by
451 the department; however, except in cases of extraordinary
452 circumstances, these funds shall be transferred within fifteen
453 (15) days. Interest earnings or interest credits on deposit
454 amounts in the Workforce Investment and Training Holding Account

455 shall be retained in the account to pay the banking costs of the
456 account. If after the period of twelve (12) months interest
457 earnings less banking costs exceeds Ten Thousand Dollars
458 (\$10,000.00), such excess amounts shall be transferred to the
459 respective accounts within thirty (30) days following the end of
460 each calendar year on the basis described in paragraph (b) of this
461 subsection. Interest earnings and/or interest credits for
462 the * * * Accelerate Mississippi funds shall be used for the
463 payment of banking costs and excess amounts shall be used in
464 accordance with the rules and regulations of the State Workforce
465 Investment Board expenditure policies.

466 (d) All enforcement procedures for the collection of
467 delinquent unemployment contributions * * * shall be the
468 responsibility of the department under Sections 71-5-363 through
469 71-5-383, which shall be applicable in all respects for
470 collections of delinquent unemployment insurance contributions
471 designated for the Unemployment Compensation Fund, the Mississippi
472 Workforce Enhancement Training Fund, the * * * Accelerate
473 Mississippi Administration Fund and the Mississippi Works Fund.

474 (e) (i) Except as otherwise provided for in this
475 subparagraph (i), all monies deposited into the Mississippi
476 Workforce Enhancement Training Fund * * * shall be directed by the
477 Mississippi Office of Workforce Development * * * in accordance
478 with the Workforce Training Act of 1994 (Section 37-153-1 et seq.)
479 and under policies approved by the Mississippi Office of Workforce
480 Development for the following purposes: to provide training in

481 collaboration with * * * individual community and junior colleges
482 to employers and employees in order to enhance employee
483 productivity. Such training may be subject to a minimal
484 administrative fee to be paid from the Mississippi Workforce
485 Enhancement Training Fund as established by the Office of
486 Workforce Development. The initial priority of these funds shall
487 be for the benefit of existing businesses located within the
488 state. Employers may request training for existing employees
489 and/or newly hired employees from the Mississippi Office of
490 Workforce Development. The office * * * will be responsible for
491 approving the training. A portion of the funds collected for the
492 Mississippi Workforce Enhancement Training Fund shall be used for
493 the development of performance measures to measure the
494 effectiveness of the use of the Mississippi Workforce Enhancement
495 Training Fund dollars. These performance measures shall be
496 uniform for all training projects and shall be reported to the
497 Governor, Lieutenant Governor, Speaker of the House, and members
498 of the Legislature. Nothing in this section or elsewhere in law
499 shall be interpreted as giving the Office of Workforce Development
500 or State Workforce Investment Board authority to direct the
501 Mississippi Community College Board or individual community or
502 junior colleges on how to expend other funds, aside from funds
503 appropriated to the Mississippi Workforce Enhancement Training
504 Fund and Mississippi Works Fund, appropriated or received for
505 workforce training. The Mississippi Office of Workforce
506 Development, Mississippi Community College Board, individual

507 community or junior colleges, State Workforce Investment Board and
508 other agencies implementing or coordinating state-funded workforce
509 development programs under state law shall cooperate with each
510 other to promote effective workforce training in Mississippi,
511 under the direction of the office. Any subsequent changes to
512 these performance measures shall also be reported to the Governor,
513 Lieutenant Governor, Speaker of the House, and members of the
514 Legislature. A performance report for each training project and
515 community college, based upon these measures, shall be submitted
516 annually to the Governor, Lieutenant Governor, Speaker of the
517 House, and members of the Legislature.

518 (ii) Except as otherwise provided in this
519 paragraph (e), all funds deposited into the * * * Accelerate
520 Mississippi Administration Fund shall be used for administration
521 of State Workforce Investment Board business * * * and the Office
522 of Workforce Development * * *.

523 (iii) All funds deposited into the Mississippi
524 Department of Employment Security Mississippi Works Fund shall be
525 disbursed exclusively by the Executive Director of the Mississippi
526 Department of Employment Security, in accordance with the rules
527 and regulations promulgated by the Office of Workforce Development
528 in support of workforce training activities approved by the
529 Mississippi Office of Workforce Development in support of economic
530 development activities. Funds allocated by the executive director
531 under this subparagraph (iii) shall only be * * * used for the
532 training of unemployed persons, for immediate training needs for

533 the net new jobs created by an employer, for the retention of jobs
534 or to create a work-ready applicant pool of Mississippians with
535 credentials and/or postsecondary education in accordance with the
536 state's Workforce Investment and Opportunity Act plan. The
537 Executive Director of the Office of Workforce Development shall
538 give priority to the training of unemployed persons. * * * Not
539 more than Five Hundred Thousand Dollars (\$500,000.00) may be
540 allocated annually for the training needs of any one (1) employer.
541 The Mississippi Office of Workforce Development, in collaboration
542 with the Mississippi Public Community College System and its
543 partners, shall be the primary entity to facilitate
544 training. * * * Training conducted * * * using these Mississippi
545 Works funds may be subject to a minimal administrative fee to be
546 paid from the Mississippi Works Fund as authorized by the
547 Mississippi Office of Workforce Development. All costs associated
548 with the administration of these funds shall be reimbursed to the
549 Mississippi Department of Employment Security from the Mississippi
550 Works Fund.

551 (iv) 1. The Department of Employment Security
552 shall be the fiscal agent for the receipt and disbursement of all
553 funds in the * * * Accelerate Mississippi Administration Fund,
554 subject to the administrative oversight of the Office of Workforce
555 Development.

556 2. In managing the * * * Accelerate
557 Mississippi Administration Fund, the Office of Workforce
558 Development, in coordination with the Mississippi Department of

559 Employment Security as fiscal agent, shall ensure that any funds
560 expended for contractual services rendered to the Office of
561 Workforce Development shall be paid only to service providers who
562 have been selected on a competitive basis. Any contract for
563 services entered into using funds from the * * * Accelerate
564 Mississippi Administration Fund shall contain the deliverables
565 stated in terms that allow for the assessment of work performance
566 against measurable performance standards and shall include
567 milestones for completion of each deliverable under the contract.
568 For each contract for services entered into by the Office of
569 Workforce Development, the office shall develop a quality
570 assurance surveillance plan that specifies quality control
571 obligations of the contractor as well as measurable inspection and
572 acceptance criteria corresponding to the performance standards
573 contained in the contract's statement of work.

574 3. Any commodities procured for the office
575 shall be procured in accordance with the provisions of Section
576 31-7-13.

577 * * *

578 (3) (a) (i) * * * Mississippi Workforce Enhancement
579 Training contributions, * * * Accelerate Mississippi contributions
580 and Mississippi Works contributions shall be collected at the
581 following rates:

582 * * *

583 * * *1. For calendar years * * * after 2016,
584 at a rate of twenty one-hundredths percent (.20%), based upon

585 taxable wages, of which fifteen one-hundredths percent (.15%)
586 shall be the Workforce Enhancement Training contribution,
587 one-hundredths of one percent (.01%) shall be the * * * Accelerate
588 Mississippi contribution and four one-hundredths percent (.04%)
589 shall be the Mississippi Works contribution. The Mississippi
590 Works contribution shall be collected for calendar years in which
591 the general experience ratio, adjusted on the basis of the trust
592 fund adjustment factor and reduced by fifty percent (50%), results
593 in a general experience rate of less than two-tenths percent
594 (.2%). In all other years the Mississippi Works contribution
595 shall not be in effect.

596 (* * * ii) The Mississippi Workforce Enhancement
597 Training Fund contribution, the * * * Accelerate Mississippi
598 contribution and the Mississippi Works contribution shall be in
599 addition to the general experience rate plus the individual
600 experience rate of all employers but shall not be charged to
601 reimbursing or rate-paying political subdivisions or institutions
602 of higher learning, or reimbursing nonprofit organizations, as
603 described in Sections 71-5-357 and 71-5-359.

604 (b) All Mississippi Workforce Enhancement Training
605 contributions, * * * Accelerate Mississippi contributions and
606 Mississippi Works contributions collected shall be deposited
607 initially into the Mississippi Department of Employment Security
608 bank account for clearing contribution collections and shall
609 within two (2) business days be transferred to the Workforce
610 Investment and Training Holding Account. Any Mississippi

611 Workforce Enhancement Training Fund and/or * * * Accelerate
612 Mississippi Administration Fund and/or Mississippi Works Fund
613 transactions from the Mississippi Department of Employment
614 Security bank account for clearing contribution collections that
615 are deposited into the Workforce Investment and Training Fund
616 Holding Account and are not honored by a financial institution
617 will be transferred back to the Mississippi Department of
618 Employment Security bank account for clearing contribution
619 collections out of funds in the Mississippi Workforce Investment
620 and Training Fund Holding Account.

621 (c) Suspension of the Workforce Enhancement Training
622 Fund contributions required pursuant to this chapter shall occur
623 if the insured unemployment rate exceeds an average of five and
624 five-tenths percent (5.5%) for the three (3) consecutive months
625 immediately preceding the effective date of the new rate year
626 following such occurrence and shall remain suspended throughout
627 the duration of that rate year. Such suspension shall continue
628 until such time as the three (3) consecutive months immediately
629 preceding the effective date of the next rate year that has an
630 insured unemployment rate of less than an average of four and
631 five-tenths percent (4.5%). Upon such occurrence, reactivation
632 shall be effective upon the first day of the rate year following
633 the event that lifts suspension and shall be in effect for that
634 year and shall continue until such time as a subsequent suspension
635 event as described in this chapter occurs.

636 (d) Notwithstanding any other provision contained
637 herein, contribution collections for the * * * Accelerate
638 Mississippi Administration Fund, Mississippi Works Fund and
639 Mississippi Workforce Enhancement Training Fund shall not be
640 suspended, under any circumstances, for tax rate year 2021, and
641 the resulting contribution rate of twenty one-hundredths percent
642 (.20%) shall be added to the employer's general and individual
643 experience rate to obtain the total unemployment insurance rate
644 for 2021.

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

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

651 71-5-355. (1) As used in this section, the following words
652 and phrases shall have the following meanings, unless the context
653 clearly requires otherwise:

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

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

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

660 (d) Except as hereinafter provided, "payroll" means the
661 total of all wages paid for employment by an employer as defined

662 in Section 71-5-11, subsection H, plus the total of all
663 remuneration paid by such employer excluded from the definition of
664 wages by Section 71-5-351. For the computation of modified rates,
665 "payroll" means the total of all wages paid for employment by an
666 employer as defined in Section 71-5-11, subsection H.

667 (e) For the computation of modified rates, "eligible
668 employer" means an employer whose experience-rating record has
669 been chargeable with benefits throughout the thirty-six (36)
670 consecutive calendar-month period ending on the computation date,
671 except that any employer who has not been subject to the
672 Mississippi Employment Security Law for a period of time
673 sufficient to meet the thirty-six (36) consecutive calendar-month
674 requirement shall be an eligible employer if his or her
675 experience-rating record has been chargeable throughout not less
676 than the twelve (12) consecutive calendar-month period ending on
677 the computation date. No employer shall be considered eligible
678 for a contribution rate less than five and four-tenths percent
679 (5.4%) with respect to any tax year, who has failed to file any
680 two (2) quarterly reports within the qualifying period by
681 September 30 following the computation date. No employer or
682 employing unit shall be eligible for a contribution rate of less
683 than five and four-tenths percent (5.4%) for the tax year in which
684 the employing unit is found by the department to be in violation
685 of Section 71-5-19(2) or (3) and for the next two (2) succeeding
686 tax years. No representative of such employing unit who was a
687 party to a violation as described in Section 71-5-19(2) or (3), if

688 such representative was or is an employing unit in this state,
689 shall be eligible for a contribution rate of less than five and
690 four-tenths percent (5.4%) for the tax year in which such
691 violation was detected by the department and for the next two (2)
692 succeeding tax years.

693 (f) With respect to any tax year, "reserve ratio" means
694 the ratio which the total amount available for the payment of
695 benefits in the Unemployment Compensation Fund, excluding any
696 amount which has been credited to the account of this state under
697 Section 903 of the Social Security Act, as amended, and which has
698 been appropriated for the expenses of administration pursuant to
699 Section 71-5-457 whether or not withdrawn from such account, on
700 October 31 (close of business) of each calendar year bears to the
701 aggregate of the taxable payrolls of all employers for the twelve
702 (12) calendar months ending on June 30 next preceding.

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

707 (h) For the computation of modified rates, "qualifying
708 period" means a period of not less than the thirty-six (36)
709 consecutive calendar months ending on the computation date
710 throughout which an employer's experience-rating record has been
711 chargeable with benefits; except that with respect to any eligible
712 employer who has not been subject to this article for a period of
713 time sufficient to meet the thirty-six (36) consecutive

714 calendar-month requirement, "qualifying period" means the period
715 ending on the computation date throughout which his or her
716 experience-rating record has been chargeable with benefits, but in
717 no event less than the twelve (12) consecutive calendar-month
718 period ending on the computation date throughout which his or her
719 experience-rating record has been so chargeable.

720 (i) The "exposure criterion" (EC) is defined as the
721 cash balance of the Unemployment Compensation Fund which is
722 available for the payment of benefits as of November 16 of each
723 calendar year or the next working day if November 16 falls on a
724 holiday or a weekend, divided by the total wages, exclusive of
725 wages paid by all state agencies, all political subdivisions,
726 reimbursable nonprofit corporations, and tax-exempt public service
727 employment, for the twelve-month period ending June 30 immediately
728 preceding such date. The EC shall be computed to four (4) decimal
729 places and rounded up if any fraction remains. Notwithstanding
730 any other provision contained herein, the date for determining the
731 cash balance of the Unemployment Compensation Fund which is
732 available for the payment of benefits for the calendar years 2020
733 and 2021 shall be December 31.

734 (j) The "cost rate criterion" (CRC) is defined as
735 follows: Beginning with January 1974, the benefits paid for the
736 twelve-month period ending December 1974 are summed and divided by
737 the total wages for the twelve-month period ending on June 30,
738 1975. Similar ratios are computed by subtracting the earliest
739 month's benefit payments and adding the benefits of the next month

740 in the sequence and dividing each sum of twelve (12) months'
741 benefits by the total wages for the twelve-month period ending on
742 the June 30 which is nearest to the final month of the period used
743 to compute the numerator. If December is the final month of the
744 period used to compute the numerator, then the twelve-month period
745 ending the following June 30 will be used for the denominator.
746 Benefits and total wages used in the computation of the cost rate
747 criterion shall exclude all benefits and total wages applicable to
748 state agencies, political subdivisions, reimbursable nonprofit
749 corporations, and tax-exempt PSE employment.

750 The CRC shall be computed as the average for the highest
751 monthly value of the cost rate criterion computations during each
752 of the economic cycles since the calendar year 1974 as defined by
753 the National Bureau of Economic Research. The CRC shall be
754 computed to four (4) decimal places and any remainder shall be
755 rounded up.

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

758 (k) "Size of fund index" (SOFI) is defined as the ratio
759 of the exposure criterion (EC) to the cost rate criterion (CRC).
760 The target size of fund index will be fixed at 1.0. If the
761 insured unemployment rate (IUR) exceeds a four and five-tenths
762 percent (4.5%) average for the most recent completed July to June
763 period, the target SOFI will be .8 and will remain at that level
764 until the computed SOFI (the average exposure criterion of the
765 current year and the preceding year divided by the average cost

766 rate criterion) equals 1.0 or the average IUR falls to four and
767 five-tenths percent (4.5%) or less for any period July to June.
768 However, if the IUR falls below two and five-tenths percent (2.5%)
769 for any period July to June the target SOFI shall be 1.2 until
770 such time as the computed SOFI is equal to or greater than 1.0 or
771 the IUR is equal to or greater than two and five-tenths percent
772 (2.5%), at which point the target SOFI shall return to 1.0.

773 (1) No employer's unemployment contribution general
774 experience rate plus individual unemployment experience rate shall
775 exceed five and four-tenths percent (5.4%). Accrual rules shall
776 apply for purposes of computing contribution rates including
777 associated functions.

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

780 (2) Modified rates:

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

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

789 (i) The department shall maintain an
790 experience-rating record for each employer. Nothing in this
791 chapter shall be construed to grant any employer or individuals

792 performing services for him or her any prior claim or rights to
793 the amounts paid by the employer into the fund.

794 (ii) Benefits paid to an eligible individual shall
795 be charged against the experience-rating record of his or her base
796 period employers in the proportion to which the wages paid by each
797 base period employer bears to the total wages paid to the
798 individual by all the base period employers, provided that
799 benefits shall not be charged to an employer's experience-rating
800 record if the department finds that the individual:

801 1. Voluntarily left the employ of such
802 employer without good cause attributable to the employer or to
803 accept other work;

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

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

811 4. Had base period wages which included wages
812 for previously uncovered services as defined in Section
813 71-5-511(e) to the extent that the Unemployment Compensation Fund
814 is reimbursed for such benefits pursuant to Section 121 of Public
815 Law 94-566;

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

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

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

825 7. Was hired to replace a United States
826 serviceman or servicewoman called into active duty and was laid
827 off upon the return to work by that serviceman or servicewoman,
828 unless such employer is a state agency or other political
829 subdivision or instrumentality of the state;

830 8. Was paid benefits during any week while in
831 training with the approval of the department, under the provisions
832 of Section 71-5-513B, or for any week while in training approved
833 under Section 236(a)(1) of the Trade Act of 1974, under the
834 provisions of Section 71-5-513C;

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

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

844 (iii) Notwithstanding any other provision
845 contained herein, an employer shall not be noncharged when the
846 department finds that the employer or the employer's agent of
847 record was at fault for failing to respond timely or adequately to
848 the request of the department for information relating to an
849 unemployment claim that was subsequently determined to be
850 improperly paid, unless the employer or the employer's agent of
851 record shows good cause for having failed to respond timely or
852 adequately to the request of the department for information. For
853 purposes of this subparagraph "good cause" means an event that
854 prevents the employer or employer's agent of record from timely
855 responding, and includes a natural disaster, emergency or similar
856 event, or an illness on the part of the employer, the employer's
857 agent of record, or their staff charged with responding to such
858 inquiries when there is no other individual who has the knowledge
859 or ability to respond. Any agency error that resulted in a delay
860 in, or the failure to deliver notice to, the employer or the
861 employer's agent of record shall also be considered good cause for
862 purposes of this subparagraph.

863 (iv) The department shall compute a benefit ratio
864 for each eligible employer, which shall be the quotient obtained
865 by dividing the total benefits charged to his or her
866 experience-rating record during the period his or her
867 experience-rating record has been chargeable, but not less than
868 the twelve (12) consecutive calendar-month period nor more than
869 the thirty-six (36) consecutive calendar-month period ending on

870 the computation date, by his or her total taxable payroll for the
871 same period on which all unemployment insurance contributions due
872 have been paid on or before the September 30 immediately following
873 the computation date. Such benefit ratio shall be computed to the
874 tenth of a percent (.1%), rounding any remainder to the next
875 higher tenth.

876 (v) 1. The unemployment insurance contribution
877 rate for each eligible employer shall be the sum of two (2) rates:
878 his or her individual experience rate in the range from zero
879 percent (0%) to five and four-tenths percent (5.4%), plus a
880 general experience rate. In no event shall the resulting
881 unemployment insurance rate be in excess of five and four-tenths
882 percent (5.4%), however, it is the intent of this section to
883 provide the ability for employers to have a tax rate, the general
884 experience rate plus the individual experience rate, of up to five
885 and four-tenths percent (5.4%).

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

889 3. The general experience rate shall be
890 determined in the following manner: The department shall
891 determine annually, for the thirty-six (36) consecutive
892 calendar-month period ending on the computation date, the amount
893 of benefits which were not charged to the record of any employer
894 and of benefits which were ineffectively charged to the employer's

895 experience-rating record. For the purposes of this item 3, the
896 term "ineffectively charged benefits" shall include:

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

901 b. The total of the amounts of benefits
902 charged to the experience-rating records of all ineligible
903 employers which would cause their benefit ratios to exceed five
904 and four-tenths percent (5.4%) if they were eligible employers;
905 and

906 c. The total of the amounts of benefits
907 charged or chargeable to the experience-rating record of any
908 employer who has discontinued his or her business or whose
909 coverage has been terminated within such period; provided, that
910 solely for the purposes of determining the amounts of
911 ineffectively charged benefits as herein defined, a "benefit
912 ratio" shall be computed for each ineligible employer, which shall
913 be the quotient obtained by dividing the total benefits charged to
914 his or her experience-rating record throughout the period ending
915 on the computation date, during which his or her experience-rating
916 record has been chargeable with benefits, by his or her total
917 taxable payroll for the same period on which all unemployment
918 insurance contributions due have been paid on or before the
919 September 30 immediately following the computation date; and
920 provided further, that such benefit ratio shall be computed to the

921 tenth of one percent (.1%) and any remainder shall be rounded to
922 the next higher tenth.

923 The ratio of the sum of these amounts (subsection
924 (2)(b)(v)3a, b and c) to the taxable wages paid during the same
925 period divided by all eligible employers whose benefit ratio did
926 not exceed five and four-tenths percent (5.4%), computed to the
927 next higher tenth of one percent (.1%), shall be the general
928 experience rate; however, the general experience rate for rate
929 year 2014 shall be two tenths of one percent (.2%) and to that
930 will be added the employer's individual experience rate for the
931 total unemployment insurance rate.

932 4. a. Except as otherwise provided in this
933 item 4, the general experience rate shall be adjusted by use of
934 the size of fund index factor. This factor may be positive or
935 negative, and shall be determined as follows: From the target
936 SOFI, as defined in subsection (1)(k) of this section, subtract
937 the simple average of the current and preceding years' exposure
938 criteria divided by the cost rate criterion, as defined in
939 subsection (1)(j) of this section. The result is then multiplied
940 by the product of the CRC, as defined in subsection (1)(j) of this
941 section, and total wages for the twelve-month period ending June
942 30 divided by the taxable wages for the twelve-month period ending
943 June 30. This is the percentage positive or negative added to the
944 general experience rate. The sum of the general experience rate
945 and the trust fund adjustment factor shall be multiplied by fifty

946 percent (50%) and this product shall be computed to one (1)
947 decimal place, and rounded to the next higher tenth.

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

952 5. The general experience rate shall be zero
953 percent (0%) unless the general experience ratio for any tax year
954 as computed and adjusted on the basis of the trust fund adjustment
955 factor and reduced by fifty percent (50%) is an amount equal to or
956 greater than two-tenths of one percent (.2%), then the general
957 experience rate shall be the computed general experience ratio and
958 adjusted on the basis of the trust fund adjustment factor and
959 reduced by fifty percent (50%); however, in no case shall the sum
960 of the general experience plus the individual experience
961 unemployment insurance rate exceed five and four-tenths percent
962 (5.4%). For rate years subsequent to 2014, Mississippi Workforce
963 Enhancement Training contribution rate, and/or State Workforce
964 Investment contribution rate, and/or Mississippi Works
965 contribution rate, when in effect, shall be added to the
966 unemployment contribution rate, regardless of whether the addition
967 of this contribution rate causes the total contribution rate for
968 the employer to exceed five and four-tenths percent (5.4%).

969 6. The department shall include in its annual
970 rate notice to employers a brief explanation of the elements of
971 the general experience rate, and shall include in its regular

972 publications an annual analysis of benefits not charged to the
973 record of any employer, and of the benefit experience of employers
974 by industry group whose benefit ratio exceeds four percent (4%),
975 and of any other factors which may affect the size of the general
976 experience rate.

977 7. Notwithstanding any other provision
978 contained herein, the general experience rate for calendar year
979 2021 shall be zero percent (0%). Charges attributed to each
980 employer's individual experience rate for the period March 8,
981 2020, through June 30, 2020, will not impact the employer's
982 individual experience rate calculations for purposes of
983 calculating the total unemployment insurance rate for 2021 and the
984 two (2) subsequent tax rate years. Moreover, charges attributed
985 to each employer's individual experience rate for the period July
986 1, 2020, through December 31, 2020, will not impact the employer's
987 individual experience rate calculations for purposes of
988 calculating the total unemployment insurance rate for 2022 and the
989 two (2) subsequent tax rate years.

990 (vi) When any employing unit in any manner
991 succeeds to or acquires the organization, trade, business or
992 substantially all the assets thereof of an employer, excepting any
993 assets retained by such employer incident to the liquidation of
994 his or her obligations, whether or not such acquiring employing
995 unit was an employer within the meaning of Section 71-5-11,
996 subsection H, prior to such acquisition, and continues such
997 organization, trade or business, the experience-rating and payroll

998 records of the predecessor employer shall be transferred as of the
999 date of acquisition to the successor employer for the purpose of
1000 rate determination.

1001 (vii) When any employing unit succeeds to or
1002 acquires a distinct and severable portion of an organization,
1003 trade or business, the experience-rating and payroll records of
1004 such portion, if separately identifiable, shall be transferred to
1005 the successor upon:

1006 1. The mutual consent of the predecessor and
1007 the successor;

1008 2. Approval of the department;

1009 3. Continued operation of the transferred
1010 portion by the successor after transfer; and

1011 4. The execution and the filing with the
1012 department by the predecessor employer of a waiver relinquishing
1013 all rights to have the experience-rating and payroll records of
1014 the transferred portion used for the purpose of determining
1015 modified rates of contribution for such predecessor.

1016 (viii) If the successor was an employer subject to
1017 this chapter prior to the date of acquisition, it shall continue
1018 to pay unemployment insurance contributions at the rate applicable
1019 to it from the date the acquisition occurred until the end of the
1020 then current tax year. If the successor was not an employer prior
1021 to the date of acquisition, it shall pay unemployment insurance
1022 contributions at the rate applicable to the predecessor or, if
1023 more than one (1) predecessor and the same rate is applicable to

1024 both, the rate applicable to the predecessor or predecessors, from
1025 the date the acquisition occurred until the end of the then
1026 current tax year. If the successor was not an employer prior to
1027 the date the acquisition occurred and simultaneously acquires the
1028 businesses of two (2) or more employers to whom different rates of
1029 unemployment insurance contributions are applicable, it shall pay
1030 unemployment insurance contributions from the date of the
1031 acquisition until the end of the current tax year at a rate
1032 computed on the basis of the combined experience-rating and
1033 payroll records of the predecessors as of the computation date for
1034 such tax year. In all cases the rate of unemployment insurance
1035 contributions applicable to such successor for each succeeding tax
1036 year shall be computed on the basis of the combined
1037 experience-rating and payroll records of the successor and the
1038 predecessor or predecessors.

1039 (ix) The department shall notify each employer
1040 quarterly of the benefits paid and charged to his or her
1041 experience-rating record; and such notification, in the absence of
1042 an application for redetermination filed within thirty (30) days
1043 after the date of such notice, shall be final, conclusive and
1044 binding upon the employer for all purposes. A redetermination,
1045 made after notice and opportunity for a fair hearing, by a hearing
1046 officer designated by the department who shall consider and decide
1047 these and related applications and protests; and the finding of
1048 fact in connection therewith may be introduced into any subsequent
1049 administrative or judicial proceedings involving the determination

1050 of the rate of unemployment insurance contributions of any
1051 employer for any tax year, and shall be entitled to the same
1052 finality as is provided in this subsection with respect to the
1053 findings of fact in proceedings to redetermine the contribution
1054 rate of an employer.

1055 (x) The department shall notify each employer of
1056 his or her rate of contribution as determined for any tax year as
1057 soon as reasonably possible after September 1 of the preceding
1058 year. Such determination shall be final, conclusive and binding
1059 upon such employer unless, within thirty (30) days after the date
1060 of such notice to his or her last-known address, the employer
1061 files with the department an application for review and
1062 redetermination of his or her contribution rate, setting forth his
1063 or her reasons therefor. If the department grants such review,
1064 the employer shall be promptly notified thereof and shall be
1065 afforded an opportunity for a fair hearing by a hearing officer
1066 designated by the department who shall consider and decide these
1067 and related applications and protests; but no employer shall be
1068 allowed, in any proceeding involving his or her rate of
1069 unemployment insurance contributions or contribution liability, to
1070 contest the chargeability to his or her account of any benefits
1071 paid in accordance with a determination, redetermination or
1072 decision pursuant to Sections 71-5-515 through 71-5-533 except
1073 upon the ground that the services on the basis of which such
1074 benefits were found to be chargeable did not constitute services
1075 performed in employment for him or her, and then only in the event

1076 that he or she was not a party to such determination,
1077 redetermination, decision or to any other proceedings provided in
1078 this chapter in which the character of such services was
1079 determined. The employer shall be promptly notified of the denial
1080 of this application or of the redetermination, both of which shall
1081 become final unless, within ten (10) days after the date of notice
1082 thereof, there shall be an appeal to the department itself. Any
1083 such appeal shall be on the record before said designated hearing
1084 officer, and the decision of said department shall become final
1085 unless, within thirty (30) days after the date of notice thereof
1086 to the employer's last-known address, there shall be an appeal to
1087 the Circuit Court of the First Judicial District of Hinds County,
1088 Mississippi, in accordance with the provisions of law with respect
1089 to review of civil causes by certiorari.

1090 (3) Notwithstanding any other provision of law, the
1091 following shall apply regarding assignment of rates and transfers
1092 of experience:

1093 (a) (i) If an employer transfers its trade or
1094 business, or a portion thereof, to another employer and, at the
1095 time of the transfer, there is substantially common ownership,
1096 management or control of the two (2) employers, then the
1097 unemployment experience attributable to the transferred trade or
1098 business shall be transferred to the employer to whom such
1099 business is so transferred. The rates of both employers shall be
1100 recalculated and made effective on January 1 of the year following
1101 the year the transfer occurred.

1102 (ii) If, following a transfer of experience under
1103 subparagraph (i) of this paragraph (a), the department determines
1104 that a substantial purpose of the transfer of trade or business
1105 was to obtain a reduced liability of unemployment insurance
1106 contributions, then the experience-rating accounts of the
1107 employers involved shall be combined into a single account and a
1108 single rate assigned to such account.

1109 (b) Whenever a person who is not an employer or an
1110 employing unit under this chapter at the time it acquires the
1111 trade or business of an employer, the unemployment experience of
1112 the acquired business shall not be transferred to such person if
1113 the department finds that such person acquired the business solely
1114 or primarily for the purpose of obtaining a lower rate of
1115 unemployment insurance contributions. Instead, such person shall
1116 be assigned the new employer rate under Section 71-5-353, unless
1117 assignment of the new employer rate results in an increase of less
1118 than two percent (2%), in which case such person would be assigned
1119 the new employer rate plus an additional two percent (2%) penalty
1120 for the rate year. In determining whether the business was
1121 acquired solely or primarily for the purpose of obtaining a lower
1122 rate of unemployment insurance contributions, the department shall
1123 use objective factors which may include the cost of acquiring the
1124 business, whether the person continued the business enterprise of
1125 the acquired business, how long such business enterprise was
1126 continued, or whether a substantial number of new employees were

1127 hired for performance of duties unrelated to the business activity
1128 conducted prior to acquisition.

1129 (c) (i) If a person knowingly violates or attempts to
1130 violate paragraph (a) or (b) of this subsection or any other
1131 provision of this chapter related to determining the assignment of
1132 a contribution rate, or if a person knowingly advises another
1133 person in a way that results in a violation of such provision, the
1134 person shall be subject to the following penalties:

1135 1. If the person is an employer, then such
1136 employer shall be assigned the highest rate assignable under this
1137 chapter for the rate year during which such violation or attempted
1138 violation occurred and the three (3) rate years immediately
1139 following this rate year. However, if the person's business is
1140 already at such highest rate for any year, or if the amount of
1141 increase in the person's rate would be less than two percent (2%)
1142 for such year, then the person's tax rate shall be increased by
1143 two percent (2%) for such year. The penalty rate will apply to
1144 the successor business as well as the related entity from which
1145 the employees were transferred in an effort to obtain a lower rate
1146 of unemployment insurance contributions.

1147 2. If the person is not an employer, such
1148 person shall be subject to a civil money penalty of not more than
1149 Five Thousand Dollars (\$5,000.00). Each such transaction for
1150 which advice was given and each occurrence or reoccurrence after
1151 notification being given by the department shall be a separate
1152 offense and punishable by a separate penalty. Any such fine shall

1153 be deposited in the penalty and interest account established under
1154 Section 71-5-114.

1155 (ii) For purposes of this paragraph (c), the term
1156 "knowingly" means having actual knowledge of or acting with
1157 deliberate ignorance or reckless disregard for the prohibition
1158 involved.

1159 (iii) For purposes of this paragraph (c), the term
1160 "violates or attempts to violate" includes, but is not limited to,
1161 intent to evade, misrepresentation or willful nondisclosure.

1162 (iv) In addition to the penalty imposed by
1163 subparagraph (i) of this paragraph (c), any violation of this
1164 subsection may be punishable by a fine of not more than Ten
1165 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1166 five (5) years, or by both such fine and imprisonment. This
1167 subsection shall prohibit prosecution under any other criminal
1168 statute of this state.

1169 (d) The department shall establish procedures to
1170 identify the transfer or acquisition of a business for purposes of
1171 this subsection.

1172 (e) For purposes of this subsection:

1173 (i) "Person" has the meaning given such term by
1174 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

1175 (ii) "Employing unit" has the meaning as set forth
1176 in Section 71-5-11.

1177 (f) This subsection shall be interpreted and applied in
1178 such a manner as to meet the minimum requirements contained in any

1179 guidance or regulations issued by the United States Department of
1180 Labor.

1181 **SECTION 4.** Section 71-5-453, Mississippi Code of 1972, is
1182 amended as follows:

1183 71-5-453. The department shall be the treasurer and
1184 custodian of the fund, and shall administer such fund in
1185 accordance with the directions of the department, and shall issue
1186 its warrants upon it in accordance with such regulations as the
1187 department shall prescribe. The department shall maintain within
1188 the fund three (3) separate accounts: (a) a clearing account, (b)
1189 an unemployment trust fund account, and (c) a benefit payment
1190 account. All monies payable to the fund, upon receipt thereof by
1191 the department, shall be immediately deposited in the clearing
1192 account. Refunds payable pursuant to Section 71-5-383 may be paid
1193 from the clearing account by the department. Transfers pursuant
1194 to Section 71-5-114 of all interest, penalties and damages
1195 collected shall be made to the Special Employment Security
1196 Administration Fund as soon as practicable after the end of each
1197 calendar quarter. Workforce Enhancement Training
1198 contributions, * * * Accelerate Mississippi contributions and
1199 Mississippi Works contributions shall be deposited into the
1200 Workforce Investment and Training Holding Account as described in
1201 this section. All other monies in the clearing account shall be
1202 immediately deposited with the Secretary of the Treasury of the
1203 United States of America to the Unemployment Trust Fund account
1204 for the State of Mississippi, established and maintained pursuant

1205 to Section 904 of the Social Security Act, as amended, any
1206 provisions of law in this state relating to the deposit,
1207 administration, release or disbursement of monies in the
1208 possession or custody of this state to the contrary
1209 notwithstanding. The benefit account shall consist of all monies
1210 requisitioned from this state's account in the Unemployment Trust
1211 Fund. Except as herein otherwise provided, monies in the clearing
1212 and benefit accounts may be deposited by the department, in any
1213 bank or public depository in which general funds of the state may
1214 be deposited, but no public deposit insurance charge or premium
1215 shall be paid out of the fund. The department shall be liable for
1216 the faithful performance of its duties in connection with the
1217 Unemployment Compensation Fund under this chapter. An Workforce
1218 Investment and Training Holding Account shall be established by
1219 and maintained under the control of the Mississippi Department of
1220 Employment Security. Contributions collected pursuant to the
1221 provisions in this chapter for the Workforce Enhancement Training
1222 Fund, * * * Accelerate Mississippi Administration Fund and the
1223 Mississippi Works Fund shall be transferred from the clearing
1224 account into the Workforce Investment and Training Holding Account
1225 on the same schedule and under the same conditions as funds
1226 transferred to the Unemployment Compensation Fund. Such funds
1227 shall remain on deposit in the holding account for a period of
1228 thirty (30) days. After such period, Workforce Enhancement
1229 Training contributions shall be transferred to the * * *
1230 Mississippi Workforce Enhancement Training Fund, Accelerate

1231 Mississippi contributions shall be transferred to the Accelerate
1232 Mississippi Administration Fund, and Mississippi Works
1233 contributions shall be transferred to the Mississippi Works Fund.
1234 Such transfers shall occur within fifteen (15) days after the
1235 funds have resided in the Workforce Investment and Training
1236 Holding Account for thirty (30) days. One (1) such transfer shall
1237 be made monthly, but the department, in its discretion, may make
1238 additional transfers in any month. In the event such funds
1239 transferred are subsequently determined to be erroneously paid or
1240 collected, or if deposit of such funds is denied or rejected by
1241 the banking institution for any reason, or deposits are unable to
1242 clear drawer's account for any reason, the funds must be
1243 reimbursed by the recipient of such funds within thirty (30) days
1244 of mailing of notice by the department demanding such refund,
1245 unless funds are available in the Workforce Investment and
1246 Training Holding Account. In that event such amounts shall be
1247 immediately withdrawn from the Workforce Investment and Training
1248 Holding Account by the department and redeposited into the
1249 clearing account.

1250 **SECTION 5.** Section 43-17-1, Mississippi Code of 1972, is
1251 amended as follows:

1252 43-17-1. (1) The State of Mississippi hereby accepts all of
1253 the mandatory provisions and benefits, with the exception of those
1254 provisions under which the state may exercise its options, of
1255 Title I of an act passed by the Senate and House of
1256 Representatives of the United States of America, in Congress

1257 assembled, entitled: "The Personal Responsibility and Work
1258 Opportunity Reconciliation Act of 1996 (Public Law 104-193)," and
1259 known as the Temporary Assistance to Needy Families (TANF)
1260 program.

1261 (2) The Department of Human Services shall have all
1262 necessary authority to cooperate with the federal government in
1263 the administration of Public Law 104-193 and all subsequent
1264 federal amendments thereto, to administer any legislation pursuant
1265 thereto enacted by the State of Mississippi, and to administer the
1266 funds provided by the federal government and the State of
1267 Mississippi under the provisions of Section 43-17-1 et seq., for
1268 providing temporary assistance for needy families with minor
1269 children. The Department of Human Services shall have full
1270 authority to formulate state plans consistent with state law as
1271 necessary to administer and operate federal grant funds which
1272 provide temporary assistance for needy families with minor
1273 children under Title IV-A of the federal Social Security Act. The
1274 Department of Human Services shall identify in any state plan
1275 submitted to implement the TANF program those requirements or
1276 restrictions, including persons excluded from program
1277 participation which are required under federal law, and those
1278 program requirements or restrictions which the federal law
1279 authorizes but does not require.

1280 (3) Any funds received by the State of Mississippi under the
1281 provisions of Public Law 104-193 shall be subject to appropriation

1282 by the Legislature and consistent with the terms and conditions
1283 required under such appropriation.

1284 (4) The purpose of the Mississippi Temporary Assistance to
1285 Needy Families (TANF) program shall be to:

1286 (a) Provide assistance to needy families so that
1287 children may be cared for in their own homes or in the homes of
1288 relatives when such care is beneficial and may be monitored on a
1289 random basis by the Department of Human Services or the State
1290 Department of Health;

1291 (b) End the dependence of needy families on government
1292 benefits by promoting job preparation, work and marriage through,
1293 among other things, job placement, job training and job retention;

1294 (c) Prevent and reduce the incidence of out-of-wedlock
1295 pregnancies and establish annual numerical goals for preventing
1296 and reducing the incidence of these pregnancies;

1297 (d) Encourage the formation and maintenance of
1298 two-parent families; and

1299 (e) Prevent program fraud and abuse.

1300 (5) The Department of Human Services shall develop outcome
1301 and output indicators for each program established under the
1302 authority of this section. These measures shall provide
1303 legislators and administrators with information which measures the
1304 success or failure of the department in implementing the programs
1305 implemented under the authority of this section. The department
1306 shall annually report to the Legislature the outputs and outcomes
1307 of these programs, with the first report due by December 15, 1997.

1308 Such reports shall include recommendations for making programs
1309 more effective or efficient which can be effected in accordance
1310 with federal law.

1311 (6) Assistance may be granted under this chapter to any
1312 dependent child and a caretaker relative who are living in a
1313 suitable family home meeting the standards of care and health and
1314 work requirements fixed by the laws of this state, and the rules
1315 and regulations of the State Department of Human Services.

1316 (7) The Department of Human Services shall collaborate with
1317 the Office of Workforce Development on TANF programs related to
1318 job placement, job training and job retention.

1319 **SECTION 6.** Section 47-5-541, Mississippi Code of 1972, is
1320 amended as follows:

1321 47-5-541. (1) The corporation shall be governed by a board
1322 of directors. The board of directors of the nonprofit corporation
1323 shall be composed of the following eleven (11) members who shall
1324 be appointed by the Governor with the advice and consent of the
1325 Senate: one (1) representative of the manufacturing industry, one
1326 (1) representative of the agriculture industry, one (1)
1327 representative of the banking and finance industry, one (1)
1328 representative of the labor industry, one (1) representative from
1329 the marketing industry and six (6) members from the state at
1330 large. In addition, the State Commissioner of Corrections and the
1331 President of Mississippi Delta Community College shall be ex
1332 officio members of the board of directors with full voting
1333 privileges. In making initial appointments, three (3) members

1334 shall be appointed for a term of two (2) years; four (4) members
1335 shall be appointed for a term of three (3) years; and four (4)
1336 members shall be appointed for a term of four (4) years; to be
1337 designated by the Governor at the time of appointment; and all
1338 succeeding terms shall be for four (4) years from the expiration
1339 date of the previous term. Initial appointments shall be made
1340 within thirty (30) days after passage of Sections 47-5-531 through
1341 47-5-575. Any vacancy shall be filled by the Governor, with the
1342 advice and consent of the Senate. The officers of the corporation
1343 shall consist of a chairman, vice chairman and a
1344 secretary-treasurer. The officers shall be selected by the
1345 members of the board. However, the Commissioner of Corrections
1346 and the President of Mississippi Delta Community College shall not
1347 be eligible to serve as an officer of the corporation.

1348 (2) The board of directors shall select and employ a chief
1349 executive officer of the corporation who shall serve at the
1350 pleasure of the board. The board shall set the compensation of
1351 the chief executive officer. The chief executive officer shall be
1352 responsible for the general business and entire operations of the
1353 corporation, and shall be responsible for operating the
1354 corporation in compliance with the bylaws of the corporation and
1355 in compliance with any provision of law. The board shall be
1356 authorized and empowered to do only those acts provided by law and
1357 by the bylaws of the corporation. Except as otherwise
1358 specifically provided by law, such board shall have the authority
1359 to establish prison industries, to cease the operation of any

1360 industry which it deems unsuitable or unprofitable, to enter into
1361 any lease or contract for the corporation and it shall have the
1362 full authority to establish prices for any industry good.

1363 (3) No member of the board of directors shall vote on any
1364 matter that comes before the board that could result in pecuniary
1365 benefit for himself or for any entity in which such member has an
1366 interest.

1367 (4) In addition to the board of directors, an advisory board
1368 may be set up for the benefit of each industry which is
1369 established pursuant to the provisions of Sections 47-5-531
1370 through 47-5-575. Such boards shall be advisory only, and may be
1371 set up in the discretion of the board of directors of the
1372 corporation.

1373 (5) Each member of the board of directors of the corporation
1374 shall receive per diem as provided in Section 25-3-69 for each day
1375 or fraction thereof spent in actual discharge of his official
1376 duties and shall be reimbursed for mileage and actual expenses
1377 incurred in the performance of his official duties in accordance
1378 with the requirements of Section 25-3-41, Mississippi Code of
1379 1972.

1380 (6) The board of directors shall make and publish policies,
1381 rules and regulations governing all business functions, including
1382 but not limited to accounting, marketing, purchasing and
1383 personnel, not inconsistent with the terms of Sections 47-5-531
1384 through 47-5-575, as may be necessary for the efficient
1385 administration and operation of the corporation.

1386 (7) The chief executive officer of the corporation shall:

1387 (a) Employ all necessary employees of the corporation
1388 and dismiss them as is necessary;

1389 (b) Administer the daily operations of the corporation,
1390 including establishing education, training and workforce
1391 development programs in collaboration with the Office of Workforce
1392 Development and other relevant state and federal agencies;

1393 (c) Upon approval of the board of directors, execute
1394 any contracts on behalf of the corporation; and

1395 (d) Take any further actions which are necessary and
1396 proper toward the achievement of the corporation purposes.

1397 (8) A member of the board of directors of the corporation
1398 shall not be liable for any civil damages for any personal injury
1399 or property damage caused to a person as a result of any acts or
1400 omissions committed in good faith in the exercise of their duties
1401 as members of the board of directors of the corporation, except
1402 where a member of the board engages in acts or omissions which are
1403 intentional, willful, wanton, reckless or grossly negligent.

1404 **SECTION 7.** Subject to appropriation, there shall be created
1405 a three-year virtual statewide career and technical education
1406 pilot program designed to offer public school students career
1407 pathways that incorporate live, teacher-led virtual sessions, use
1408 project-based learning models and help prepare students for
1409 certification exams. The virtual statewide career and technical
1410 education pilot program shall allow students access through
1411 virtual office visits with professionals in a variety of fields

1412 and have the capacity to connect students with colleges and
1413 businesses. The virtual statewide career and technical education
1414 pilot program may be offered to students through a virtual career
1415 and technical education consortium through which the Office of
1416 Workforce Development, in collaboration with the State Department
1417 of Education, work with individual school districts to provide the
1418 program. All courses offered through the virtual statewide career
1419 and technical education pilot program shall be approved in the
1420 same manner as in-person career and technical courses are
1421 currently approved. The Joint Committee on Performance Evaluation
1422 and Expenditure Review (PEER) shall conduct a performance review
1423 and audit and develop a report to the 2026 Regular Session of the
1424 Legislature on or before January 1, 2026, on the educational
1425 effectiveness, cost-effectiveness and return on investment to the
1426 State of Mississippi of the virtual statewide career and technical
1427 education pilot program funded under this section, with
1428 recommendations on the expansion of the pilot program.

1429 **SECTION 8.** This act shall take effect and be in force from
1430 and after July 1, 2022, and shall stand repealed on June 30, 2022.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 SECTION 71-5-353, MISSISSIPPI CODE OF 1972, TO
4 CREATE THE "ACCELERATE MISSISSIPPI ADMINISTRATION FUND"; TO REVISE
5 THE WAY IN WHICH MONIES IN THE MISSISSIPPI WORKS FUND MAYBE SPENT;
6 TO PROVIDE THAT THE OFFICE OF WORKFORCE DEVELOPMENT SHALL HAVE A
7 SEPARATE BUDGET PROGRAM WITHIN THE BUDGET REQUEST OF AND A
8 LINE-ITEM APPROPRIATION IN THE DEPARTMENT OF EMPLOYMENT SECURITY'S

9 APPROPRIATION BILL; TO AMEND SECTIONS 71-5-355 AND 71-5-453,
10 MISSISSIPPI CODE OF 1972, TO DESIGNATE DECEMBER 31 AS THE DATE FOR
11 CALCULATING THE EXPOSURE CRITERION FOR CALENDAR YEARS 2020 AND
12 2021; TO AMEND SECTION 43-17-1, MISSISSIPPI CODE OF 1972, TO
13 REQUIRE THE DEPARTMENT OF HUMAN SERVICES TO COLLABORATE WITH THE
14 OFFICE OF WORKFORCE DEVELOPMENT ON TEMPORARY ASSISTANCE TO NEEDY
15 FAMILIES (TANF) PROGRAMS RELATED TO JOB PLACEMENT, JOB TRAINING
16 AND JOB RETENTION; TO AMEND SECTION 47-5-541, MISSISSIPPI CODE OF
17 1972, TO REQUIRE THE CHIEF EXECUTIVE OFFICER OF THE CORPORATION
18 FORMED UNDER THE MISSISSIPPI PRISON INDUSTRIES ACT OF 1990 TO
19 ESTABLISH EDUCATION, TRAINING AND WORKFORCE DEVELOPMENT PROGRAMS
20 IN COLLABORATION WITH THE OFFICE OF WORKFORCE DEVELOPMENT AND
21 OTHER RELEVANT STATE AND FEDERAL AGENCIES; TO CREATE A THREE-YEAR
22 VIRTUAL STATEWIDE CAREER AND TECHNICAL EDUCATION PILOT PROGRAM
23 DESIGNED TO OFFER PUBLIC SCHOOL STUDENTS CAREER PATHWAYS THAT
24 INCORPORATE LIVE, TEACHER-LEAD VIRTUAL SESSIONS, USE PROJECT-BASED
25 LEARNING MODELS AND HELP PREPARE STUDENTS FOR CERTIFICATION EXAMS;
26 AND FOR RELATED PURPOSES.

HR31\SB2723A.J

Andrew Ketchings
Clerk of the House of Representatives