

By: Representatives Bell (21st), Summers

To: Workforce Development;
Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 844

1 AN ACT TO AMEND SECTION 71-5-353, MISSISSIPPI CODE OF 1972,
2 TO CREATE THE MISSISSIPPI K-12 WORKFORCE DEVELOPMENT GRANT PROGRAM
3 FUND IN THE STATE TREASURY WHICH SHALL CONSIST OF FUNDS COLLECTED
4 FROM THE MISSISSIPPI K-12 WORKFORCE DEVELOPMENT GRANT PROGRAM
5 CONTRIBUTIONS AND ANY OTHER MONIES THAT MAY BE APPROPRIATED TO IT
6 FROM THE LEGISLATURE; TO PROVIDE THAT THE STATE WORKFORCE
7 INVESTMENT BOARD CONTRIBUTIONS THAT WERE BEING DEPOSITED INTO THE
8 STATE WORKFORCE INVESTMENT BOARD BANK ACCOUNT SHALL NOW BE
9 CONTRIBUTIONS FOR THE MISSISSIPPI K-12 WORKFORCE DEVELOPMENT GRANT
10 PROGRAM AND DEPOSITED INTO THE MISSISSIPPI K-12 WORKFORCE
11 DEVELOPMENT GRANT PROGRAM FUND; TO PROVIDE THAT ADMINISTRATIVE FEE
12 COLLECTED FOR THE TRAINING PROVIDED USING THE MISSISSIPPI
13 WORKFORCE ENHANCEMENT TRAINING AND MISSISSIPPI WORKS FUNDS MAY NOT
14 BE MORE THAN FIVE PERCENT; TO PROVIDE THAT THE MISSISSIPPI
15 DEPARTMENT OF EMPLOYMENT SECURITY SHALL BE THE FISCAL AGENT FOR
16 ALL FUNDS APPROPRIATED TO IT FOR USE BY THE OFFICE OF WORKFORCE
17 DEVELOPMENT; TO CREATE A NEW SECTION THAT ESTABLISHES THE
18 MISSISSIPPI K-12 WORKFORCE DEVELOPMENT GRANT PROGRAM; TO PROVIDE
19 THAT THE PURPOSE FOR THE GRANT PROGRAM SHALL BE FOR CONSTRUCTING,
20 REMODELING, PURCHASING OR UPGRADING EQUIPMENT OR OTHERWISE
21 PROVIDING SUPPORT TO CAREER TECHNICAL CENTERS AT THE K-12
22 EDUCATION LEVEL; TO PROVIDE HOW THE PROGRAM SHALL BE FUNDED; TO
23 PROVIDE HOW A SCHOOL MAY APPLY FOR A GRANT; TO PROVIDE THAT
24 MAXIMUM AMOUNT OF FUNDS APPROPRIATED TO THE PROGRAM THAT MAY BE
25 USED FOR ADMINISTERING THE PROGRAM; TO PROVIDE THE REPORTING
26 REQUIREMENTS OF THE PROGRAM; TO AMEND SECTION 37-153-7,
27 MISSISSIPPI CODE OF 1972, TO REVISE THE REPORTING REQUIREMENTS OF
28 THE OFFICE OF WORKFORCE DEVELOPMENT; TO PROVIDE SPECIFIC POWERS
29 AND DUTIES FOR THE OFFICE OF WORKFORCE DEVELOPMENT; TO AMEND
30 SECTIONS 71-5-355, 71-5-453 AND 27-104-7, MISSISSIPPI CODE OF
31 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION
32 37-153-63, MISSISSIPPI CODE OF 1972, TO REMOVE THE REPEALER ON THE
33 AMERICAN RESCUE PLAN ACT (ARPA) WORKFORCE DEVELOPMENT AND
34 RETENTION ACT; TO PROVIDE THAT GRANT FUNDS SHALL BE AVAILABLE



35 UNDER THE ACT THROUGH DECEMBER 31, 2026, OR ON THE DATE OF THE
36 FUND EXPENDITURE DEADLINE PROVIDED BY THE FEDERAL GOVERNMENT,
37 WHICHEVER OCCURS LATER; TO PROVIDE THAT EACH GRANT RECIPIENT SHALL
38 CERTIFY, FOR ANY PROJECT FOR WHICH A GRANT IS AWARDED, THAT IF THE
39 PROJECT IS NOT COMPLETED BY DECEMBER 31, 2026, AND THE UNITED
40 STATES CONGRESS DOES NOT ENACT AN EXTENSION OF THE DEADLINE ON THE
41 AVAILABILITY OF ARPA FUNDS, THEN THE GRANT RECIPIENT WILL COMPLETE
42 THE PROJECT THROUGH OTHER FUNDS; AND FOR RELATED PURPOSES.

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

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

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

61 (b) Notwithstanding the newly subject employer
62 contribution rate provided for in paragraph (a) of this
63 subsection, the contribution rate of all newly subject employers



64 shall be reduced by seven one-hundredths of one percent (.07%) for
65 calendar year 2013 only. The contribution rate of all newly
66 subject employers shall be reduced by three one-hundredths of one
67 percent (.03%) for calendar year 2014 only. For purposes of this
68 chapter, "newly subject employers" means employers whose
69 unemployment insurance experience-rating record has not been
70 chargeable throughout at least the twelve (12) consecutive
71 calendar months ending on the most recent computation date at the
72 time the contribution rate for a year is determined.

73 (2) (a) (i) There is hereby created in the Treasury of the
74 State of Mississippi special funds to be known as the "Mississippi
75 Workforce Enhancement Training Fund" * * *, the "Mississippi Works
76 Fund" and the "Mississippi K-12 Workforce Development Grant
77 Program Fund" which consist of funds collected pursuant to
78 subsection (3) of this section and any other monies that may be
79 appropriated to the funds from the Legislature.

80 (ii) Funds collected shall initially be deposited
81 into the Mississippi Department of Employment Security bank
82 account for clearing contribution collections and subsequently
83 appropriate amounts shall be transferred to the Mississippi
84 Workforce Investment and Training Fund Holding Account described
85 in Section 71-5-453. In the event any employer pays an amount
86 insufficient to cover the total contributions due, the amounts due
87 shall be satisfied in the following order:

88 1. Unemployment contributions;



89 2. Mississippi Workforce Enhancement Training
90 contributions, * * * Mississippi K-12 Workforce Development Grant
91 Program contributions and the Mississippi Works contributions,
92 known collectively as the Mississippi Workforce Investment and
93 Training contributions, on a pro rata basis;

94 3. Interest and damages; then

95 4. Legal and processing costs.

96 The amount of unemployment insurance contributions due for
97 any period will be the amount due according to the actual
98 computations unless the employer is participating in the MLPP. In
99 that event, the amount due is the MLPP amount computed by the
100 department.

101 Cost of collection and administration of the Mississippi
102 Workforce Enhancement Training contribution, the * * * Mississippi
103 K-12 Workforce Development Grant Program contribution and the
104 Mississippi Works contribution shall be allocated based on a plan
105 approved by the United States Department of Labor (USDOL). The
106 Mississippi Community College Board shall pay the cost of
107 collecting the Mississippi Workforce Enhancement Training
108 contributions, the * * * Office of Workforce Development shall pay
109 the cost of collecting the * * * Mississippi K-12 Workforce
110 Development Grant Program contributions and the Mississippi
111 Department of Employment Security shall pay the cost of collecting
112 the Mississippi Works contributions. Payments shall be made
113 semiannually with the cost allocated to each based on a USDOL



114 approved plan on a pro rata basis, for periods ending in June and
115 December of each year. Payment shall be made by each organization
116 to the department no later than sixty (60) days after the billing
117 date. Cost shall be allocated under the USDOL's approved plan and
118 in the same ratio as each contribution type represents to the
119 total authorized by subparagraph (ii)2 of this paragraph to be
120 collected for the period.

121 (b) Mississippi Workforce Enhancement Training
122 contributions and * * * Mississippi K-12 Workforce Development
123 Grant Program contributions shall be distributed * * * for
124 calendar years * * * after calendar year 2014 as follows,
125 ninety-three and seventy-five one-hundredths percent (93.75%)
126 shall be distributed to the Mississippi Workforce Enhancement
127 Training Fund and the remainder shall be distributed to the * * *
128 Mississippi K-12 Workforce Development Grant Program Fund;
129 * * *

130 (c) All contributions collected for the State Workforce
131 Enhancement Training Fund, the * * * Mississippi K-12 Workforce
132 Development Grant Program Fund and the Mississippi Works Fund will
133 be initially deposited into the Mississippi Department of
134 Employment Security bank account for clearing contribution
135 collections and subsequently transferred to the Workforce
136 Investment and Training Holding Account and will be held by the
137 Mississippi Department of Employment Security in such account for
138 a period of not less than thirty (30) days. After such period,



139 the Mississippi Workforce Enhancement Training contributions shall
140 be transferred to the Mississippi Community College Board Treasury
141 Account, with oversight provided by the Mississippi Office of
142 Workforce Development, the * * * Mississippi K-12 Workforce
143 Development Grant Program contributions shall be transferred to
144 the Mississippi K-12 Workforce Development Grant Program Treasury
145 Account and the Mississippi Works contributions shall be
146 transferred to the Mississippi Department of Employment Security
147 Mississippi Works Treasury Account. The Mississippi K-12
148 Workforce Development Grant Program contributions and the
149 Mississippi Works contributions shall be transferred in the same
150 ratio as each contribution type represents to the total authorized
151 by paragraph (a)(ii)2 of this subsection to be collected for the
152 period and within the time frame determined by the department;
153 however, except in cases of extraordinary circumstances, these
154 funds shall be transferred within fifteen (15) days. Interest
155 earnings or interest credits on deposit amounts in the Workforce
156 Investment and Training Holding Account shall be retained in the
157 account to pay the banking costs of the account. If after the
158 period of twelve (12) months interest earnings less banking costs
159 exceeds Ten Thousand Dollars (\$10,000.00), such excess amounts
160 shall be transferred to the respective accounts within thirty (30)
161 days following the end of each calendar year on the basis
162 described in paragraph (b) of this subsection. Interest earnings
163 and/or interest credits for the * * * Mississippi K-12 Workforce



164 Development Grant Program funds shall be used for the payment of
165 banking costs and excess amounts shall be used in accordance with
166 the rules and regulations of the * * * Mississippi K-12 Workforce
167 Development Grant Program created in Section 2 of this act.

168 (d) All enforcement procedures for the collection of
169 delinquent unemployment contributions contained in Sections
170 71-5-363 through 71-5-383 shall be applicable in all respects for
171 collections of delinquent unemployment insurance contributions
172 designated for the Unemployment Compensation Fund, the Mississippi
173 Workforce Enhancement Training Fund, the * * * Mississippi K-12
174 Workforce Development Grant Program Fund and the Mississippi Works
175 Fund.

176 (e) (i) Except as otherwise provided for in this
177 subparagraph (i), all monies deposited into the Mississippi
178 Workforce Enhancement Training Fund Treasury Account shall be
179 directed by the Mississippi Office of Workforce Development, in
180 collaboration with the Mississippi Community College Board, in
181 accordance with the Workforce Training Act of 1994 (Section
182 37-153-1 et seq.) and under policies approved by the Mississippi
183 Office of Workforce Development for the following purposes: to
184 provide training in collaboration with the Mississippi Community
185 College Board and individual community and junior colleges to
186 employers and employees in order to enhance employee productivity.
187 Such training may be subject to a minimal administrative fee of
188 not more than five percent (5%) to be paid from the Mississippi



189 Workforce Enhancement Training Fund as established by the Office
190 of Workforce Development. The initial priority of these funds
191 shall be for the benefit of existing businesses located within the
192 state. Employers may request training for existing employees
193 and/or newly hired employees from the Mississippi Office of
194 Workforce Development. The office, in consultation with the
195 Mississippi Community College Board, will be responsible for
196 approving the training. A portion of the funds collected for the
197 Mississippi Workforce Enhancement Training Fund shall be used for
198 the development of performance measures to measure the
199 effectiveness of the use of the Mississippi Workforce Enhancement
200 Training Fund dollars. These performance measures shall be
201 uniform for all training projects and shall be reported to the
202 Governor, Lieutenant Governor, Speaker of the House, and members
203 of the Legislature. Nothing in this section or elsewhere in law
204 shall be interpreted as giving the Office of Workforce Development
205 or State Workforce Investment Board authority to direct the
206 Mississippi Community College Board or individual community or
207 junior colleges on how to expend other funds, aside from funds
208 appropriated to the Mississippi Workforce Enhancement Training
209 Fund and Mississippi Works Fund, appropriated or received for
210 workforce training. The Mississippi Office of Workforce
211 Development, Mississippi Community College Board, individual
212 community or junior colleges, State Workforce Investment Board and
213 other agencies implementing or coordinating state-funded workforce



214 development programs under state law shall cooperate with each
215 other to promote effective workforce training in Mississippi,
216 under the direction of the office. Any subsequent changes to
217 these performance measures shall also be reported to the Governor,
218 Lieutenant Governor, Speaker of the House, and members of the
219 Legislature. A performance report for each training project and
220 community college, based upon these measures, shall be submitted
221 annually to the Governor, Lieutenant Governor, Speaker of the
222 House, and members of the Legislature.

223 (ii) Except as otherwise provided in this
224 paragraph (e), all funds deposited into the * * * Mississippi K-12
225 Workforce Development Grant Program Fund shall be used for
226 administration of * * * the Mississippi K-12 Workforce Development
227 Grant Program created in Section 2 of this act.

228 (iii) All funds deposited into the Mississippi
229 Department of Employment Security Mississippi Works Fund shall be
230 disbursed exclusively by the Executive Director of the Mississippi
231 Department of Employment Security, in accordance with the rules
232 and regulations promulgated by the Office of Workforce
233 Development, in support of workforce training activities approved
234 by the Mississippi Office of Workforce Development in support of
235 economic development activities. Funds allocated by the executive
236 director under this subparagraph (iii) shall only be utilized for
237 the training of unemployed persons, for immediate training needs
238 for the net new jobs created by an employer, for the retention of



239 jobs, to create a work-ready applicant pool of Mississippians with
240 credentials and/or postsecondary education in accordance with the
241 state's Workforce Investment and Opportunity Act plan, or for the
242 support of local economic and community development activities
243 related to workforce development in the state. The Mississippi
244 Office of Workforce Development, in collaboration with the
245 Mississippi Public Community College System and its partners,
246 shall be the primary entity to facilitate training. Training
247 conducted utilizing these Mississippi Works funds may be subject
248 to a minimal administrative fee of not more than five percent (5%)
249 to be paid from the Mississippi Works Fund as authorized by the
250 Mississippi Office of Workforce Development. All costs associated
251 with the administration of these funds shall be reimbursed to the
252 Mississippi Department of Employment Security from the Mississippi
253 Works Fund.

254 (iv) 1. The Department of Employment Security
255 shall be the fiscal agent for the receipt and disbursement of all
256 funds remaining in the State Workforce Investment Board bank
257 account, subject to the administrative oversight of the Office of
258 Workforce Development. The Mississippi Department of Employment
259 Security shall be the fiscal agent for all funds appropriated to
260 it for use by the Office of Workforce Development.

261 2. * * * The Office of Workforce Development,
262 in coordination with the Mississippi Department of Employment
263 Security as fiscal agent, shall ensure that any funds expended for



264 contractual services rendered to the Office of Workforce
265 Development over Five Thousand Dollars (\$5,000.00) shall be paid
266 only to service providers who have been selected on a competitive
267 basis. Any contract for services entered into using funds * * *
268 appropriated to the Mississippi Department of Employment Security
269 for the Office of Workforce Development shall meet the
270 requirements for state contracts set out in Section 31-7-1 et seq.

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

274 * * *

275 (3) (a) (i) Mississippi Workforce Enhancement Training
276 contributions and * * * Mississippi K-12 Workforce Development
277 Grant Program contributions shall be collected * * * for calendar
278 years * * * after calendar year 2016 * * * at a rate of twenty
279 one-hundredths percent (.20%), based upon taxable wages, of which
280 fifteen one-hundredths percent (.15%) shall be the Workforce
281 Enhancement Training contribution, one-hundredths of one percent
282 (.01%) shall be the * * * Mississippi K-12 Workforce Development
283 Grant Program contribution and four one-hundredths percent (.04%)
284 shall be the Mississippi Works contribution. The Mississippi
285 Works contribution shall be collected for calendar years in which
286 the general experience ratio, adjusted on the basis of the trust
287 fund adjustment factor and reduced by fifty percent (50%), results
288 in a general experience rate of less than two-tenths percent



289 (.2%). In all other years the Mississippi Works contribution
290 shall not be in effect.

291 (iii) The Mississippi Workforce Enhancement
292 Training Fund contribution, the * * * Mississippi K-12 Workforce
293 Development Grant Program Fund contribution and the Mississippi
294 Works contribution shall be in addition to the general experience
295 rate plus the individual experience rate of all employers but
296 shall not be charged to reimbursing or rate-paying political
297 subdivisions or institutions of higher learning, or reimbursing
298 nonprofit organizations, as described in Sections 71-5-357 and
299 71-5-359.

300 (b) All Mississippi Workforce Enhancement Training
301 contributions, * * * Mississippi K-12 Workforce Development Grant
302 Program contributions and Mississippi Works contributions
303 collected shall be deposited initially into the Mississippi
304 Department of Employment Security bank account for clearing
305 contribution collections and shall within two (2) business days be
306 transferred to the Workforce Investment and Training Holding
307 Account. Any Mississippi Workforce Enhancement Training Fund
308 and/or * * * Mississippi K-12 Workforce Development Grant Program
309 Fund and/or Mississippi Works Fund transactions from the
310 Mississippi Department of Employment Security bank account for
311 clearing contribution collections that are deposited into the
312 Workforce Investment and Training Fund Holding Account and are not
313 honored by a financial institution will be transferred back to the



314 Mississippi Department of Employment Security bank account for
315 clearing contribution collections out of funds in the Mississippi
316 Workforce Investment and Training Fund Holding Account.

317 (c) Suspension of the Workforce Enhancement Training
318 Fund contributions required pursuant to this chapter shall occur
319 if the insured unemployment rate exceeds an average of five and
320 five-tenths percent (5.5%) for the three (3) consecutive months
321 immediately preceding the effective date of the new rate year
322 following such occurrence and shall remain suspended throughout
323 the duration of that rate year. Such suspension shall continue
324 until such time as the three (3) consecutive months immediately
325 preceding the effective date of the next rate year that has an
326 insured unemployment rate of less than an average of four and
327 five-tenths percent (4.5%). Upon such occurrence, reactivation
328 shall be effective upon the first day of the rate year following
329 the event that lifts suspension and shall be in effect for that
330 year and shall continue until such time as a subsequent suspension
331 event as described in this chapter occurs.

332 (d) Notwithstanding any other provision contained
333 herein, contribution collections for the * * * Mississippi K-12
334 Workforce Development Grant Program Fund, Mississippi Works Fund
335 and Mississippi Workforce Enhancement Training Fund shall not be
336 suspended, under any circumstances, for tax rate year 2021, and
337 the resulting contribution rate of twenty one-hundredths percent
338 (.20%) shall be added to the employer's general and individual



339 experience rate to obtain the total unemployment insurance rate
340 for 2021.

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

345 **SECTION 2.** (1) The Office of Workforce Development shall
346 establish and administer the Mississippi K-12 Workforce
347 Development Grant Program for the purpose of constructing,
348 remodeling, purchasing or upgrading equipment or otherwise
349 providing support to career technical centers at the K-12
350 education level. The grant program shall be funded from the
351 Mississippi K-12 Workforce Development Grant Program Fund as
352 provided in Section 71-5-353 and any other monies appropriated by
353 the Legislature for that purpose.

354 (2) The Office of Workforce Development shall prescribe the
355 terms and conditions of the grant program. To be eligible to
356 receive a grant from the Office of Workforce Development under the
357 grant program, a school at the K-12 education level shall provide
358 the following information:

359 (a) The number of students enrolled in the workforce
360 development program for which the funds will be used;

361 (b) The purpose of the program;

362 (c) Whether the program fits into the ecosystem for the
363 training needs in the area;



364 (d) Evidence of the school's local involvement with
365 industry partners in the area; and

366 (e) Any other information that the office determines is
367 necessary.

368 (3) The Office of Workforce Development may use a maximum of
369 five percent (5%) of funds appropriated for the program for the
370 administration of the program.

371 (4) The Office of Workforce Development shall comply with
372 the reporting requirements provided in Section 37-153-7. Each
373 school that received grants from the program shall assist the
374 office in completing the reporting requirement.

375 **SECTION 3.** Section 37-153-7, Mississippi Code of 1972, is
376 amended as follows:

377 37-153-7. (1) There is created the Mississippi Office of
378 Workforce Development and the Mississippi State Workforce
379 Investment Board, which shall serve as the advisory board for the
380 office. The Mississippi State Workforce Investment Board shall be
381 composed of thirty-one (31) voting members, of which a majority
382 shall be representatives of business and industry in accordance
383 with the federal Workforce Innovation and Opportunity Act, or any
384 successive acts.

385 (2) The members of the State Workforce Investment Board
386 shall include:

387 (a) The Governor, or his designee;



388 (b) Nineteen (19) members, appointed by the Governor,
389 of whom:

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

392 1. Are owners of businesses, chief executives
393 or operating officers of businesses, or other business executives
394 or employers with optimum policymaking or hiring authority, and
395 who, in addition, may be members of a local board described in
396 Section 3122(b)(2)(A)(i) of the federal Workforce Innovation and
397 Opportunity Act. At least two (2) of the members appointed under
398 this item 1. shall be small business owners, chief executives or
399 operating officers of businesses with less than fifty (50)
400 employees;

401 2. Represent businesses, including small
402 businesses, or organizations representing businesses, which
403 provide employment opportunities that, at a minimum, include
404 high-quality, work-relevant training and development in
405 high-demand industry sectors or occupations in the state; and

406 3. Are appointed from among individuals
407 nominated by state business organizations and business trade
408 associations;

409 (ii) Not less than twenty percent (20%) shall
410 consist of representatives of the workforce within the state,
411 which:



412 1. Includes labor organization
413 representatives who have been nominated by state labor
414 federations;

415 2. Includes a labor organization member or
416 training director from an apprenticeship program in the state,
417 which shall be a joint labor-management apprenticeship program if
418 such a program exists in the state;

419 3. May include representatives of
420 community-based organizations, including organizations serving
421 veterans or providing or supporting competitive, integrated
422 employment for individuals with disabilities, who have
423 demonstrated experience and expertise in addressing employment,
424 training or education needs of individuals with barriers to
425 employment; and

426 4. May include representatives of
427 organizations, including organizations serving out-of-school
428 youth, who have demonstrated experience or expertise in addressing
429 the employment, training or education needs of eligible youth;

430 (iii) The balance shall include government
431 representatives, including the lead state officials with primary
432 responsibility for core programs, and chief elected officials
433 (collectively representing both cities and counties, where
434 appropriate);

435 (c) Two (2) representatives of businesses in the state
436 appointed by the Lieutenant Governor;



437 (d) Two (2) representatives of businesses in the state
438 appointed by the Governor from a list of three (3) recommendations
439 from the Speaker of the House; and

440 (e) The following state officials:

441 (i) The Executive Director of the Mississippi
442 Department of Employment Security;

443 (ii) The Executive Director of the Department of
444 Rehabilitation Services;

445 (iii) The State Superintendent of Public
446 Education;

447 (iv) The Executive Director of the Mississippi
448 Development Authority;

449 (v) The Executive Director of the Mississippi
450 Community College Board;

451 (vi) The President of the Community College
452 Association; and

453 (vii) The Commissioner of the Institutions of
454 Higher Learning.

455 (f) One (1) senator, appointed by the Lieutenant
456 Governor, and one (1) representative, appointed by the Speaker of
457 the House, shall serve on the state board in a nonvoting capacity.

458 (g) The Governor may appoint additional members if
459 required by the federal Workforce Innovation and Opportunity Act,
460 or any successive acts.



461 (h) Members of the board shall serve a term of four (4)
462 years, and shall not serve more than three (3) consecutive terms.

463 (i) The membership of the board shall reflect the
464 diversity of the State of Mississippi.

465 (j) The Governor shall designate the Chairman of the
466 Mississippi State Workforce Investment Board from among the
467 business and industry voting members of the board, and a quorum of
468 the board shall consist of a majority of the voting members of the
469 board.

470 (k) The voting members of the board who are not state
471 employees shall be entitled to reimbursement of their reasonable
472 expenses in the manner and amount specified in Section 25-3-41 and
473 shall be entitled to receive per diem compensation as authorized
474 in Section 25-3-69.

475 (3) Members of the state board may be recalled by their
476 appointing authority for cause, including a felony conviction,
477 fraudulent or dishonest acts or gross abuse of discretion, failure
478 to meet board member qualifications, or chronic failure to attend
479 board meetings.

480 (4) The Mississippi Department of Employment Security shall
481 establish limits on administrative costs for each portion of
482 Mississippi's workforce development system consistent with the
483 federal Workforce Investment Act or any future federal workforce
484 legislation.



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

490 (a) Through the office, develop and submit to the
491 Governor, Lieutenant Governor and Speaker of the House a strategic
492 plan for an integrated state workforce development system that
493 aligns resources and structures the system to more effectively and
494 efficiently meet the demands of Mississippi's employers and job
495 seekers. This plan will comply with the federal Workforce
496 Investment Act of 1998, as amended, the federal Workforce
497 Innovation and Opportunity Act of 2014 and amendments and
498 successor legislation to these acts;

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

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

504 (ii) Review local workforce development plans that
505 reflect the use of funds from the federal Workforce Investment
506 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
507 Act and the amendment or successor legislation to the acts, and
508 the Mississippi Comprehensive Workforce Training and Education
509 Consolidation Act;



510 (c) Recommend to the office the designation of local
511 workforce investment areas as required in Section 116 of the
512 federal Workforce Investment Act of 1998 and the Workforce
513 Innovation and Opportunity Act of 2014. There shall be four (4)
514 workforce investment areas that are generally aligned with the
515 planning and development district structure in Mississippi.
516 Planning and development districts will serve as the fiscal agents
517 to manage Workforce Investment Act funds, oversee and support the
518 local workforce investment boards aligned with the area and the
519 local programs and activities as delivered by the one-stop
520 employment and training system. The planning and development
521 districts will perform this function through the provisions of the
522 county cooperative service districts created under Sections
523 19-3-101 through 19-3-115; however, planning and development
524 districts currently performing this function under the Interlocal
525 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
526 continue to do so;

527 (d) Assist the Governor in the development of an
528 allocation formula for the distribution of funds for adult
529 employment and training activities and youth activities to local
530 workforce investment areas;

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



534 (f) Assist the Governor in the establishment and
535 management of a one-stop employment and training system conforming
536 to the requirements of the federal Workforce Investment Act of
537 1998 and the Workforce Innovation and Opportunity Act of 2014, as
538 amended, recommending policy for implementing the Governor's
539 approved plan for employment and training activities and services
540 within the state. In developing this one-stop career operating
541 system, the Mississippi State Workforce Investment Board, in
542 conjunction with local workforce investment boards, shall:

543 (i) Design broad guidelines for the delivery of
544 workforce development programs;

545 (ii) Identify all existing delivery agencies and
546 other resources;

547 (iii) Define appropriate roles of the various
548 agencies to include an analysis of service providers' strengths
549 and weaknesses;

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

552 (v) Develop a financial plan to support the
553 delivery system that shall, at a minimum, include an
554 accountability system;

555 (g) To provide authority, in accordance with any
556 executive order of the Governor, for developing the necessary
557 collaboration among state agencies at the highest level for
558 accomplishing the purposes of this article;



559 (h) To monitor the effectiveness of the workforce
560 development centers and WIN job centers;

561 (i) To advise the Governor, public schools,
562 community/junior colleges and institutions of higher learning on
563 effective school-to-work transition policies and programs that
564 link students moving from high school to higher education and
565 students moving between community colleges and four-year
566 institutions in pursuit of academic and technical skills training;

567 (j) To work with industry to identify barriers that
568 inhibit the delivery of quality workforce education and the
569 responsiveness of educational institutions to the needs of
570 industry;

571 (k) To provide periodic assessments on effectiveness
572 and results of the overall Mississippi comprehensive workforce
573 development system and district councils;

574 (l) Develop broad statewide development goals,
575 including a goal to raise the state's labor force participation
576 rate;

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

580 (n) To assist the Governor in carrying out any other
581 responsibility required by the federal Workforce Investment Act of
582 1998, as amended and the Workforce Innovation and Opportunity Act,
583 successor legislation and amendments.



584 (6) The Mississippi State Workforce Investment Board shall
585 coordinate all training programs and funds within its purview,
586 consistent with the federal Workforce Investment Act, Workforce
587 Innovation and Opportunity Act, amendments and successor
588 legislation to these acts, and other relevant federal law.

589 Each state agency director responsible for workforce training
590 activities shall advise the Mississippi Office of Workforce
591 Development and the State Workforce Investment Board of
592 appropriate federal and state requirements. Each state agency,
593 department and institution shall report any monies received for
594 workforce training activities or career and technical education
595 and a detailed itemization of how those monies were spent to the
596 state board. The board shall compile the data and provide a
597 report of the monies and expenditures to the Chairs of the House
598 and Senate Appropriations Committee, the Chair of the House
599 Workforce Development Committee and the Chair of the Senate
600 Economic and Workforce Development Committee by October 1 of each
601 year. Each such state agency director shall remain responsible
602 for the actions of his agency; however, each state agency and
603 director shall work cooperatively to fulfill the state's goals.

604 (7) The State Workforce Investment Board shall establish an
605 executive committee, which shall consist of the following State
606 Workforce Investment Board members:

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



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

610 (c) The two (2) business representatives currently
611 serving on the state board appointed by the Lieutenant Governor;

612 (d) The two (2) business representatives currently
613 serving on the state board appointed by the Governor from a list
614 of three (3) recommendations from the Speaker of the House;

615 (e) The two (2) legislators, who shall serve in a
616 nonvoting capacity, one (1) of whom shall be appointed by the
617 Lieutenant Governor from the membership of the Mississippi Senate
618 and one (1) of whom shall be appointed by the Speaker of the House
619 of Representatives from the membership of the Mississippi House of
620 Representatives.

621 (8) The executive committee shall select an executive
622 director of the Office of Workforce Development, with the advice
623 and consent of a majority of the State Workforce Investment Board.
624 The executive committee shall seek input from economic development
625 organizations across the state when selecting the executive
626 director. The executive director shall:

627 (a) Be a person with extensive experience in
628 development of economic, human and physical resources, and
629 promotion of industrial and commercial development. The executive
630 director shall have a bachelor's degree from a state-accredited
631 institution and no less than eight (8) years of professional
632 experience related to workforce or economic development;



633 (b) Perform the functions necessary for the daily
634 operation and administration of the office, with oversight from
635 the executive committee and the State Workforce Investment Board,
636 to fulfill the duties of the state board as described in Chapter
637 476, Laws of 2020;

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

643 (d) Enter any part of the Mississippi Community College
644 Board, individual community and junior colleges, or other
645 workforce training facilities operated by the state or its
646 subdivisions;

647 (e) Serve at the will and pleasure of the executive
648 committee;

649 (f) Promulgate rules and regulations, subject to
650 oversight by the executive committee, not inconsistent with this
651 article, as may be necessary to enforce the provisions in Chapter
652 476, Laws of 2020; and

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

656 (9) The Office of Workforce Development and Mississippi
657 Community College Board shall collaborate in the administration



658 and oversight of the Mississippi Workforce Enhancement Training
659 Fund and Mississippi Works Fund, as described in Section 71-5-353.
660 The executive director shall maintain complete and exclusive
661 operational control of the office's functions.

662 (10) The office shall file an annual and a quarterly report
663 each year with the Governor, Secretary of State, President of the
664 Senate, * * * Speaker of the House, * * * Chairman of the House
665 Workforce Development Committee and Chairman of the Senate
666 Economic and Workforce Development Committee. The annual report
667 shall be filed not later than October 1 of each year regarding all
668 funds approved by the office to be expended on workforce training
669 during the prior calendar year. The quarterly and annual report
670 shall include:

671 (a) Information on the performance of the Mississippi
672 Workforce Enhancement Training Fund and the Mississippi Works
673 Fund, in terms of adding value to the local and state economy, the
674 contribution to future growth of the state economy, and movement
675 toward state goals, including increasing the labor force
676 participation rate; * * *

677 (b) With respect to specific workforce training
678 projects:

679 (i) The location of the training;
680 (ii) The amount allocated to the project;
681 (iii) The purpose of the project;



682 (iv) The specific business entity that is the
683 beneficiary of the project; * * *

684 (v) The number of employees intended to be trained
685 and actually trained, if applicable, in the course of the
686 project * * *; and

687 (vi) The types of funds used for the project; and

688 (c) With respect to the grants that have been awarded
689 under the Mississippi K-12 Workforce Development Grant Program
690 created in Section 2 of this act:

691 (i) The entity that was awarded the grant;

692 (ii) The amount allocated to the grant;

693 (iii) The purpose of the grant; and

694 (iv) How the grant has been used since it was
695 awarded.

696 All information concerning a proposed project which is
697 provided to the executive director shall be kept confidential.
698 Such confidentiality shall not limit disclosure under the
699 Mississippi Public Records Act of 1983 of records describing the
700 nature, quantity, cost or other pertinent information related to
701 the activities of, or services performed using, the Mississippi
702 Workforce Enhancement Training Fund or the Mississippi Works Fund.

703 (11) In addition to other powers and duties provided in this
704 section, the Office of Workforce Development shall also have the
705 following powers and duties:



706 (a) Direct access to accounting and banking statements
707 for all funds under its direction to ensure accurate and efficient
708 management of funds and to improve internal control;

709 (b) The ability to enter into nondisclosure agreements
710 to effectively support economic development activities and the
711 proprietary nature of customized training for existing and new
712 industry;

713 (c) To adopt and promulgate such rules and regulations
714 as may be necessary or desirable for the purpose of implementing
715 the Mississippi K-12 Workforce Development Grant Program created
716 in Section 2 of this act;

717 (d) To receive contributions, donations, gifts,
718 bequests of money, other forms of financial assistance and
719 property, equipment, materials or manpower from persons,
720 foundations, trust funds, corporations, organizations and other
721 sources, public or private, made to the office, and may expend or
722 use the same in accordance with the conditions prescribed by the
723 donor, provided that no such condition is contrary to any
724 provision of law; and

725 (e) To contract with state agencies, governing
726 authorities or economic and workforce development entities for
727 shared programmatic efforts and support service or joint
728 employment of personnel in order to further the office's purposes.

729 Through December 31, 2024, the provisions of Section 27-104-7
730 related to rental agreements or leasing of real property for the



731 purpose of conducting agency business shall not apply to the
732 office.

733 (* * *12) Nothing in Chapter 476, Laws of 2020 [Senate Bill
734 No. 2564] shall void or otherwise interrupt any contract, lease,
735 grant or other agreement previously entered into by the State
736 Workforce Investment Board, Mississippi Community College Board,
737 individual community or junior colleges, or other entities.

738 **SECTION 4.** Section 27-104-7, Mississippi Code of 1972, is
739 amended as follows:

740 27-104-7. (1) (a) There is created the Public Procurement
741 Review Board, which shall be reconstituted on January 1, 2018, and
742 shall be composed of the following members:

743 (i) Three (3) individuals appointed by the
744 Governor with the advice and consent of the Senate;

745 (ii) Two (2) individuals appointed by the
746 Lieutenant Governor with the advice and consent of the Senate; and

747 (iii) The Executive Director of the Department of
748 Finance and Administration, serving as an ex officio and nonvoting
749 member.

750 (b) The initial terms of each appointee shall be as
751 follows:

752 (i) One (1) member appointed by the Governor to
753 serve for a term ending on June 30, 2019;

754 (ii) One (1) member appointed by the Governor to
755 serve for a term ending on June 30, 2020;



756 (iii) One (1) member appointed by the Governor to
757 serve for a term ending on June 30, 2021;

758 (iv) One (1) member appointed by the Lieutenant
759 Governor to serve for a term ending on June 30, 2019; and

760 (v) One (1) member appointed by the Lieutenant
761 Governor to serve for a term ending on June 30, 2020.

762 After the expiration of the initial terms, all appointed
763 members' terms shall be for a period of four (4) years from the
764 expiration date of the previous term, and until such time as the
765 member's successor is duly appointed and qualified.

766 (c) When appointing members to the Public Procurement
767 Review Board, the Governor and Lieutenant Governor shall take into
768 consideration persons who possess at least five (5) years of
769 management experience in general business, health care or finance
770 for an organization, corporation or other public or private
771 entity. Any person, or any employee or owner of a company, who
772 receives any grants, procurements or contracts that are subject to
773 approval under this section shall not be appointed to the Public
774 Procurement Review Board. Any person, or any employee or owner of
775 a company, who is a principal of the source providing a personal
776 or professional service shall not be appointed to the Public
777 Procurement Review Board if the principal owns or controls a
778 greater than five percent (5%) interest or has an ownership value
779 of One Million Dollars (\$1,000,000.00) in the source's business,
780 whichever is smaller. No member shall be an officer or employee



781 of the State of Mississippi while serving as a voting member on
782 the Public Procurement Review Board.

783 (d) Members of the Public Procurement Review Board
784 shall be entitled to per diem as authorized by Section 25-3-69 and
785 travel reimbursement as authorized by Section 25-3-41.

786 (e) The members of the Public Procurement Review Board
787 shall elect a chair from among the membership, and he or she shall
788 preside over the meetings of the board. The board shall annually
789 elect a vice chair, who shall serve in the absence of the chair.
790 No business shall be transacted, including adoption of rules of
791 procedure, without the presence of a quorum of the board. Three
792 (3) members shall be a quorum. No action shall be valid unless
793 approved by a majority of the members present and voting, entered
794 upon the minutes of the board and signed by the chair. Necessary
795 clerical and administrative support for the board shall be
796 provided by the Department of Finance and Administration. Minutes
797 shall be kept of the proceedings of each meeting, copies of which
798 shall be filed on a monthly basis with the chairs of the
799 Accountability, Efficiency and Transparency Committees of the
800 Senate and House of Representatives and the chairs of the
801 Appropriations Committees of the Senate and House of
802 Representatives.

803 (2) The Public Procurement Review Board shall have the
804 following powers and responsibilities:



805 (a) Approve all purchasing regulations governing the
806 purchase or lease by any agency, as defined in Section 31-7-1, of
807 commodities and equipment, except computer equipment acquired
808 pursuant to Sections 25-53-1 through 25-53-29;

809 (b) Adopt regulations governing the approval of
810 contracts let for the construction and maintenance of state
811 buildings and other state facilities as well as related contracts
812 for architectural and engineering services.

813 The provisions of this paragraph (b) shall not apply to such
814 contracts involving buildings and other facilities of state
815 institutions of higher learning which are self-administered as
816 provided under this paragraph (b) or Section 37-101-15(m);

817 (c) Adopt regulations governing any lease or rental
818 agreement by any state agency or department, including any state
819 agency financed entirely by federal funds, for space outside the
820 buildings under the jurisdiction of the Department of Finance and
821 Administration. These regulations shall require each agency
822 requesting to lease such space to provide the following
823 information that shall be published by the Department of Finance
824 and Administration on its website: the agency to lease the space;
825 the terms of the lease; the approximate square feet to be leased;
826 the use for the space; a description of a suitable space; the
827 general location desired for the leased space; the contact
828 information for a person from the agency; the deadline date for
829 the agency to have received a lease proposal; any other specific



830 terms or conditions of the agency; and any other information
831 deemed appropriate by the Division of Real Property Management of
832 the Department of Finance and Administration or the Public
833 Procurement Review Board. The information shall be provided
834 sufficiently in advance of the time the space is needed to allow
835 the Division of Real Property Management of the Department of
836 Finance and Administration to review and preapprove the lease
837 before the time for advertisement begins;

838 (d) Adopt, in its discretion, regulations to set aside
839 at least five percent (5%) of anticipated annual expenditures for
840 the purchase of commodities from minority businesses; however, all
841 such set-aside purchases shall comply with all purchasing
842 regulations promulgated by the department and shall be subject to
843 all bid requirements. Set-aside purchases for which competitive
844 bids are required shall be made from the lowest and best minority
845 business bidder; however, if no minority bid is available or if
846 the minority bid is more than two percent (2%) higher than the
847 lowest bid, then bids shall be accepted and awarded to the lowest
848 and best bidder. However, the provisions in this paragraph shall
849 not be construed to prohibit the rejection of a bid when only one
850 (1) bid is received. Such rejection shall be placed in the
851 minutes. For the purposes of this paragraph, the term "minority
852 business" means a business which is owned by a person who is a
853 citizen or lawful permanent resident of the United States and who
854 is:



855 (i) Black: having origins in any of the black
856 racial groups of Africa;

857 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
858 Central or South American, or other Spanish or Portuguese culture
859 or origin regardless of race;

860 (iii) Asian-American: having origins in any of
861 the original people of the Far East, Southeast Asia, the Indian
862 subcontinent, or the Pacific Islands;

863 (iv) American Indian or Alaskan Native: having
864 origins in any of the original people of North America; or

865 (v) Female;

866 (e) In consultation with and approval by the Chairs of
867 the Senate and House Public Property Committees, approve leases,
868 for a term not to exceed eighteen (18) months, entered into by
869 state agencies for the purpose of providing parking arrangements
870 for state employees who work in the Woolfolk Building, the Carroll
871 Gartin Justice Building or the Walter Sillers Office Building;

872 (f) Promulgate rules and regulations governing the
873 solicitation and selection of contractual services personnel,
874 including personal and professional services contracts for any
875 form of consulting, policy analysis, public relations, marketing,
876 public affairs, legislative advocacy services or any other
877 contract that the board deems appropriate for oversight, with the
878 exception of any personal service contracts entered into by any
879 agency that employs only nonstate service employees as defined in



880 Section 25-9-107(c), any personal service contracts entered into
881 for computer or information technology-related services governed
882 by the Mississippi Department of Information Technology Services,
883 any personal service contracts entered into by the individual
884 state institutions of higher learning, any personal service
885 contracts entered into by the Mississippi Department of
886 Transportation, any personal service contracts entered into by the
887 Department of Human Services through June 30, 2019, which the
888 Executive Director of the Department of Human Services determines
889 would be useful in establishing and operating the Department of
890 Child Protection Services, any personal service contracts entered
891 into by the Department of Child Protection Services through June
892 30, 2019, any contracts for entertainers and/or performers at the
893 Mississippi State Fairgrounds entered into by the Mississippi Fair
894 Commission, any contracts entered into by the Department of
895 Finance and Administration when procuring aircraft maintenance,
896 parts, equipment and/or services, any contract entered into by the
897 Department of Public Safety for service on specialized equipment
898 and/or software required for the operation at such specialized
899 equipment for use by the Office of Forensics Laboratories, any
900 personal or professional service contract entered into by the
901 Mississippi Department of Health and/or the Department of Revenue
902 solely in connection with their respective responsibilities under
903 the Mississippi Medical Cannabis Act from February 2, 2022,
904 through June 30, 2023, any contract for attorney, accountant,



905 actuary auditor, architect, engineer, anatomical pathologist,
906 utility rate expert services, any personal service contracts
907 approved by the Executive Director of the Department of Finance
908 and Administration and entered into by the Coordinator of Mental
909 Health Accessibility through June 30, 2022, any personal or
910 professional services contract entered into by the State
911 Department of Health in carrying out its responsibilities under
912 the ARPA Rural Water Associations Infrastructure Grant Program
913 through June 30, 2026, and any personal or professional services
914 contract entered into by the Mississippi Department of
915 Environmental Quality in carrying out its responsibilities under
916 the Mississippi Municipality and County Water Infrastructure Grant
917 Program Act of 2022, through June 30, 2026. Any such rules and
918 regulations shall provide for maintaining continuous internal
919 audit covering the activities of such agency affecting its revenue
920 and expenditures as required under Section 7-7-3(6)(d). Any rules
921 and regulation changes related to personal and professional
922 services contracts that the Public Procurement Review Board may
923 propose shall be submitted to the Chairs of the Accountability,
924 Efficiency and Transparency Committees of the Senate and House of
925 Representatives and the Chairs of the Appropriation Committees of
926 the Senate and House of Representatives at least fifteen (15) days
927 before the board votes on the proposed changes, and those rules
928 and regulation changes, if adopted, shall be promulgated in
929 accordance with the Mississippi Administrative Procedures Act;



930 (g) Approve all personal and professional services
931 contracts involving the expenditures of funds in excess of
932 Seventy-five Thousand Dollars (\$75,000.00), except as provided in
933 paragraph (f) of this subsection (2) and in subsection (8);

934 (h) Develop mandatory standards with respect to
935 contractual services personnel that require invitations for public
936 bid, requests for proposals, record keeping and financial
937 responsibility of contractors. The Public Procurement Review
938 Board shall, unless exempted under this paragraph (h) or under
939 paragraph (i) or (o) of this subsection (2), require the agency
940 involved to submit the procurement to a competitive procurement
941 process, and may reserve the right to reject any or all resulting
942 procurements;

943 (i) Prescribe certain circumstances by which agency
944 heads may enter into contracts for personal and professional
945 services without receiving prior approval from the Public
946 Procurement Review Board. The Public Procurement Review Board may
947 establish a preapproved list of providers of various personal and
948 professional services for set prices with which state agencies may
949 contract without bidding or prior approval from the board;

950 (i) Agency requirements may be fulfilled by
951 procuring services performed incident to the state's own programs.
952 The agency head shall determine in writing whether the price
953 represents a fair market value for the services. When the
954 procurements are made from other governmental entities, the



955 private sector need not be solicited; however, these contracts
956 shall still be submitted for approval to the Public Procurement
957 Review Board.

958 (ii) Contracts between two (2) state agencies,
959 both under Public Procurement Review Board purview, shall not
960 require Public Procurement Review Board approval. However, the
961 contracts shall still be entered into the enterprise resource
962 planning system;

963 (j) Provide standards for the issuance of requests for
964 proposals, the evaluation of proposals received, consideration of
965 costs and quality of services proposed, contract negotiations, the
966 administrative monitoring of contract performance by the agency
967 and successful steps in terminating a contract;

968 (k) Present recommendations for governmental
969 privatization and to evaluate privatization proposals submitted by
970 any state agency;

971 (l) Authorize personal and professional service
972 contracts to be effective for more than one (1) year provided a
973 funding condition is included in any such multiple year contract,
974 except the State Board of Education, which shall have the
975 authority to enter into contractual agreements for student
976 assessment for a period up to ten (10) years. The State Board of
977 Education shall procure these services in accordance with the
978 Public Procurement Review Board procurement regulations;



979 (m) Request the State Auditor to conduct a performance
980 audit on any personal or professional service contract;

981 (n) Prepare an annual report to the Legislature
982 concerning the issuance of personal and professional services
983 contracts during the previous year, collecting any necessary
984 information from state agencies in making such report;

985 (o) Develop and implement the following standards and
986 procedures for the approval of any sole source contract for
987 personal and professional services regardless of the value of the
988 procurement:

989 (i) For the purposes of this paragraph (o), the
990 term "sole source" means only one (1) source is available that can
991 provide the required personal or professional service.

992 (ii) An agency that has been issued a binding,
993 valid court order mandating that a particular source or provider
994 must be used for the required service must include a copy of the
995 applicable court order in all future sole source contract reviews
996 for the particular personal or professional service referenced in
997 the court order.

998 (iii) Any agency alleging to have a sole source
999 for any personal or professional service, other than those
1000 exempted under paragraph (f) of this subsection (2) and subsection
1001 (8), shall publish on the procurement portal website established
1002 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)
1003 days, the terms of the proposed contract for those services. In



1004 addition, the publication shall include, but is not limited to,
1005 the following information:

1006 1. The personal or professional service
1007 offered in the contract;

1008 2. An explanation of why the personal or
1009 professional service is the only one that can meet the needs of
1010 the agency;

1011 3. An explanation of why the source is the
1012 only person or entity that can provide the required personal or
1013 professional service;

1014 4. An explanation of why the amount to be
1015 expended for the personal or professional service is reasonable;
1016 and

1017 5. The efforts that the agency went through
1018 to obtain the best possible price for the personal or professional
1019 service.

1020 (iv) If any person or entity objects and proposes
1021 that the personal or professional service published under
1022 subparagraph (iii) of this paragraph (o) is not a sole source
1023 service and can be provided by another person or entity, then the
1024 objecting person or entity shall notify the Public Procurement
1025 Review Board and the agency that published the proposed sole
1026 source contract with a detailed explanation of why the personal or
1027 professional service is not a sole source service.



1028 (v) 1. If the agency determines after review that
1029 the personal or professional service in the proposed sole source
1030 contract can be provided by another person or entity, then the
1031 agency must withdraw the sole source contract publication from the
1032 procurement portal website and submit the procurement of the
1033 personal or professional service to an advertised competitive bid
1034 or selection process.

1035 2. If the agency determines after review that
1036 there is only one (1) source for the required personal or
1037 professional service, then the agency may appeal to the Public
1038 Procurement Review Board. The agency has the burden of proving
1039 that the personal or professional service is only provided by one
1040 (1) source.

1041 3. If the Public Procurement Review Board has
1042 any reasonable doubt as to whether the personal or professional
1043 service can only be provided by one (1) source, then the agency
1044 must submit the procurement of the personal or professional
1045 service to an advertised competitive bid or selection process. No
1046 action taken by the Public Procurement Review Board in this appeal
1047 process shall be valid unless approved by a majority of the
1048 members of the Public Procurement Review Board present and voting.

1049 (vi) The Public Procurement Review Board shall
1050 prepare and submit a quarterly report to the House of
1051 Representatives and Senate Accountability, Efficiency and
1052 Transparency Committees that details the sole source contracts



1053 presented to the Public Procurement Review Board and the reasons
1054 that the Public Procurement Review Board approved or rejected each
1055 contract. These quarterly reports shall also include the
1056 documentation and memoranda required in subsection (4) of this
1057 section. An agency that submitted a sole source contract shall be
1058 prepared to explain the sole source contract to each committee by
1059 December 15 of each year upon request by the committee;

1060 (p) Assess any fines and administrative penalties
1061 provided for in Sections 31-7-401 through 31-7-423.

1062 (3) All submissions shall be made sufficiently in advance of
1063 each monthly meeting of the Public Procurement Review Board as
1064 prescribed by the Public Procurement Review Board. If the Public
1065 Procurement Review Board rejects any contract submitted for review
1066 or approval, the Public Procurement Review Board shall clearly set
1067 out the reasons for its action, including, but not limited to, the
1068 policy that the agency has violated in its submitted contract and
1069 any corrective actions that the agency may take to amend the
1070 contract to comply with the rules and regulations of the Public
1071 Procurement Review Board.

1072 (4) All sole source contracts for personal and professional
1073 services awarded by state agencies, other than those exempted
1074 under Section 27-104-7(2)(f) and (8), whether approved by an
1075 agency head or the Public Procurement Review Board, shall contain
1076 in the procurement file a written determination for the approval,
1077 using a request form furnished by the Public Procurement Review



1078 Board. The written determination shall document the basis for the
1079 determination, including any market analysis conducted in order to
1080 ensure that the service required was practicably available from
1081 only one (1) source. A memorandum shall accompany the request
1082 form and address the following four (4) points:

1083 (a) Explanation of why this service is the only service
1084 that can meet the needs of the purchasing agency;

1085 (b) Explanation of why this vendor is the only
1086 practicably available source from which to obtain this service;

1087 (c) Explanation of why the price is considered
1088 reasonable; and

1089 (d) Description of the efforts that were made to
1090 conduct a noncompetitive negotiation to get the best possible
1091 price for the taxpayers.

1092 (5) In conjunction with the State Personnel Board, the
1093 Public Procurement Review Board shall develop and promulgate rules
1094 and regulations to define the allowable legal relationship between
1095 contract employees and the contracting departments, agencies and
1096 institutions of state government under the jurisdiction of the
1097 State Personnel Board, in compliance with the applicable rules and
1098 regulations of the federal Internal Revenue Service (IRS) for
1099 federal employment tax purposes. Under these regulations, the
1100 usual common law rules are applicable to determine and require
1101 that such worker is an independent contractor and not an employee,
1102 requiring evidence of lawful behavioral control, lawful financial



1103 control and lawful relationship of the parties. Any state
1104 department, agency or institution shall only be authorized to
1105 contract for personnel services in compliance with those
1106 regulations.

1107 (6) No member of the Public Procurement Review Board shall
1108 use his or her official authority or influence to coerce, by
1109 threat of discharge from employment, or otherwise, the purchase of
1110 commodities, the contracting for personal or professional
1111 services, or the contracting for public construction under this
1112 chapter.

1113 (7) Notwithstanding any other laws or rules to the contrary,
1114 the provisions of subsection (2) of this section shall not be
1115 applicable to the Mississippi State Port Authority at Gulfport.

1116 (8) Nothing in this section shall impair or limit the
1117 authority of the Board of Trustees of the Public Employees'
1118 Retirement System to enter into any personal or professional
1119 services contracts directly related to their constitutional
1120 obligation to manage the trust funds, including, but not limited
1121 to, actuarial, custodial banks, cash management, investment
1122 consultant and investment management contracts.

1123 (9) Notwithstanding the exemption of personal and
1124 professional services contracts entered into by the Department of
1125 Human Services and personal and professional services contracts
1126 entered into by the Department of Child Protection Services from
1127 the provisions of this section under subsection (2) (f), before the



1128 Department of Human Services or the Department of Child Protection
1129 Services may enter into a personal or professional service
1130 contract, the department(s) shall give notice of the proposed
1131 personal or professional service contract to the Public
1132 Procurement Review Board for any recommendations by the board.
1133 Upon receipt of the notice, the board shall post the notice on its
1134 website and on the procurement portal website established by
1135 Sections 25-53-151 and 27-104-165. If the board does not respond
1136 to the department(s) within seven (7) calendar days after
1137 receiving the notice, the department(s) may enter the proposed
1138 personal or professional service contract. If the board responds
1139 to the department(s) within seven (7) calendar days, then the
1140 board has seven (7) calendar days from the date of its initial
1141 response to provide any additional recommendations. After the end
1142 of the second seven-day period, the department(s) may enter the
1143 proposed personal or professional service contract. The board is
1144 not authorized to disapprove any proposed personal or professional
1145 services contracts. This subsection shall stand repealed on July
1146 1, 2022.

1147 (10) Through December 31, 2024, the provisions of this
1148 section related to rental agreements or leasing of real property
1149 for the purpose of conducting agency business shall not apply to
1150 the Office of Workforce Development created in Section 37-153-7.

1151 **SECTION 5.** Section 71-5-355, Mississippi Code of 1972, is
1152 amended as follows:



1153 71-5-355. (1) As used in this section, the following words
1154 and phrases shall have the following meanings, unless the context
1155 clearly requires otherwise:

1156 (a) "Tax year" means any period beginning on January 1
1157 and ending on December 31 of a year.

1158 (b) "Computation date" means June 30 of any calendar
1159 year immediately preceding the tax year during which the
1160 particular contribution rates are effective.

1161 (c) "Effective date" means January 1 of the tax year.

1162 (d) Except as hereinafter provided, "payroll" means the
1163 total of all wages paid for employment by an employer as defined
1164 in Section 71-5-11, subsection H, plus the total of all
1165 remuneration paid by such employer excluded from the definition of
1166 wages by Section 71-5-351. For the computation of modified rates,
1167 "payroll" means the total of all wages paid for employment by an
1168 employer as defined in Section 71-5-11, subsection H.

1169 (e) For the computation of modified rates, "eligible
1170 employer" means an employer whose experience-rating record has
1171 been chargeable with benefits throughout the thirty-six (36)
1172 consecutive calendar-month period ending on the computation date,
1173 except that any employer who has not been subject to the
1174 Mississippi Employment Security Law for a period of time
1175 sufficient to meet the thirty-six (36) consecutive calendar-month
1176 requirement shall be an eligible employer if his or her
1177 experience-rating record has been chargeable throughout not less



1178 than the twelve (12) consecutive calendar-month period ending on
1179 the computation date. No employer shall be considered eligible
1180 for a contribution rate less than five and four-tenths percent
1181 (5.4%) with respect to any tax year, who has failed to file any
1182 two (2) quarterly reports within the qualifying period by
1183 September 30 following the computation date. No employer or
1184 employing unit shall be eligible for a contribution rate of less
1185 than five and four-tenths percent (5.4%) for the tax year in which
1186 the employing unit is found by the department to be in violation
1187 of Section 71-5-19(2) or (3) and for the next two (2) succeeding
1188 tax years. No representative of such employing unit who was a
1189 party to a violation as described in Section 71-5-19(2) or (3), if
1190 such representative was or is an employing unit in this state,
1191 shall be eligible for a contribution rate of less than five and
1192 four-tenths percent (5.4%) for the tax year in which such
1193 violation was detected by the department and for the next two (2)
1194 succeeding tax years.

1195 (f) With respect to any tax year, "reserve ratio" means
1196 the ratio which the total amount available for the payment of
1197 benefits in the Unemployment Compensation Fund, excluding any
1198 amount which has been credited to the account of this state under
1199 Section 903 of the Social Security Act, as amended, and which has
1200 been appropriated for the expenses of administration pursuant to
1201 Section 71-5-457 whether or not withdrawn from such account, on
1202 October 31 (close of business) of each calendar year bears to the



1203 aggregate of the taxable payrolls of all employers for the twelve
1204 (12) calendar months ending on June 30 next preceding.

1205 (g) "Modified rates" means the rates of employer
1206 unemployment insurance contributions determined under the
1207 provisions of this chapter and the rates of newly subject
1208 employers, as provided in Section 71-5-353.

1209 (h) For the computation of modified rates, "qualifying
1210 period" means a period of not less than the thirty-six (36)
1211 consecutive calendar months ending on the computation date
1212 throughout which an employer's experience-rating record has been
1213 chargeable with benefits; except that with respect to any eligible
1214 employer who has not been subject to this article for a period of
1215 time sufficient to meet the thirty-six (36) consecutive
1216 calendar-month requirement, "qualifying period" means the period
1217 ending on the computation date throughout which his or her
1218 experience-rating record has been chargeable with benefits, but in
1219 no event less than the twelve (12) consecutive calendar-month
1220 period ending on the computation date throughout which his or her
1221 experience-rating record has been so chargeable.

1222 (i) The "exposure criterion" (EC) is defined as the
1223 cash balance of the Unemployment Compensation Fund which is
1224 available for the payment of benefits as of November 16 of each
1225 calendar year or the next working day if November 16 falls on a
1226 holiday or a weekend, divided by the total wages, exclusive of
1227 wages paid by all state agencies, all political subdivisions,



1228 reimbursable nonprofit corporations, and tax-exempt public service
1229 employment, for the twelve-month period ending June 30 immediately
1230 preceding such date. The EC shall be computed to four (4) decimal
1231 places and rounded up if any fraction remains. Notwithstanding
1232 any other provision contained herein, the date for determining the
1233 cash balance of the Unemployment Compensation Fund which is
1234 available for the payment of benefits for the calendar years 2020
1235 and 2021 shall be December 31.

1236 (j) The "cost rate criterion" (CRC) is defined as
1237 follows: Beginning with January 1974, the benefits paid for the
1238 twelve-month period ending December 1974 are summed and divided by
1239 the total wages for the twelve-month period ending on June 30,
1240 1975. Similar ratios are computed by subtracting the earliest
1241 month's benefit payments and adding the benefits of the next month
1242 in the sequence and dividing each sum of twelve (12) months'
1243 benefits by the total wages for the twelve-month period ending on
1244 the June 30 which is nearest to the final month of the period used
1245 to compute the numerator. If December is the final month of the
1246 period used to compute the numerator, then the twelve-month period
1247 ending the following June 30 will be used for the denominator.
1248 Benefits and total wages used in the computation of the cost rate
1249 criterion shall exclude all benefits and total wages applicable to
1250 state agencies, political subdivisions, reimbursable nonprofit
1251 corporations, and tax-exempt PSE employment.



1252 The CRC shall be computed as the average for the highest
1253 monthly value of the cost rate criterion computations during each
1254 of the economic cycles since the calendar year 1974 as defined by
1255 the National Bureau of Economic Research. The CRC shall be
1256 computed to four (4) decimal places and any remainder shall be
1257 rounded up.

1258 The CRC shall be adjusted only through annual computations
1259 and additions of future economic cycles.

1260 (k) "Size of fund index" (SOFI) is defined as the ratio
1261 of the exposure criterion (EC) to the cost rate criterion (CRC).
1262 The target size of fund index will be fixed at 1.0. If the
1263 insured unemployment rate (IUR) exceeds a four and five-tenths
1264 percent (4.5%) average for the most recent completed July to June
1265 period, the target SOFI will be .8 and will remain at that level
1266 until the computed SOFI (the average exposure criterion of the
1267 current year and the preceding year divided by the average cost
1268 rate criterion) equals 1.0 or the average IUR falls to four and
1269 five-tenths percent (4.5%) or less for any period July to June.
1270 However, if the IUR falls below two and five-tenths percent (2.5%)
1271 for any period July to June the target SOFI shall be 1.2 until
1272 such time as the computed SOFI is equal to or greater than 1.0 or
1273 the IUR is equal to or greater than two and five-tenths percent
1274 (2.5%), at which point the target SOFI shall return to 1.0.

1275 (1) No employer's unemployment contribution general
1276 experience rate plus individual unemployment experience rate shall



1277 exceed five and four-tenths percent (5.4%). Accrual rules shall
1278 apply for purposes of computing contribution rates including
1279 associated functions.

1280 (m) The term "general experience rate" has the same
1281 meaning as the minimum tax rate.

1282 (2) Modified rates:

1283 (a) For any tax year, when the reserve ratio on the
1284 preceding November 16, in the case of any tax year, equals or
1285 exceeds three percent (3%), the modified rates, as hereinafter
1286 prescribed, shall be in effect. In computation of this reserve
1287 ratio, any remainder shall be rounded down.

1288 (b) Modified rates shall be determined for the tax year
1289 for each eligible employer on the basis of his or her
1290 experience-rating record in the following manner:

1291 (i) The department shall maintain an
1292 experience-rating record for each employer. Nothing in this
1293 chapter shall be construed to grant any employer or individuals
1294 performing services for him or her any prior claim or rights to
1295 the amounts paid by the employer into the fund.

1296 (ii) Benefits paid to an eligible individual shall
1297 be charged against the experience-rating record of his or her base
1298 period employers in the proportion to which the wages paid by each
1299 base period employer bears to the total wages paid to the
1300 individual by all the base period employers, provided that



1301 benefits shall not be charged to an employer's experience-rating
1302 record if the department finds that the individual:

1303 1. Voluntarily left the employ of such
1304 employer without good cause attributable to the employer or to
1305 accept other work;

1306 2. Was discharged by such employer for
1307 misconduct connected with his or her work;

1308 3. Refused an offer of suitable work by such
1309 employer without good cause, and the department further finds that
1310 such benefits are based on wages for employment for such employer
1311 prior to such voluntary leaving, discharge or refusal of suitable
1312 work, as the case may be;

1313 4. Had base period wages which included wages
1314 for previously uncovered services as defined in Section
1315 71-5-511(e) to the extent that the Unemployment Compensation Fund
1316 is reimbursed for such benefits pursuant to Section 121 of Public
1317 Law 94-566;

1318 5. Extended benefits paid under the
1319 provisions of Section 71-5-541 which are not reimbursable from
1320 federal funds shall be charged to the experience-rating record of
1321 base period employers;

1322 6. Is still working for such employer on a
1323 regular part-time basis under the same employment conditions as
1324 hired. Provided, however, that benefits shall be charged against



1325 an employer if an eligible individual is paid benefits who is
1326 still working for such employer on a part-time "as-needed" basis;

1327 7. Was hired to replace a United States
1328 serviceman or servicewoman called into active duty and was laid
1329 off upon the return to work by that serviceman or servicewoman,
1330 unless such employer is a state agency or other political
1331 subdivision or instrumentality of the state;

1332 8. Was paid benefits during any week while in
1333 training with the approval of the department, under the provisions
1334 of Section 71-5-513B, or for any week while in training approved
1335 under Section 236(a)(1) of the Trade Act of 1974, under the
1336 provisions of Section 71-5-513C;

1337 9. Is not required to serve the one-week
1338 waiting period as described in Section 71-5-505(2). In that
1339 event, only the benefits paid in lieu of the waiting period week
1340 may be noncharged; or

1341 10. Was paid benefits as a result of a
1342 fraudulent claim, provided notification was made to the
1343 Mississippi Department of Employment Security in writing or by
1344 email by the employer, within ten (10) days of the mailing of the
1345 notice of claim filed to the employer's last-known address.

1346 (iii) Notwithstanding any other provision
1347 contained herein, an employer shall not be noncharged when the
1348 department finds that the employer or the employer's agent of
1349 record was at fault for failing to respond timely or adequately to



1350 the request of the department for information relating to an
1351 unemployment claim that was subsequently determined to be
1352 improperly paid, unless the employer or the employer's agent of
1353 record shows good cause for having failed to respond timely or
1354 adequately to the request of the department for information. For
1355 purposes of this subparagraph "good cause" means an event that
1356 prevents the employer or employer's agent of record from timely
1357 responding, and includes a natural disaster, emergency or similar
1358 event, or an illness on the part of the employer, the employer's
1359 agent of record, or their staff charged with responding to such
1360 inquiries when there is no other individual who has the knowledge
1361 or ability to respond. Any agency error that resulted in a delay
1362 in, or the failure to deliver notice to, the employer or the
1363 employer's agent of record shall also be considered good cause for
1364 purposes of this subparagraph.

1365 (iv) The department shall compute a benefit ratio
1366 for each eligible employer, which shall be the quotient obtained
1367 by dividing the total benefits charged to his or her
1368 experience-rating record during the period his or her
1369 experience-rating record has been chargeable, but not less than
1370 the twelve (12) consecutive calendar-month period nor more than
1371 the thirty-six (36) consecutive calendar-month period ending on
1372 the computation date, by his or her total taxable payroll for the
1373 same period on which all unemployment insurance contributions due
1374 have been paid on or before the September 30 immediately following



1375 the computation date. Such benefit ratio shall be computed to the
1376 tenth of a percent (.1%), rounding any remainder to the next
1377 higher tenth.

1378 (v) 1. The unemployment insurance contribution
1379 rate for each eligible employer shall be the sum of two (2) rates:
1380 his or her individual experience rate in the range from zero
1381 percent (0%) to five and four-tenths percent (5.4%), plus a
1382 general experience rate. In no event shall the resulting
1383 unemployment insurance rate be in excess of five and four-tenths
1384 percent (5.4%), however, it is the intent of this section to
1385 provide the ability for employers to have a tax rate, the general
1386 experience rate plus the individual experience rate, of up to five
1387 and four-tenths percent (5.4%).

1388 2. The employer's individual experience rate
1389 shall be equal to his or her benefit ratio as computed under
1390 paragraph (b)(iv) of this subsection (2).

1391 3. The general experience rate shall be
1392 determined in the following manner: The department shall
1393 determine annually, for the thirty-six (36) consecutive
1394 calendar-month period ending on the computation date, the amount
1395 of benefits which were not charged to the record of any employer
1396 and of benefits which were ineffectively charged to the employer's
1397 experience-rating record. For the purposes of this item 3, the
1398 term "ineffectively charged benefits" shall include:



1399 a. The total of the amounts of benefits
1400 charged to the experience-rating records of all eligible employers
1401 which caused their benefit ratios to exceed five and four-tenths
1402 percent (5.4%);

1403 b. The total of the amounts of benefits
1404 charged to the experience-rating records of all ineligible
1405 employers which would cause their benefit ratios to exceed five
1406 and four-tenths percent (5.4%) if they were eligible employers;
1407 and

1408 c. The total of the amounts of benefits
1409 charged or chargeable to the experience-rating record of any
1410 employer who has discontinued his or her business or whose
1411 coverage has been terminated within such period; provided, that
1412 solely for the purposes of determining the amounts of
1413 ineffectively charged benefits as herein defined, a "benefit
1414 ratio" shall be computed for each ineligible employer, which shall
1415 be the quotient obtained by dividing the total benefits charged to
1416 his or her experience-rating record throughout the period ending
1417 on the computation date, during which his or her experience-rating
1418 record has been chargeable with benefits, by his or her total
1419 taxable payroll for the same period on which all unemployment
1420 insurance contributions due have been paid on or before the
1421 September 30 immediately following the computation date; and
1422 provided further, that such benefit ratio shall be computed to the



1423 tenth of one percent (.1%) and any remainder shall be rounded to
1424 the next higher tenth.

1425 The ratio of the sum of these amounts (subsection
1426 (2)(b)(v)3a, b and c) to the taxable wages paid during the same
1427 period divided by all eligible employers whose benefit ratio did
1428 not exceed five and four-tenths percent (5.4%), computed to the
1429 next higher tenth of one percent (.1%), shall be the general
1430 experience rate; however, the general experience rate for rate
1431 year 2014 shall be two tenths of one percent (.2%) and to that
1432 will be added the employer's individual experience rate for the
1433 total unemployment insurance rate.

1434 4. a. Except as otherwise provided in this
1435 item 4, the general experience rate shall be adjusted by use of
1436 the size of fund index factor. This factor may be positive or
1437 negative, and shall be determined as follows: From the target
1438 SOFI, as defined in subsection (1)(k) of this section, subtract
1439 the simple average of the current and preceding years' exposure
1440 criteria divided by the cost rate criterion, as defined in
1441 subsection (1)(j) of this section. The result is then multiplied
1442 by the product of the CRC, as defined in subsection (1)(j) of this
1443 section, and total wages for the twelve-month period ending June
1444 30 divided by the taxable wages for the twelve-month period ending
1445 June 30. This is the percentage positive or negative added to the
1446 general experience rate. The sum of the general experience rate
1447 and the trust fund adjustment factor shall be multiplied by fifty



1448 percent (50%) and this product shall be computed to one (1)
1449 decimal place, and rounded to the next higher tenth.

1450 b. Notwithstanding the minimum rate
1451 provisions as set forth in subsection (1)(1) of this section, the
1452 general experience rate of all employers shall be reduced by seven
1453 one-hundredths of one percent (.07%) for calendar year 2013 only.

1454 5. The general experience rate shall be zero
1455 percent (0%) unless the general experience ratio for any tax year
1456 as computed and adjusted on the basis of the trust fund adjustment
1457 factor and reduced by fifty percent (50%) is an amount equal to or
1458 greater than two-tenths of one percent (.2%), then the general
1459 experience rate shall be the computed general experience ratio and
1460 adjusted on the basis of the trust fund adjustment factor and
1461 reduced by fifty percent (50%); however, in no case shall the sum
1462 of the general experience plus the individual experience
1463 unemployment insurance rate exceed five and four-tenths percent
1464 (5.4%). For rate years subsequent to 2014, Mississippi Workforce
1465 Enhancement Training contribution rate, and/or * * * Mississippi
1466 K-12 Workforce Development Grant Program contribution rate, and/or
1467 Mississippi Works contribution rate, when in effect, shall be
1468 added to the unemployment contribution rate, regardless of whether
1469 the addition of this contribution rate causes the total
1470 contribution rate for the employer to exceed five and four-tenths
1471 percent (5.4%).



1472 6. The department shall include in its annual
1473 rate notice to employers a brief explanation of the elements of
1474 the general experience rate, and shall include in its regular
1475 publications an annual analysis of benefits not charged to the
1476 record of any employer, and of the benefit experience of employers
1477 by industry group whose benefit ratio exceeds four percent (4%),
1478 and of any other factors which may affect the size of the general
1479 experience rate.

1480 7. Notwithstanding any other provision
1481 contained herein, the general experience rate for calendar year
1482 2021 shall be zero percent (0%). Charges attributed to each
1483 employer's individual experience rate for the period March 8,
1484 2020, through June 30, 2020, will not impact the employer's
1485 individual experience rate calculations for purposes of
1486 calculating the total unemployment insurance rate for 2021 and the
1487 two (2) subsequent tax rate years. Moreover, charges attributed
1488 to each employer's individual experience rate for the period July
1489 1, 2020, through December 31, 2020, will not impact the employer's
1490 individual experience rate calculations for purposes of
1491 calculating the total unemployment insurance rate for 2022 and the
1492 two (2) subsequent tax rate years.

1493 (vi) When any employing unit in any manner
1494 succeeds to or acquires the organization, trade, business or
1495 substantially all the assets thereof of an employer, excepting any
1496 assets retained by such employer incident to the liquidation of



1497 his or her obligations, whether or not such acquiring employing
1498 unit was an employer within the meaning of Section 71-5-11,
1499 subsection H, prior to such acquisition, and continues such
1500 organization, trade or business, the experience-rating and payroll
1501 records of the predecessor employer shall be transferred as of the
1502 date of acquisition to the successor employer for the purpose of
1503 rate determination.

1504 (vii) When any employing unit succeeds to or
1505 acquires a distinct and severable portion of an organization,
1506 trade or business, the experience-rating and payroll records of
1507 such portion, if separately identifiable, shall be transferred to
1508 the successor upon:

1509 1. The mutual consent of the predecessor and
1510 the successor;

1511 2. Approval of the department;

1512 3. Continued operation of the transferred
1513 portion by the successor after transfer; and

1514 4. The execution and the filing with the
1515 department by the predecessor employer of a waiver relinquishing
1516 all rights to have the experience-rating and payroll records of
1517 the transferred portion used for the purpose of determining
1518 modified rates of contribution for such predecessor.

1519 (viii) If the successor was an employer subject to
1520 this chapter prior to the date of acquisition, it shall continue
1521 to pay unemployment insurance contributions at the rate applicable



1522 to it from the date the acquisition occurred until the end of the
1523 then current tax year. If the successor was not an employer prior
1524 to the date of acquisition, it shall pay unemployment insurance
1525 contributions at the rate applicable to the predecessor or, if
1526 more than one (1) predecessor and the same rate is applicable to
1527 both, the rate applicable to the predecessor or predecessors, from
1528 the date the acquisition occurred until the end of the then
1529 current tax year. If the successor was not an employer prior to
1530 the date the acquisition occurred and simultaneously acquires the
1531 businesses of two (2) or more employers to whom different rates of
1532 unemployment insurance contributions are applicable, it shall pay
1533 unemployment insurance contributions from the date of the
1534 acquisition until the end of the current tax year at a rate
1535 computed on the basis of the combined experience-rating and
1536 payroll records of the predecessors as of the computation date for
1537 such tax year. In all cases the rate of unemployment insurance
1538 contributions applicable to such successor for each succeeding tax
1539 year shall be computed on the basis of the combined
1540 experience-rating and payroll records of the successor and the
1541 predecessor or predecessors.

1542 (ix) The department shall notify each employer
1543 quarterly of the benefits paid and charged to his or her
1544 experience-rating record; and such notification, in the absence of
1545 an application for redetermination filed within thirty (30) days
1546 after the date of such notice, shall be final, conclusive and



1547 binding upon the employer for all purposes. A redetermination,
1548 made after notice and opportunity for a fair hearing, by a hearing
1549 officer designated by the department who shall consider and decide
1550 these and related applications and protests; and the finding of
1551 fact in connection therewith may be introduced into any subsequent
1552 administrative or judicial proceedings involving the determination
1553 of the rate of unemployment insurance contributions of any
1554 employer for any tax year, and shall be entitled to the same
1555 finality as is provided in this subsection with respect to the
1556 findings of fact in proceedings to redetermine the contribution
1557 rate of an employer.

1558 (x) The department shall notify each employer of
1559 his or her rate of contribution as determined for any tax year as
1560 soon as reasonably possible after September 1 of the preceding
1561 year. Such determination shall be final, conclusive and binding
1562 upon such employer unless, within thirty (30) days after the date
1563 of such notice to his or her last-known address, the employer
1564 files with the department an application for review and
1565 redetermination of his or her contribution rate, setting forth his
1566 or her reasons therefor. If the department grants such review,
1567 the employer shall be promptly notified thereof and shall be
1568 afforded an opportunity for a fair hearing by a hearing officer
1569 designated by the department who shall consider and decide these
1570 and related applications and protests; but no employer shall be
1571 allowed, in any proceeding involving his or her rate of



1572 unemployment insurance contributions or contribution liability, to
1573 contest the chargeability to his or her account of any benefits
1574 paid in accordance with a determination, redetermination or
1575 decision pursuant to Sections 71-5-515 through 71-5-533 except
1576 upon the ground that the services on the basis of which such
1577 benefits were found to be chargeable did not constitute services
1578 performed in employment for him or her, and then only in the event
1579 that he or she was not a party to such determination,
1580 redetermination, decision or to any other proceedings provided in
1581 this chapter in which the character of such services was
1582 determined. The employer shall be promptly notified of the denial
1583 of this application or of the redetermination, both of which shall
1584 become final unless, within ten (10) days after the date of notice
1585 thereof, there shall be an appeal to the department itself. Any
1586 such appeal shall be on the record before said designated hearing
1587 officer, and the decision of said department shall become final
1588 unless, within thirty (30) days after the date of notice thereof
1589 to the employer's last-known address, there shall be an appeal to
1590 the Circuit Court of the First Judicial District of Hinds County,
1591 Mississippi, in accordance with the provisions of law with respect
1592 to review of civil causes by certiorari.

1593 (3) Notwithstanding any other provision of law, the
1594 following shall apply regarding assignment of rates and transfers
1595 of experience:



1596 (a) (i) If an employer transfers its trade or
1597 business, or a portion thereof, to another employer and, at the
1598 time of the transfer, there is substantially common ownership,
1599 management or control of the two (2) employers, then the
1600 unemployment experience attributable to the transferred trade or
1601 business shall be transferred to the employer to whom such
1602 business is so transferred. The rates of both employers shall be
1603 recalculated and made effective on January 1 of the year following
1604 the year the transfer occurred.

1605 (ii) If, following a transfer of experience under
1606 subparagraph (i) of this paragraph (a), the department determines
1607 that a substantial purpose of the transfer of trade or business
1608 was to obtain a reduced liability of unemployment insurance
1609 contributions, then the experience-rating accounts of the
1610 employers involved shall be combined into a single account and a
1611 single rate assigned to such account.

1612 (b) Whenever a person who is not an employer or an
1613 employing unit under this chapter at the time it acquires the
1614 trade or business of an employer, the unemployment experience of
1615 the acquired business shall not be transferred to such person if
1616 the department finds that such person acquired the business solely
1617 or primarily for the purpose of obtaining a lower rate of
1618 unemployment insurance contributions. Instead, such person shall
1619 be assigned the new employer rate under Section 71-5-353, unless
1620 assignment of the new employer rate results in an increase of less



1621 than two percent (2%), in which case such person would be assigned
1622 the new employer rate plus an additional two percent (2%) penalty
1623 for the rate year. In determining whether the business was
1624 acquired solely or primarily for the purpose of obtaining a lower
1625 rate of unemployment insurance contributions, the department shall
1626 use objective factors which may include the cost of acquiring the
1627 business, whether the person continued the business enterprise of
1628 the acquired business, how long such business enterprise was
1629 continued, or whether a substantial number of new employees were
1630 hired for performance of duties unrelated to the business activity
1631 conducted prior to acquisition.

1632 (c) (i) If a person knowingly violates or attempts to
1633 violate paragraph (a) or (b) of this subsection or any other
1634 provision of this chapter related to determining the assignment of
1635 a contribution rate, or if a person knowingly advises another
1636 person in a way that results in a violation of such provision, the
1637 person shall be subject to the following penalties:

1638 1. If the person is an employer, then such
1639 employer shall be assigned the highest rate assignable under this
1640 chapter for the rate year during which such violation or attempted
1641 violation occurred and the three (3) rate years immediately
1642 following this rate year. However, if the person's business is
1643 already at such highest rate for any year, or if the amount of
1644 increase in the person's rate would be less than two percent (2%)
1645 for such year, then the person's tax rate shall be increased by



1646 two percent (2%) for such year. The penalty rate will apply to
1647 the successor business as well as the related entity from which
1648 the employees were transferred in an effort to obtain a lower rate
1649 of unemployment insurance contributions.

1650 2. If the person is not an employer, such
1651 person shall be subject to a civil money penalty of not more than
1652 Five Thousand Dollars (\$5,000.00). Each such transaction for
1653 which advice was given and each occurrence or reoccurrence after
1654 notification being given by the department shall be a separate
1655 offense and punishable by a separate penalty. Any such fine shall
1656 be deposited in the penalty and interest account established under
1657 Section 71-5-114.

1658 (ii) For purposes of this paragraph (c), the term
1659 "knowingly" means having actual knowledge of or acting with
1660 deliberate ignorance or reckless disregard for the prohibition
1661 involved.

1662 (iii) For purposes of this paragraph (c), the term
1663 "violates or attempts to violate" includes, but is not limited to,
1664 intent to evade, misrepresentation or willful nondisclosure.

1665 (iv) In addition to the penalty imposed by
1666 subparagraph (i) of this paragraph (c), any violation of this
1667 subsection may be punishable by a fine of not more than Ten
1668 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1669 five (5) years, or by both such fine and imprisonment. This



1670 subsection shall prohibit prosecution under any other criminal
1671 statute of this state.

1672 (d) The department shall establish procedures to
1673 identify the transfer or acquisition of a business for purposes of
1674 this subsection.

1675 (e) For purposes of this subsection:

1676 (i) "Person" has the meaning given such term by
1677 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

1678 (ii) "Employing unit" has the meaning as set forth
1679 in Section 71-5-11.

1680 (f) This subsection shall be interpreted and applied in
1681 such a manner as to meet the minimum requirements contained in any
1682 guidance or regulations issued by the United States Department of
1683 Labor.

1684 **SECTION 6.** Section 71-5-453, Mississippi Code of 1972, is
1685 amended as follows:

1686 71-5-453. The department shall be the treasurer and
1687 custodian of the fund, and shall administer such fund in
1688 accordance with the directions of the department, and shall issue
1689 its warrants upon it in accordance with such regulations as the
1690 department shall prescribe. The department shall maintain within
1691 the fund three (3) separate accounts: (a) a clearing account, (b)
1692 an unemployment trust fund account, and (c) a benefit payment
1693 account. All monies payable to the fund, upon receipt thereof by
1694 the department, shall be immediately deposited in the clearing



1695 account. Refunds payable pursuant to Section 71-5-383 may be paid
1696 from the clearing account by the department. Transfers pursuant
1697 to Section 71-5-114 of all interest, penalties and damages
1698 collected shall be made to the Special Employment Security
1699 Administration Fund as soon as practicable after the end of each
1700 calendar quarter. Workforce Enhancement Training
1701 contributions, * * * Mississippi K-12 Workforce Development Grant
1702 Program contributions and Mississippi Works contributions shall be
1703 deposited into the Workforce Investment and Training Holding
1704 Account as described in this section. All other monies in the
1705 clearing account shall be immediately deposited with the Secretary
1706 of the Treasury of the United States of America to the
1707 Unemployment Trust Fund account for the State of Mississippi,
1708 established and maintained pursuant to Section 904 of the Social
1709 Security Act, as amended, any provisions of law in this state
1710 relating to the deposit, administration, release or disbursement
1711 of monies in the possession or custody of this state to the
1712 contrary notwithstanding. The benefit account shall consist of
1713 all monies requisitioned from this state's account in the
1714 Unemployment Trust Fund. Except as herein otherwise provided,
1715 monies in the clearing and benefit accounts may be deposited by
1716 the department, in any bank or public depository in which general
1717 funds of the state may be deposited, but no public deposit
1718 insurance charge or premium shall be paid out of the fund. The
1719 department shall be liable for the faithful performance of its



1720 duties in connection with the Unemployment Compensation Fund under
1721 this chapter. A Workforce Investment and Training Holding Account
1722 shall be established by and maintained under the control of the
1723 Mississippi Department of Employment Security. Contributions
1724 collected pursuant to the provisions in this chapter for the
1725 Workforce Enhancement Training Fund, * * * Mississippi K-12
1726 Workforce Development Grant Program Fund and the Mississippi Works
1727 Fund shall be transferred from the clearing account into the
1728 Workforce Investment and Training Holding Account on the same
1729 schedule and under the same conditions as funds transferred to the
1730 Unemployment Compensation Fund. Such funds shall remain on
1731 deposit in the holding account for a period of thirty (30) days.
1732 After such period, Workforce Enhancement Training contributions
1733 shall be transferred to the appropriate Mississippi Community
1734 College Board Treasury Account, with oversight provided by the
1735 Mississippi Office of Workforce Development, by the department.
1736 The * * * Mississippi K-12 Workforce Development Grant program
1737 contributions shall be transferred to the * * * Mississippi K-12
1738 Workforce Development Grant Program Treasury Account for the
1739 Mississippi K-12 Workforce Development Grant Program Fund. The
1740 Mississippi Works contributions shall be transferred to the
1741 Mississippi Department of Employment Security Treasury Account for
1742 the Mississippi Works Fund. Such transfers shall occur within
1743 fifteen (15) days after the funds have resided in the Workforce
1744 Investment and Training Holding Account for thirty (30) days. One



1745 (1) such transfer shall be made monthly, but the department, in
1746 its discretion, may make additional transfers in any month. In
1747 the event such funds transferred are subsequently determined to be
1748 erroneously paid or collected, or if deposit of such funds is
1749 denied or rejected by the banking institution for any reason, or
1750 deposits are unable to clear drawer's account for any reason, the
1751 funds must be reimbursed by the recipient of such funds within
1752 thirty (30) days of mailing of notice by the department demanding
1753 such refund, unless funds are available in the Workforce
1754 Investment and Training Holding Account. In that event such
1755 amounts shall be immediately withdrawn from the Workforce
1756 Investment and Training Holding Account by the department and
1757 redeposited into the clearing account.

1758 **SECTION 7.** Section 37-153-63, Mississippi Code of 1972, is
1759 amended as follows:

1760 37-153-63. * * * Grant funds shall be available under this
1761 act through December 31, 2026, or on the date of the fund
1762 expenditure deadline provided by the federal government, whichever
1763 occurs later. Each grant recipient shall certify, for any project
1764 for which a grant is awarded, that if the project is not completed
1765 by December 31, 2026, and the United States Congress does not
1766 enact an extension of the deadline on the availability of ARPA
1767 funds, then the grant recipient will complete the project through
1768 other funds.



1769 **SECTION 8.** This act shall take effect and be in force from
1770 and after its passage.

