

By: Representatives Bell (21st), Sanford,
Summers

To: Workforce Development;
Appropriations

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 AND 71-5-453, MISSISSIPPI CODE OF 1972, TO
31 CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTION
32 37-73-3, MISSISSIPPI CODE OF 1972, WHICH CREATES THE CAREER
33 COACHING PILOT PROGRAM, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND
34 FOR RELATED PURPOSES.



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

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

38 71-5-353. (1) (a) Each employer shall pay unemployment
39 insurance contributions equal to five and four-tenths percent
40 (5.4%) of taxable wages paid by him each calendar year, except as
41 may be otherwise provided in Section 71-5-361 and except that each
42 newly subject employer shall pay unemployment insurance
43 contributions at the rate of one percent (1%) of taxable wages,
44 for his first year of liability, one and one-tenth percent (1.1%)
45 of taxable wages for his second year of liability, and one and
46 two-tenths percent (1.2%) of taxable wages for his third and
47 subsequent years of liability unless the employer's
48 experience-rating record has been chargeable throughout at least
49 the twelve (12) consecutive calendar months ending on the most
50 recent computation date at the time the rate for a year is
51 determined; thereafter the employer's contribution rate shall be
52 determined in accordance with the provisions of Section 71-5-355.

53 (b) Notwithstanding the newly subject employer
54 contribution rate provided for in paragraph (a) of this
55 subsection, the contribution rate of all newly subject employers
56 shall be reduced by seven one-hundredths of one percent (.07%) for
57 calendar year 2013 only. The contribution rate of all newly
58 subject employers shall be reduced by three one-hundredths of one
59 percent (.03%) for calendar year 2014 only. For purposes of this



60 chapter, "newly subject employers" means employers whose
61 unemployment insurance experience-rating record has not been
62 chargeable throughout at least the twelve (12) consecutive
63 calendar months ending on the most recent computation date at the
64 time the contribution rate for a year is determined.

65 (2) (a) (i) There is hereby created in the Treasury of the
66 State of Mississippi special funds to be known as the "Mississippi
67 Workforce Enhancement Training Fund" * * *, the "Mississippi Works
68 Fund" and the "Mississippi K-12 Workforce Development Grant
69 Program Fund" which consist of funds collected pursuant to
70 subsection (3) of this section and any other monies that may be
71 appropriated to the funds from the Legislature.

72 (ii) Funds collected shall initially be deposited
73 into the Mississippi Department of Employment Security bank
74 account for clearing contribution collections and subsequently
75 appropriate amounts shall be transferred to the Mississippi
76 Workforce Investment and Training Fund Holding Account described
77 in Section 71-5-453. In the event any employer pays an amount
78 insufficient to cover the total contributions due, the amounts due
79 shall be satisfied in the following order:

- 80 1. Unemployment contributions;
- 81 2. Mississippi Workforce Enhancement Training
82 contributions, * * * Mississippi K-12 Workforce Development Grant
83 Program contributions and the Mississippi Works contributions,



84 known collectively as the Mississippi Workforce Investment and
85 Training contributions, on a pro rata basis;

86 3. Interest and damages; then

87 4. Legal and processing costs.

88 The amount of unemployment insurance contributions due for
89 any period will be the amount due according to the actual
90 computations unless the employer is participating in the MLPP. In
91 that event, the amount due is the MLPP amount computed by the
92 department.

93 Cost of collection and administration of the Mississippi
94 Workforce Enhancement Training contribution, the * * * Mississippi
95 K-12 Workforce Development Grant Program contribution and the
96 Mississippi Works contribution shall be allocated based on a plan
97 approved by the United States Department of Labor (USDOL). The
98 Mississippi Community College Board shall pay the cost of
99 collecting the Mississippi Workforce Enhancement Training
100 contributions, the * * * Office of Workforce Development shall pay
101 the cost of collecting the * * * Mississippi K-12 Workforce
102 Development Grant Program contributions and the Mississippi
103 Department of Employment Security shall pay the cost of collecting
104 the Mississippi Works contributions. Payments shall be made
105 semiannually with the cost allocated to each based on a USDOL
106 approved plan on a pro rata basis, for periods ending in June and
107 December of each year. Payment shall be made by each organization
108 to the department no later than sixty (60) days after the billing



109 date. Cost shall be allocated under the USDOL's approved plan and
110 in the same ratio as each contribution type represents to the
111 total authorized by subparagraph (ii)2 of this paragraph to be
112 collected for the period.

113 (b) Mississippi Workforce Enhancement Training
114 contributions and * * * Mississippi K-12 Workforce Development
115 Grant Program contributions shall be distributed * * * for
116 calendar years * * * after calendar year 2014 as follows,
117 ninety-three and seventy-five one-hundredths percent (93.75%)
118 shall be distributed to the Mississippi Workforce Enhancement
119 Training Fund and the remainder shall be distributed to the * * *
120 Mississippi K-12 Workforce Development Grant Program Fund;
121 * * *

122 (c) All contributions collected for the State Workforce
123 Enhancement Training Fund, the * * * Mississippi K-12 Workforce
124 Development Grant Program Fund and the Mississippi Works Fund will
125 be initially deposited into the Mississippi Department of
126 Employment Security bank account for clearing contribution
127 collections and subsequently transferred to the Workforce
128 Investment and Training Holding Account and will be held by the
129 Mississippi Department of Employment Security in such account for
130 a period of not less than thirty (30) days. After such period,
131 the Mississippi Workforce Enhancement Training contributions shall
132 be transferred to the Mississippi Community College Board Treasury
133 Account, with oversight provided by the Mississippi Office of



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



158 the rules and regulations of the * * * Mississippi K-12 Workforce
159 Development Grant Program created in Section 2 of this act.

160 (d) All enforcement procedures for the collection of
161 delinquent unemployment contributions contained in Sections
162 71-5-363 through 71-5-383 shall be applicable in all respects for
163 collections of delinquent unemployment insurance contributions
164 designated for the Unemployment Compensation Fund, the Mississippi
165 Workforce Enhancement Training Fund, the * * * Mississippi K-12
166 Workforce Development Grant Program Fund and the Mississippi Works
167 Fund.

168 (e) (i) Except as otherwise provided for in this
169 subparagraph (i), all monies deposited into the Mississippi
170 Workforce Enhancement Training Fund Treasury Account shall be
171 directed by the Mississippi Office of Workforce Development, in
172 collaboration with the Mississippi Community College Board, in
173 accordance with the Workforce Training Act of 1994 (Section
174 37-153-1 et seq.) and under policies approved by the Mississippi
175 Office of Workforce Development for the following purposes: to
176 provide training in collaboration with the Mississippi Community
177 College Board and individual community and junior colleges to
178 employers and employees in order to enhance employee productivity.
179 Such training may be subject to a minimal administrative fee of
180 not more than five percent (5%) to be paid from the Mississippi
181 Workforce Enhancement Training Fund as established by the Office
182 of Workforce Development. The initial priority of these funds



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



208 under the direction of the office. Any subsequent changes to
209 these performance measures shall also be reported to the Governor,
210 Lieutenant Governor, Speaker of the House, and members of the
211 Legislature. A performance report for each training project and
212 community college, based upon these measures, shall be submitted
213 annually to the Governor, Lieutenant Governor, Speaker of the
214 House, and members of the Legislature.

215 (ii) Except as otherwise provided in this
216 paragraph (e), all funds deposited into the * * * Mississippi K-12
217 Workforce Development Grant Program Fund shall be used for
218 administration of * * * the Mississippi K-12 Workforce Development
219 Grant Program created in Section 2 of this act.

220 (iii) All funds deposited into the Mississippi
221 Department of Employment Security Mississippi Works Fund shall be
222 disbursed exclusively by the Executive Director of the Mississippi
223 Department of Employment Security, in accordance with the rules
224 and regulations promulgated by the Office of Workforce
225 Development, in support of workforce training activities approved
226 by the Mississippi Office of Workforce Development in support of
227 economic development activities. Funds allocated by the executive
228 director under this subparagraph (iii) shall only be utilized for
229 the training of unemployed persons, for immediate training needs
230 for the net new jobs created by an employer, for the retention of
231 jobs, to create a work-ready applicant pool of Mississippians with
232 credentials and/or postsecondary education in accordance with the



233 state's Workforce Investment and Opportunity Act plan, or for the
234 support of local economic and community development activities
235 related to workforce development in the state. The Mississippi
236 Office of Workforce Development, in collaboration with the
237 Mississippi Public Community College System and its partners,
238 shall be the primary entity to facilitate training. Training
239 conducted utilizing these Mississippi Works funds may be subject
240 to a minimal administrative fee of not more than five percent (5%)
241 to be paid from the Mississippi Works Fund as authorized by the
242 Mississippi Office of Workforce Development. All costs associated
243 with the administration of these funds shall be reimbursed to the
244 Mississippi Department of Employment Security from the Mississippi
245 Works Fund.

246 (iv) 1. The Department of Employment Security
247 shall be the fiscal agent for the receipt and disbursement of all
248 funds remaining in the State Workforce Investment Board bank
249 account, subject to the administrative oversight of the Office of
250 Workforce Development. The Mississippi Department of Employment
251 Security shall be the fiscal agent for all funds appropriated to
252 it for use by the Office of Workforce Development.

253 2. * * * The Office of Workforce Development,
254 in coordination with the Mississippi Department of Employment
255 Security as fiscal agent, shall ensure that any funds expended for
256 contractual services rendered to the Office of Workforce
257 Development over Five Thousand Dollars (\$5,000.00) shall be paid



258 only to service providers who have been selected on a competitive
259 basis. Any contract for services entered into using funds * * *
260 appropriated to the Mississippi Department of Employment Security
261 for the Office of Workforce Development shall meet the
262 requirements for state contracts set out in Section 31-7-1 et seq.

263 3. Any commodities procured for the office
264 shall be procured in accordance with the provisions of Section
265 31-7-13.

266 * * *

267 (3) (a) (i) Mississippi Workforce Enhancement Training
268 contributions and * * * Mississippi K-12 Workforce Development
269 Grant Program contributions shall be collected * * * for calendar
270 years * * * after calendar year 2016 * * * at a rate of twenty
271 one-hundredths percent (.20%), based upon taxable wages, of which
272 fifteen one-hundredths percent (.15%) shall be the Workforce
273 Enhancement Training contribution, one-hundredths of one percent
274 (.01%) shall be the * * * Mississippi K-12 Workforce Development
275 Grant Program contribution and four one-hundredths percent (.04%)
276 shall be the Mississippi Works contribution. The Mississippi
277 Works contribution shall be collected for calendar years in which
278 the general experience ratio, adjusted on the basis of the trust
279 fund adjustment factor and reduced by fifty percent (50%), results
280 in a general experience rate of less than two-tenths percent
281 (.2%). In all other years the Mississippi Works contribution
282 shall not be in effect.



283 (iii) The Mississippi Workforce Enhancement
284 Training Fund contribution, the * * * Mississippi K-12 Workforce
285 Development Grant Program Fund contribution and the Mississippi
286 Works contribution shall be in addition to the general experience
287 rate plus the individual experience rate of all employers but
288 shall not be charged to reimbursing or rate-paying political
289 subdivisions or institutions of higher learning, or reimbursing
290 nonprofit organizations, as described in Sections 71-5-357 and
291 71-5-359.

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



307 clearing contribution collections out of funds in the Mississippi
308 Workforce Investment and Training Fund Holding Account.

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

324 (d) Notwithstanding any other provision contained
325 herein, contribution collections for the * * * Mississippi K-12
326 Workforce Development Grant Program Fund, Mississippi Works Fund
327 and Mississippi Workforce Enhancement Training Fund shall not be
328 suspended, under any circumstances, for tax rate year 2021, and
329 the resulting contribution rate of twenty one-hundredths percent
330 (.20%) shall be added to the employer's general and individual



331 experience rate to obtain the total unemployment insurance rate
332 for 2021.

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

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

346 (2) The Office of Workforce Development shall prescribe the
347 terms and conditions of the grant program. To be eligible to
348 receive a grant from the Office of Workforce Development under the
349 grant program, a school at the K-12 education level shall provide
350 the following information:

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

353 (b) The purpose of the program;

354 (c) Whether the program fits into the ecosystem for the
355 training needs in the area;



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

358 (e) Any other information that the office determines is
359 necessary.

360 (3) The Office of Workforce Development may use a maximum of
361 five percent (5%) of funds appropriated for the program for the
362 administration of the program.

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

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

369 37-153-7. (1) There is created the Mississippi Office of
370 Workforce Development and the Mississippi State Workforce
371 Investment Board, which shall serve as the advisory board for the
372 office. The Mississippi State Workforce Investment Board shall be
373 composed of thirty-one (31) voting members, of which a majority
374 shall be representatives of business and industry in accordance
375 with the federal Workforce Innovation and Opportunity Act, or any
376 successive acts.

377 (2) The members of the State Workforce Investment Board
378 shall include:

379 (a) The Governor, or his designee;



380 (b) Nineteen (19) members, appointed by the Governor,
381 of whom:

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

384 1. Are owners of businesses, chief executives
385 or operating officers of businesses, or other business executives
386 or employers with optimum policymaking or hiring authority, and
387 who, in addition, may be members of a local board described in
388 Section 3122(b)(2)(A)(i) of the federal Workforce Innovation and
389 Opportunity Act. At least two (2) of the members appointed under
390 this item 1. shall be small business owners, chief executives or
391 operating officers of businesses with less than fifty (50)
392 employees;

393 2. Represent businesses, including small
394 businesses, or organizations representing businesses, which
395 provide employment opportunities that, at a minimum, include
396 high-quality, work-relevant training and development in
397 high-demand industry sectors or occupations in the state; and

398 3. Are appointed from among individuals
399 nominated by state business organizations and business trade
400 associations;

401 (ii) Not less than twenty percent (20%) shall
402 consist of representatives of the workforce within the state,
403 which:



404 1. Includes labor organization
405 representatives who have been nominated by state labor
406 federations;

407 2. Includes a labor organization member or
408 training director from an apprenticeship program in the state,
409 which shall be a joint labor-management apprenticeship program if
410 such a program exists in the state;

411 3. May include representatives of
412 community-based organizations, including organizations serving
413 veterans or providing or supporting competitive, integrated
414 employment for individuals with disabilities, who have
415 demonstrated experience and expertise in addressing employment,
416 training or education needs of individuals with barriers to
417 employment; and

418 4. May include representatives of
419 organizations, including organizations serving out-of-school
420 youth, who have demonstrated experience or expertise in addressing
421 the employment, training or education needs of eligible youth;

422 (iii) The balance shall include government
423 representatives, including the lead state officials with primary
424 responsibility for core programs, and chief elected officials
425 (collectively representing both cities and counties, where
426 appropriate);

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



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

432 (e) The following state officials:

433 (i) The Executive Director of the Mississippi
434 Department of Employment Security;

435 (ii) The Executive Director of the Department of
436 Rehabilitation Services;

437 (iii) The State Superintendent of Public
438 Education;

439 (iv) The Executive Director of the Mississippi
440 Development Authority;

441 (v) The Executive Director of the Mississippi
442 Community College Board;

443 (vi) The President of the Community College
444 Association; and

445 (vii) The Commissioner of the Institutions of
446 Higher Learning.

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

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



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

455 (i) The membership of the board shall reflect the
456 diversity of the State of Mississippi.

457 (j) The Governor shall designate the Chairman of the
458 Mississippi State Workforce Investment Board from among the
459 business and industry voting members of the board, and a quorum of
460 the board shall consist of a majority of the voting members of the
461 board.

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

467 (3) Members of the state board may be recalled by their
468 appointing authority for cause, including a felony conviction,
469 fraudulent or dishonest acts or gross abuse of discretion, failure
470 to meet board member qualifications, or chronic failure to attend
471 board meetings.

472 (4) The Mississippi Department of Employment Security shall
473 establish limits on administrative costs for each portion of
474 Mississippi's workforce development system consistent with the
475 federal Workforce Investment Act or any future federal workforce
476 legislation.



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

482 (a) Through the office, develop and submit to the
483 Governor, Lieutenant Governor and Speaker of the House a strategic
484 plan for an integrated state workforce development system that
485 aligns resources and structures the system to more effectively and
486 efficiently meet the demands of Mississippi's employers and job
487 seekers. This plan will comply with the federal Workforce
488 Investment Act of 1998, as amended, the federal Workforce
489 Innovation and Opportunity Act of 2014 and amendments and
490 successor legislation to these acts;

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

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

496 (ii) Review local workforce development plans that
497 reflect the use of funds from the federal Workforce Investment
498 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
499 Act and the amendment or successor legislation to the acts, and
500 the Mississippi Comprehensive Workforce Training and Education
501 Consolidation Act;



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

519 (d) Assist the Governor in the development of an
520 allocation formula for the distribution of funds for adult
521 employment and training activities and youth activities to local
522 workforce investment areas;

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



526 (f) Assist the Governor in the establishment and
527 management of a one-stop employment and training system conforming
528 to the requirements of the federal Workforce Investment Act of
529 1998 and the Workforce Innovation and Opportunity Act of 2014, as
530 amended, recommending policy for implementing the Governor's
531 approved plan for employment and training activities and services
532 within the state. In developing this one-stop career operating
533 system, the Mississippi State Workforce Investment Board, in
534 conjunction with local workforce investment boards, shall:

535 (i) Design broad guidelines for the delivery of
536 workforce development programs;

537 (ii) Identify all existing delivery agencies and
538 other resources;

539 (iii) Define appropriate roles of the various
540 agencies to include an analysis of service providers' strengths
541 and weaknesses;

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

544 (v) Develop a financial plan to support the
545 delivery system that shall, at a minimum, include an
546 accountability system;

547 (g) To provide authority, in accordance with any
548 executive order of the Governor, for developing the necessary
549 collaboration among state agencies at the highest level for
550 accomplishing the purposes of this article;



551 (h) To monitor the effectiveness of the workforce
552 development centers and WIN job centers;

553 (i) To advise the Governor, public schools,
554 community/junior colleges and institutions of higher learning on
555 effective school-to-work transition policies and programs that
556 link students moving from high school to higher education and
557 students moving between community colleges and four-year
558 institutions in pursuit of academic and technical skills training;

559 (j) To work with industry to identify barriers that
560 inhibit the delivery of quality workforce education and the
561 responsiveness of educational institutions to the needs of
562 industry;

563 (k) To provide periodic assessments on effectiveness
564 and results of the overall Mississippi comprehensive workforce
565 development system and district councils;

566 (l) Develop broad statewide development goals,
567 including a goal to raise the state's labor force participation
568 rate;

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

572 (n) To assist the Governor in carrying out any other
573 responsibility required by the federal Workforce Investment Act of
574 1998, as amended and the Workforce Innovation and Opportunity Act,
575 successor legislation and amendments.



576 (6) The Mississippi State Workforce Investment Board shall
577 coordinate all training programs and funds within its purview,
578 consistent with the federal Workforce Investment Act, Workforce
579 Innovation and Opportunity Act, amendments and successor
580 legislation to these acts, and other relevant federal law.

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

596 (7) The State Workforce Investment Board shall establish an
597 executive committee, which shall consist of the following State
598 Workforce Investment Board members:

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



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

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

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

607 (e) The two (2) legislators, who shall serve in a
608 nonvoting capacity, one (1) of whom shall be appointed by the
609 Lieutenant Governor from the membership of the Mississippi Senate
610 and one (1) of whom shall be appointed by the Speaker of the House
611 of Representatives from the membership of the Mississippi House of
612 Representatives.

613 (8) The executive committee shall select an executive
614 director of the Office of Workforce Development, with the advice
615 and consent of a majority of the State Workforce Investment Board.
616 The executive committee shall seek input from economic development
617 organizations across the state when selecting the executive
618 director. The executive director shall:

619 (a) Be a person with extensive experience in
620 development of economic, human and physical resources, and
621 promotion of industrial and commercial development. The executive
622 director shall have a bachelor's degree from a state-accredited
623 institution and no less than eight (8) years of professional
624 experience related to workforce or economic development;



625 (b) Perform the functions necessary for the daily
626 operation and administration of the office, with oversight from
627 the executive committee and the State Workforce Investment Board,
628 to fulfill the duties of the state board as described in Chapter
629 476, Laws of 2020;

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

635 (d) Enter any part of the Mississippi Community College
636 Board, individual community and junior colleges, or other
637 workforce training facilities operated by the state or its
638 subdivisions;

639 (e) Serve at the will and pleasure of the executive
640 committee;

641 (f) Promulgate rules and regulations, subject to
642 oversight by the executive committee, not inconsistent with this
643 article, as may be necessary to enforce the provisions in Chapter
644 476, Laws of 2020; and

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

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



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

654 (10) The office shall file an annual and a quarterly report
655 each year with the Governor, Secretary of State, President of the
656 Senate, * * * Speaker of the House, * * * Chairman of the House
657 Workforce Development Committee and Chairman of the Senate
658 Economic and Workforce Development Committee. The annual report
659 shall be filed not later than October 1 of each year regarding all
660 funds approved by the office to be expended on workforce training
661 during the prior calendar year. The quarterly and annual report
662 shall include:

663 (a) Information on the performance of the Mississippi
664 Workforce Enhancement Training Fund and the Mississippi Works
665 Fund, in terms of adding value to the local and state economy, the
666 contribution to future growth of the state economy, and movement
667 toward state goals, including increasing the labor force
668 participation rate; * * *

669 (b) With respect to specific workforce training
670 projects:

671 (i) The location of the training;
672 (ii) The amount allocated to the project;
673 (iii) The purpose of the project;



674 (iv) The specific business entity that is the
675 beneficiary of the project; * * *

676 (v) The number of employees intended to be trained
677 and actually trained, if applicable, in the course of the
678 project * * *; and

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

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

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

684 (ii) The amount allocated to the grant;

685 (iii) The purpose of the grant; and

686 (iv) How the grant has been used since it was
687 awarded.

688 All information concerning a proposed project which is
689 provided to the executive director shall be kept confidential.
690 Such confidentiality shall not limit disclosure under the
691 Mississippi Public Records Act of 1983 of records describing the
692 nature, quantity, cost or other pertinent information related to
693 the activities of, or services performed using, the Mississippi
694 Workforce Enhancement Training Fund or the Mississippi Works Fund.

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



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

701 (b) The ability to enter into nondisclosure agreements
702 to effectively support economic development activities and the
703 proprietary nature of customized training for existing and new
704 industry;

705 (c) To adopt and promulgate such rules and regulations
706 as may be necessary or desirable for the purpose of implementing
707 the Mississippi K-12 Workforce Development Grant Program created
708 in Section 2 of this act.

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

714 **SECTION 4.** Section 71-5-355, Mississippi Code of 1972, is
715 amended as follows:

716 71-5-355. (1) As used in this section, the following words
717 and phrases shall have the following meanings, unless the context
718 clearly requires otherwise:

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



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

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

725 (d) Except as hereinafter provided, "payroll" means the
726 total of all wages paid for employment by an employer as defined
727 in Section 71-5-11, subsection H, plus the total of all
728 remuneration paid by such employer excluded from the definition of
729 wages by Section 71-5-351. For the computation of modified rates,
730 "payroll" means the total of all wages paid for employment by an
731 employer as defined in Section 71-5-11, subsection H.

732 (e) For the computation of modified rates, "eligible
733 employer" means an employer whose experience-rating record has
734 been chargeable with benefits throughout the thirty-six (36)
735 consecutive calendar-month period ending on the computation date,
736 except that any employer who has not been subject to the
737 Mississippi Employment Security Law for a period of time
738 sufficient to meet the thirty-six (36) consecutive calendar-month
739 requirement shall be an eligible employer if his or her
740 experience-rating record has been chargeable throughout not less
741 than the twelve (12) consecutive calendar-month period ending on
742 the computation date. No employer shall be considered eligible
743 for a contribution rate less than five and four-tenths percent
744 (5.4%) with respect to any tax year, who has failed to file any
745 two (2) quarterly reports within the qualifying period by



746 September 30 following the computation date. No employer or
747 employing unit shall be eligible for a contribution rate of less
748 than five and four-tenths percent (5.4%) for the tax year in which
749 the employing unit is found by the department to be in violation
750 of Section 71-5-19(2) or (3) and for the next two (2) succeeding
751 tax years. No representative of such employing unit who was a
752 party to a violation as described in Section 71-5-19(2) or (3), if
753 such representative was or is an employing unit in this state,
754 shall be eligible for a contribution rate of less than five and
755 four-tenths percent (5.4%) for the tax year in which such
756 violation was detected by the department and for the next two (2)
757 succeeding tax years.

758 (f) With respect to any tax year, "reserve ratio" means
759 the ratio which the total amount available for the payment of
760 benefits in the Unemployment Compensation Fund, excluding any
761 amount which has been credited to the account of this state under
762 Section 903 of the Social Security Act, as amended, and which has
763 been appropriated for the expenses of administration pursuant to
764 Section 71-5-457 whether or not withdrawn from such account, on
765 October 31 (close of business) of each calendar year bears to the
766 aggregate of the taxable payrolls of all employers for the twelve
767 (12) calendar months ending on June 30 next preceding.

768 (g) "Modified rates" means the rates of employer
769 unemployment insurance contributions determined under the



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

772 (h) For the computation of modified rates, "qualifying
773 period" means a period of not less than the thirty-six (36)
774 consecutive calendar months ending on the computation date
775 throughout which an employer's experience-rating record has been
776 chargeable with benefits; except that with respect to any eligible
777 employer who has not been subject to this article for a period of
778 time sufficient to meet the thirty-six (36) consecutive
779 calendar-month requirement, "qualifying period" means the period
780 ending on the computation date throughout which his or her
781 experience-rating record has been chargeable with benefits, but in
782 no event less than the twelve (12) consecutive calendar-month
783 period ending on the computation date throughout which his or her
784 experience-rating record has been so chargeable.

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



795 any other provision contained herein, the date for determining the
796 cash balance of the Unemployment Compensation Fund which is
797 available for the payment of benefits for the calendar years 2020
798 and 2021 shall be December 31.

799 (j) The "cost rate criterion" (CRC) is defined as
800 follows: Beginning with January 1974, the benefits paid for the
801 twelve-month period ending December 1974 are summed and divided by
802 the total wages for the twelve-month period ending on June 30,
803 1975. Similar ratios are computed by subtracting the earliest
804 month's benefit payments and adding the benefits of the next month
805 in the sequence and dividing each sum of twelve (12) months'
806 benefits by the total wages for the twelve-month period ending on
807 the June 30 which is nearest to the final month of the period used
808 to compute the numerator. If December is the final month of the
809 period used to compute the numerator, then the twelve-month period
810 ending the following June 30 will be used for the denominator.
811 Benefits and total wages used in the computation of the cost rate
812 criterion shall exclude all benefits and total wages applicable to
813 state agencies, political subdivisions, reimbursable nonprofit
814 corporations, and tax-exempt PSE employment.

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



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

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

823 (k) "Size of fund index" (SOFI) is defined as the ratio
824 of the exposure criterion (EC) to the cost rate criterion (CRC).
825 The target size of fund index will be fixed at 1.0. If the
826 insured unemployment rate (IUR) exceeds a four and five-tenths
827 percent (4.5%) average for the most recent completed July to June
828 period, the target SOFI will be .8 and will remain at that level
829 until the computed SOFI (the average exposure criterion of the
830 current year and the preceding year divided by the average cost
831 rate criterion) equals 1.0 or the average IUR falls to four and
832 five-tenths percent (4.5%) or less for any period July to June.
833 However, if the IUR falls below two and five-tenths percent (2.5%)
834 for any period July to June the target SOFI shall be 1.2 until
835 such time as the computed SOFI is equal to or greater than 1.0 or
836 the IUR is equal to or greater than two and five-tenths percent
837 (2.5%), at which point the target SOFI shall return to 1.0.

838 (l) No employer's unemployment contribution general
839 experience rate plus individual unemployment experience rate shall
840 exceed five and four-tenths percent (5.4%). Accrual rules shall
841 apply for purposes of computing contribution rates including
842 associated functions.



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

845 (2) Modified rates:

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

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

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

859 (ii) Benefits paid to an eligible individual shall
860 be charged against the experience-rating record of his or her base
861 period employers in the proportion to which the wages paid by each
862 base period employer bears to the total wages paid to the
863 individual by all the base period employers, provided that
864 benefits shall not be charged to an employer's experience-rating
865 record if the department finds that the individual:



866 1. Voluntarily left the employ of such
867 employer without good cause attributable to the employer or to
868 accept other work;

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

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

876 4. Had base period wages which included wages
877 for previously uncovered services as defined in Section
878 71-5-511(e) to the extent that the Unemployment Compensation Fund
879 is reimbursed for such benefits pursuant to Section 121 of Public
880 Law 94-566;

881 5. Extended benefits paid under the
882 provisions of Section 71-5-541 which are not reimbursable from
883 federal funds shall be charged to the experience-rating record of
884 base period employers;

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



890 7. Was hired to replace a United States
891 serviceman or servicewoman called into active duty and was laid
892 off upon the return to work by that serviceman or servicewoman,
893 unless such employer is a state agency or other political
894 subdivision or instrumentality of the state;

895 8. Was paid benefits during any week while in
896 training with the approval of the department, under the provisions
897 of Section 71-5-513B, or for any week while in training approved
898 under Section 236(a)(1) of the Trade Act of 1974, under the
899 provisions of Section 71-5-513C;

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

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

909 (iii) Notwithstanding any other provision
910 contained herein, an employer shall not be noncharged when the
911 department finds that the employer or the employer's agent of
912 record was at fault for failing to respond timely or adequately to
913 the request of the department for information relating to an
914 unemployment claim that was subsequently determined to be



915 improperly paid, unless the employer or the employer's agent of
916 record shows good cause for having failed to respond timely or
917 adequately to the request of the department for information. For
918 purposes of this subparagraph "good cause" means an event that
919 prevents the employer or employer's agent of record from timely
920 responding, and includes a natural disaster, emergency or similar
921 event, or an illness on the part of the employer, the employer's
922 agent of record, or their staff charged with responding to such
923 inquiries when there is no other individual who has the knowledge
924 or ability to respond. Any agency error that resulted in a delay
925 in, or the failure to deliver notice to, the employer or the
926 employer's agent of record shall also be considered good cause for
927 purposes of this subparagraph.

928 (iv) The department shall compute a benefit ratio
929 for each eligible employer, which shall be the quotient obtained
930 by dividing the total benefits charged to his or her
931 experience-rating record during the period his or her
932 experience-rating record has been chargeable, but not less than
933 the twelve (12) consecutive calendar-month period nor more than
934 the thirty-six (36) consecutive calendar-month period ending on
935 the computation date, by his or her total taxable payroll for the
936 same period on which all unemployment insurance contributions due
937 have been paid on or before the September 30 immediately following
938 the computation date. Such benefit ratio shall be computed to the



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

941 (v) 1. The unemployment insurance contribution
942 rate for each eligible employer shall be the sum of two (2) rates:
943 his or her individual experience rate in the range from zero
944 percent (0%) to five and four-tenths percent (5.4%), plus a
945 general experience rate. In no event shall the resulting
946 unemployment insurance rate be in excess of five and four-tenths
947 percent (5.4%), however, it is the intent of this section to
948 provide the ability for employers to have a tax rate, the general
949 experience rate plus the individual experience rate, of up to five
950 and four-tenths percent (5.4%).

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

954 3. The general experience rate shall be
955 determined in the following manner: The department shall
956 determine annually, for the thirty-six (36) consecutive
957 calendar-month period ending on the computation date, the amount
958 of benefits which were not charged to the record of any employer
959 and of benefits which were ineffectively charged to the employer's
960 experience-rating record. For the purposes of this item 3, the
961 term "ineffectively charged benefits" shall include:

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



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

966 b. The total of the amounts of benefits
967 charged to the experience-rating records of all ineligible
968 employers which would cause their benefit ratios to exceed five
969 and four-tenths percent (5.4%) if they were eligible employers;
970 and

971 c. The total of the amounts of benefits
972 charged or chargeable to the experience-rating record of any
973 employer who has discontinued his or her business or whose
974 coverage has been terminated within such period; provided, that
975 solely for the purposes of determining the amounts of
976 ineffectively charged benefits as herein defined, a "benefit
977 ratio" shall be computed for each ineligible employer, which shall
978 be the quotient obtained by dividing the total benefits charged to
979 his or her experience-rating record throughout the period ending
980 on the computation date, during which his or her experience-rating
981 record has been chargeable with benefits, by his or her total
982 taxable payroll for the same period on which all unemployment
983 insurance contributions due have been paid on or before the
984 September 30 immediately following the computation date; and
985 provided further, that such benefit ratio shall be computed to the
986 tenth of one percent (.1%) and any remainder shall be rounded to
987 the next higher tenth.



988 The ratio of the sum of these amounts (subsection
989 (2) (b) (v) 3a, b and c) to the taxable wages paid during the same
990 period divided by all eligible employers whose benefit ratio did
991 not exceed five and four-tenths percent (5.4%), computed to the
992 next higher tenth of one percent (.1%), shall be the general
993 experience rate; however, the general experience rate for rate
994 year 2014 shall be two tenths of one percent (.2%) and to that
995 will be added the employer's individual experience rate for the
996 total unemployment insurance rate.

997 4. a. Except as otherwise provided in this
998 item 4, the general experience rate shall be adjusted by use of
999 the size of fund index factor. This factor may be positive or
1000 negative, and shall be determined as follows: From the target
1001 SOFI, as defined in subsection (1) (k) of this section, subtract
1002 the simple average of the current and preceding years' exposure
1003 criteria divided by the cost rate criterion, as defined in
1004 subsection (1) (j) of this section. The result is then multiplied
1005 by the product of the CRC, as defined in subsection (1) (j) of this
1006 section, and total wages for the twelve-month period ending June
1007 30 divided by the taxable wages for the twelve-month period ending
1008 June 30. This is the percentage positive or negative added to the
1009 general experience rate. The sum of the general experience rate
1010 and the trust fund adjustment factor shall be multiplied by fifty
1011 percent (50%) and this product shall be computed to one (1)
1012 decimal place, and rounded to the next higher tenth.



1013 b. Notwithstanding the minimum rate
1014 provisions as set forth in subsection (1)(1) of this section, the
1015 general experience rate of all employers shall be reduced by seven
1016 one-hundredths of one percent (.07%) for calendar year 2013 only.

1017 5. The general experience rate shall be zero
1018 percent (0%) unless the general experience ratio for any tax year
1019 as computed and adjusted on the basis of the trust fund adjustment
1020 factor and reduced by fifty percent (50%) is an amount equal to or
1021 greater than two-tenths of one percent (.2%), then the general
1022 experience rate shall be the computed general experience ratio and
1023 adjusted on the basis of the trust fund adjustment factor and
1024 reduced by fifty percent (50%); however, in no case shall the sum
1025 of the general experience plus the individual experience
1026 unemployment insurance rate exceed five and four-tenths percent
1027 (5.4%). For rate years subsequent to 2014, Mississippi Workforce
1028 Enhancement Training contribution rate, and/or * * * Mississippi
1029 K-12 Workforce Development Grant Program contribution rate, and/or
1030 Mississippi Works contribution rate, when in effect, shall be
1031 added to the unemployment contribution rate, regardless of whether
1032 the addition of this contribution rate causes the total
1033 contribution rate for the employer to exceed five and four-tenths
1034 percent (5.4%).

1035 6. The department shall include in its annual
1036 rate notice to employers a brief explanation of the elements of
1037 the general experience rate, and shall include in its regular



1038 publications an annual analysis of benefits not charged to the
1039 record of any employer, and of the benefit experience of employers
1040 by industry group whose benefit ratio exceeds four percent (4%),
1041 and of any other factors which may affect the size of the general
1042 experience rate.

1043 7. Notwithstanding any other provision
1044 contained herein, the general experience rate for calendar year
1045 2021 shall be zero percent (0%). Charges attributed to each
1046 employer's individual experience rate for the period March 8,
1047 2020, through June 30, 2020, will not impact the employer's
1048 individual experience rate calculations for purposes of
1049 calculating the total unemployment insurance rate for 2021 and the
1050 two (2) subsequent tax rate years. Moreover, charges attributed
1051 to each employer's individual experience rate for the period July
1052 1, 2020, through December 31, 2020, will not impact the employer's
1053 individual experience rate calculations for purposes of
1054 calculating the total unemployment insurance rate for 2022 and the
1055 two (2) subsequent tax rate years.

1056 (vi) When any employing unit in any manner
1057 succeeds to or acquires the organization, trade, business or
1058 substantially all the assets thereof of an employer, excepting any
1059 assets retained by such employer incident to the liquidation of
1060 his or her obligations, whether or not such acquiring employing
1061 unit was an employer within the meaning of Section 71-5-11,
1062 subsection H, prior to such acquisition, and continues such



1063 organization, trade or business, the experience-rating and payroll
1064 records of the predecessor employer shall be transferred as of the
1065 date of acquisition to the successor employer for the purpose of
1066 rate determination.

1067 (vii) When any employing unit succeeds to or
1068 acquires a distinct and severable portion of an organization,
1069 trade or business, the experience-rating and payroll records of
1070 such portion, if separately identifiable, shall be transferred to
1071 the successor upon:

1072 1. The mutual consent of the predecessor and
1073 the successor;

1074 2. Approval of the department;

1075 3. Continued operation of the transferred
1076 portion by the successor after transfer; and

1077 4. The execution and the filing with the
1078 department by the predecessor employer of a waiver relinquishing
1079 all rights to have the experience-rating and payroll records of
1080 the transferred portion used for the purpose of determining
1081 modified rates of contribution for such predecessor.

1082 (viii) If the successor was an employer subject to
1083 this chapter prior to the date of acquisition, it shall continue
1084 to pay unemployment insurance contributions at the rate applicable
1085 to it from the date the acquisition occurred until the end of the
1086 then current tax year. If the successor was not an employer prior
1087 to the date of acquisition, it shall pay unemployment insurance



1088 contributions at the rate applicable to the predecessor or, if
1089 more than one (1) predecessor and the same rate is applicable to
1090 both, the rate applicable to the predecessor or predecessors, from
1091 the date the acquisition occurred until the end of the then
1092 current tax year. If the successor was not an employer prior to
1093 the date the acquisition occurred and simultaneously acquires the
1094 businesses of two (2) or more employers to whom different rates of
1095 unemployment insurance contributions are applicable, it shall pay
1096 unemployment insurance contributions from the date of the
1097 acquisition until the end of the current tax year at a rate
1098 computed on the basis of the combined experience-rating and
1099 payroll records of the predecessors as of the computation date for
1100 such tax year. In all cases the rate of unemployment insurance
1101 contributions applicable to such successor for each succeeding tax
1102 year shall be computed on the basis of the combined
1103 experience-rating and payroll records of the successor and the
1104 predecessor or predecessors.

1105 (ix) The department shall notify each employer
1106 quarterly of the benefits paid and charged to his or her
1107 experience-rating record; and such notification, in the absence of
1108 an application for redetermination filed within thirty (30) days
1109 after the date of such notice, shall be final, conclusive and
1110 binding upon the employer for all purposes. A redetermination,
1111 made after notice and opportunity for a fair hearing, by a hearing
1112 officer designated by the department who shall consider and decide



1113 these and related applications and protests; and the finding of
1114 fact in connection therewith may be introduced into any subsequent
1115 administrative or judicial proceedings involving the determination
1116 of the rate of unemployment insurance contributions of any
1117 employer for any tax year, and shall be entitled to the same
1118 finality as is provided in this subsection with respect to the
1119 findings of fact in proceedings to redetermine the contribution
1120 rate of an employer.

1121 (x) The department shall notify each employer of
1122 his or her rate of contribution as determined for any tax year as
1123 soon as reasonably possible after September 1 of the preceding
1124 year. Such determination shall be final, conclusive and binding
1125 upon such employer unless, within thirty (30) days after the date
1126 of such notice to his or her last-known address, the employer
1127 files with the department an application for review and
1128 redetermination of his or her contribution rate, setting forth his
1129 or her reasons therefor. If the department grants such review,
1130 the employer shall be promptly notified thereof and shall be
1131 afforded an opportunity for a fair hearing by a hearing officer
1132 designated by the department who shall consider and decide these
1133 and related applications and protests; but no employer shall be
1134 allowed, in any proceeding involving his or her rate of
1135 unemployment insurance contributions or contribution liability, to
1136 contest the chargeability to his or her account of any benefits
1137 paid in accordance with a determination, redetermination or



1138 decision pursuant to Sections 71-5-515 through 71-5-533 except
1139 upon the ground that the services on the basis of which such
1140 benefits were found to be chargeable did not constitute services
1141 performed in employment for him or her, and then only in the event
1142 that he or she was not a party to such determination,
1143 redetermination, decision or to any other proceedings provided in
1144 this chapter in which the character of such services was
1145 determined. The employer shall be promptly notified of the denial
1146 of this application or of the redetermination, both of which shall
1147 become final unless, within ten (10) days after the date of notice
1148 thereof, there shall be an appeal to the department itself. Any
1149 such appeal shall be on the record before said designated hearing
1150 officer, and the decision of said department shall become final
1151 unless, within thirty (30) days after the date of notice thereof
1152 to the employer's last-known address, there shall be an appeal to
1153 the Circuit Court of the First Judicial District of Hinds County,
1154 Mississippi, in accordance with the provisions of law with respect
1155 to review of civil causes by certiorari.

1156 (3) Notwithstanding any other provision of law, the
1157 following shall apply regarding assignment of rates and transfers
1158 of experience:

1159 (a) (i) If an employer transfers its trade or
1160 business, or a portion thereof, to another employer and, at the
1161 time of the transfer, there is substantially common ownership,
1162 management or control of the two (2) employers, then the



1163 unemployment experience attributable to the transferred trade or
1164 business shall be transferred to the employer to whom such
1165 business is so transferred. The rates of both employers shall be
1166 recalculated and made effective on January 1 of the year following
1167 the year the transfer occurred.

1168 (ii) If, following a transfer of experience under
1169 subparagraph (i) of this paragraph (a), the department determines
1170 that a substantial purpose of the transfer of trade or business
1171 was to obtain a reduced liability of unemployment insurance
1172 contributions, then the experience-rating accounts of the
1173 employers involved shall be combined into a single account and a
1174 single rate assigned to such account.

1175 (b) Whenever a person who is not an employer or an
1176 employing unit under this chapter at the time it acquires the
1177 trade or business of an employer, the unemployment experience of
1178 the acquired business shall not be transferred to such person if
1179 the department finds that such person acquired the business solely
1180 or primarily for the purpose of obtaining a lower rate of
1181 unemployment insurance contributions. Instead, such person shall
1182 be assigned the new employer rate under Section 71-5-353, unless
1183 assignment of the new employer rate results in an increase of less
1184 than two percent (2%), in which case such person would be assigned
1185 the new employer rate plus an additional two percent (2%) penalty
1186 for the rate year. In determining whether the business was
1187 acquired solely or primarily for the purpose of obtaining a lower



1188 rate of unemployment insurance contributions, the department shall
1189 use objective factors which may include the cost of acquiring the
1190 business, whether the person continued the business enterprise of
1191 the acquired business, how long such business enterprise was
1192 continued, or whether a substantial number of new employees were
1193 hired for performance of duties unrelated to the business activity
1194 conducted prior to acquisition.

1195 (c) (i) If a person knowingly violates or attempts to
1196 violate paragraph (a) or (b) of this subsection or any other
1197 provision of this chapter related to determining the assignment of
1198 a contribution rate, or if a person knowingly advises another
1199 person in a way that results in a violation of such provision, the
1200 person shall be subject to the following penalties:

1201 1. If the person is an employer, then such
1202 employer shall be assigned the highest rate assignable under this
1203 chapter for the rate year during which such violation or attempted
1204 violation occurred and the three (3) rate years immediately
1205 following this rate year. However, if the person's business is
1206 already at such highest rate for any year, or if the amount of
1207 increase in the person's rate would be less than two percent (2%)
1208 for such year, then the person's tax rate shall be increased by
1209 two percent (2%) for such year. The penalty rate will apply to
1210 the successor business as well as the related entity from which
1211 the employees were transferred in an effort to obtain a lower rate
1212 of unemployment insurance contributions.



1213 2. If the person is not an employer, such
1214 person shall be subject to a civil money penalty of not more than
1215 Five Thousand Dollars (\$5,000.00). Each such transaction for
1216 which advice was given and each occurrence or reoccurrence after
1217 notification being given by the department shall be a separate
1218 offense and punishable by a separate penalty. Any such fine shall
1219 be deposited in the penalty and interest account established under
1220 Section 71-5-114.

1221 (ii) For purposes of this paragraph (c), the term
1222 "knowingly" means having actual knowledge of or acting with
1223 deliberate ignorance or reckless disregard for the prohibition
1224 involved.

1225 (iii) For purposes of this paragraph (c), the term
1226 "violates or attempts to violate" includes, but is not limited to,
1227 intent to evade, misrepresentation or willful nondisclosure.

1228 (iv) In addition to the penalty imposed by
1229 subparagraph (i) of this paragraph (c), any violation of this
1230 subsection may be punishable by a fine of not more than Ten
1231 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1232 five (5) years, or by both such fine and imprisonment. This
1233 subsection shall prohibit prosecution under any other criminal
1234 statute of this state.

1235 (d) The department shall establish procedures to
1236 identify the transfer or acquisition of a business for purposes of
1237 this subsection.



1238 (e) For purposes of this subsection:

1239 (i) "Person" has the meaning given such term by
1240 Section 7701(a) (1) of the Internal Revenue Code of 1986; and

1241 (ii) "Employing unit" has the meaning as set forth
1242 in Section 71-5-11.

1243 (f) This subsection shall be interpreted and applied in
1244 such a manner as to meet the minimum requirements contained in any
1245 guidance or regulations issued by the United States Department of
1246 Labor.

1247 **SECTION 5.** Section 71-5-453, Mississippi Code of 1972, is
1248 amended as follows:

1249 71-5-453. The department shall be the treasurer and
1250 custodian of the fund, and shall administer such fund in
1251 accordance with the directions of the department, and shall issue
1252 its warrants upon it in accordance with such regulations as the
1253 department shall prescribe. The department shall maintain within
1254 the fund three (3) separate accounts: (a) a clearing account, (b)
1255 an unemployment trust fund account, and (c) a benefit payment
1256 account. All monies payable to the fund, upon receipt thereof by
1257 the department, shall be immediately deposited in the clearing
1258 account. Refunds payable pursuant to Section 71-5-383 may be paid
1259 from the clearing account by the department. Transfers pursuant
1260 to Section 71-5-114 of all interest, penalties and damages
1261 collected shall be made to the Special Employment Security
1262 Administration Fund as soon as practicable after the end of each



1263 calendar quarter. Workforce Enhancement Training
1264 contributions, * * * Mississippi K-12 Workforce Development Grant
1265 Program contributions and Mississippi Works contributions shall be
1266 deposited into the Workforce Investment and Training Holding
1267 Account as described in this section. All other monies in the
1268 clearing account shall be immediately deposited with the Secretary
1269 of the Treasury of the United States of America to the
1270 Unemployment Trust Fund account for the State of Mississippi,
1271 established and maintained pursuant to Section 904 of the Social
1272 Security Act, as amended, any provisions of law in this state
1273 relating to the deposit, administration, release or disbursement
1274 of monies in the possession or custody of this state to the
1275 contrary notwithstanding. The benefit account shall consist of
1276 all monies requisitioned from this state's account in the
1277 Unemployment Trust Fund. Except as herein otherwise provided,
1278 monies in the clearing and benefit accounts may be deposited by
1279 the department, in any bank or public depository in which general
1280 funds of the state may be deposited, but no public deposit
1281 insurance charge or premium shall be paid out of the fund. The
1282 department shall be liable for the faithful performance of its
1283 duties in connection with the Unemployment Compensation Fund under
1284 this chapter. A Workforce Investment and Training Holding Account
1285 shall be established by and maintained under the control of the
1286 Mississippi Department of Employment Security. Contributions
1287 collected pursuant to the provisions in this chapter for the



1288 Workforce Enhancement Training Fund, * * * Mississippi K-12
1289 Workforce Development Grant Program Fund and the Mississippi Works
1290 Fund shall be transferred from the clearing account into the
1291 Workforce Investment and Training Holding Account on the same
1292 schedule and under the same conditions as funds transferred to the
1293 Unemployment Compensation Fund. Such funds shall remain on
1294 deposit in the holding account for a period of thirty (30) days.
1295 After such period, Workforce Enhancement Training contributions
1296 shall be transferred to the appropriate Mississippi Community
1297 College Board Treasury Account, with oversight provided by the
1298 Mississippi Office of Workforce Development, by the department.
1299 The * * * Mississippi K-12 Workforce Development Grant program
1300 contributions shall be transferred to the * * * Mississippi K-12
1301 Workforce Development Grant Program Treasury Account for the
1302 Mississippi K-12 Workforce Development Grant Program Fund. The
1303 Mississippi Works contributions shall be transferred to the
1304 Mississippi Department of Employment Security Treasury Account for
1305 the Mississippi Works Fund. Such transfers shall occur within
1306 fifteen (15) days after the funds have resided in the Workforce
1307 Investment and Training Holding Account for thirty (30) days. One
1308 (1) such transfer shall be made monthly, but the department, in
1309 its discretion, may make additional transfers in any month. In
1310 the event such funds transferred are subsequently determined to be
1311 erroneously paid or collected, or if deposit of such funds is
1312 denied or rejected by the banking institution for any reason, or



1313 deposits are unable to clear drawer's account for any reason, the
1314 funds must be reimbursed by the recipient of such funds within
1315 thirty (30) days of mailing of notice by the department demanding
1316 such refund, unless funds are available in the Workforce
1317 Investment and Training Holding Account. In that event such
1318 amounts shall be immediately withdrawn from the Workforce
1319 Investment and Training Holding Account by the department and
1320 redeposited into the clearing account.

1321 **SECTION 6.** Section 37-73-3, Mississippi Code of 1972, is
1322 brought forward as follows:

1323 37-73-3. (1) Subject to appropriation by the Legislature,
1324 the Office of Workforce Development shall pilot a career coaching
1325 program to support middle schools and high schools as students are
1326 exposed, prepared and connected to career avenues within and
1327 beyond the classroom setting. Through strong partnerships with
1328 economic and business leaders, paired with viable relationships
1329 with school districts, the career coaches shall target the
1330 alignment of students' strengths with intentional academic and
1331 work-based learning in pursuit of meaningful professional
1332 employment.

1333 (2) Subject to appropriation by the Legislature, the Office
1334 of Workforce Development, working through the Department of
1335 Employment Security as fiscal agent, shall establish rules and
1336 regulations to operate the career coaching program, which may
1337 include granting funds to eligible recipients such as state



1338 agencies, regional workforce entities and other nonprofits, to
1339 hire coaches. The Office of Workforce Development shall establish
1340 criteria for coaches and shall work with partner organizations to
1341 identify candidates and measure outcomes.

1342 **SECTION 7.** This act shall take effect and be in force from
1343 and after July 1, 2023.

